



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

CRIMINAL DIVISION

MISC. CRIMINAL APPLICATION CASE NO. E199 OF 2020

LESIT, J.

MISCELLANEOUS CRIMINAL APPLICATION NO. E199 OF 2020

AS CONSOLIDATED WITH MISC. Crim. APPL. NO. E198 OF 2020

SAYED MANSOUR MOUSARI.....1ST APPLICANT

AHMED ABOFATHI MOHAMED.....2ND APPLICANT

VERSUS

OFFICER IN CHARGE KAMITI MAXIMUM PRISON.....1ST RESPONDENT

THE DIRECTOR OF PUBLIC PROSECUTION.....2ND RESPONDENT

RULING

1. The Applicants through their Counsel Mr. Chacha Mwita wrote to court. In his letter dated 12th February, 2021 Counsel requested to have that this file placed before this court so as to raise the concerns of his clients.
2. When the matter came up before the court, Mr. Mwita informed the court that the purpose of requesting that the file be placed before court is to bring to the court's attention the fact that orders made by the court in its ruling of 1st October, 2020 had not been complied with. The order is on record.
3. Mr. Ondimu Learned Prosecution Counsel, in his response urged that the question before the court concerned medical treatment of persons who are in custody. He then promptly referred the court to the affidavit of S. P. Japheth Muhandia dated 16th September, 2020 and the Kenya Prisons Standing Orders.
4. It is clear that Mr. Ondimu either never read the request by Mr. Mwita, or misdirected himself as to what matter or issue was before court.
5. The complaint by the Applicants is that the court order of 1st October, 2020 which spelt out in very clear terms what Kamiti Prison Hospital, or failing it in case of incapacity of whatever nature, Kenyatta National Hospital should do.
6. What I expected from Mr. Ondimu is not a lesson on what the Kenya Prison Standing Orders provide, which, if he read the ruling of this court of 1st October, 2020 he would have been advised that I am fully aware of the relevant provisions and the law touching on medical treatment of prisoners.
7. What this court wants to be shown is compliance of its order of 1st October, 2020 as set out in the court's ruling of that date. For avoidance of doubt, I now direct the Deputy Registrar of this court to extract that order and serve it on Kamiti Prison Hospital, through the Commissioner General of Prisons.
8. The matter will be mentioned again on a date to be agreed with the parties to confirm compliance.

DATED AT NAIROBI THIS 11TH DAY OF MAY, 2021.

LESIT, J.

JUDGE

DELIVERED THROUGH TEAMS ON 11TH MAY, 2021.

In the presence of:

Mr. Mwita for the Applicants

Ms Kimani for the Respondent

LESIT, J.

JUDGE