



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT SIAYA

MISCELLANEOUS JUDICIAL REVIEW APPLICATION NO. E001 OF 2021

IN THE MATTER OF AN APPLICATION FOR LEAVE TO APPLY FOR

JUDICIAL REVIEW IN THE NATURE OF CERTIORARI

IN THE MATTER OF: AN APPLICATION BY JUMA NYATEKO,

WILLIAM OCHIENG OYOKO AND JAPHETH OTIENO ODERA, FOR

LEAVE TO APPLY FOR JUDICIAL REVIEW ORDERS OF CERTIORARI,

AND PROHIBITION AGAINST THE RESPONDENTS HEREIN

AND

IN THE MATTER OF: ARTICLES 27, 40, 47, 48, 49, 50, 157

and 244 of THE CONSTITUTION OF KENYA, 2010.

AND

IN THE MATTER OF: SECTIONS 8 AND 9 OF THE LAW REFORM ACT (CAP 26 OF THE

LAWS OF KENYA) AND ORDER 53 OF THE CIVIL PROCEDURE RULES, 2010

AND

IN THE MATTER OF: AN APPLICATION FOR JUDICIAL REVIEW

AND

IN THE MATTER OF: AN APPLICATION BY EX PARTE APPLICANTS TO CHALLENGE THE

DECISION OF THE 1ST AND 2ND RESPONDENTS TO CHARGE THEM WITH THE OFFENCE

OF FRAUD CONTRARY TO SECTION 103 OF THE LAND REGISTRATIN ACT, 2012

BEFORE THE 3RD RESPONDENT

BETWEEN

JUMA NYATE.....1ST EX PARTE APPLICANT

WILLIAM OCHIENG OYOKO.....2ND EXPARTE APPLICANT

JAPHETH OTIENO ODERA.....3RD EXPARTE APPLICANT

VERSUS

DIRECTOR OF PUBLIC PROSECUTION (SIAYA).....1ST RESPONDENT

NATIONAL POLICE SERVICE (SIAYA).....2ND RESPONDENT

THE CHIEF MAGISTRATE (SIAYA) LAW COURTS.....3RD RESPONDENT

RULING

1. The exparte applicants seek leave of court to file Judicial Review application seeking for orders of certiorari and prohibition to quash the decision to charge them with the offences of fraud and prohibition to prohibit the Respondent's from charging them with the said offences related to fraud. The application dated 24.4.2021 is not opposed by the Respondents. In the premises, I hereby grant leave to the applicants to file the Judicial Review application as sought in the chamber summons dated 24.4.2021 supported by the verifying affidavits and annexures thereto.

2. The substantive motion shall be filed and served upon the Respondents and all interested parties within 7 days of today together with written submissions. Upon receipt of the main motion and all accompanying documents, the Respondents and Interested Parties shall have ten (10) days to file and serve their responses and submissions. Thereafter, the Exparte applicants shall have leave to file if need be, a further affidavit within five days. The leave so granted to operate as stay of taking plea by Exparte applicants. Mention on 30.7.2021 to confirm compliance and for further orders as to the judgment date in the matter.

3. Costs shall be in the main motion.

4. Orders accordingly.

DATED, SIGNED AND DELIVERED AT SIAYA THIS 7TH DAY OF JULY, 2021.

R.E. ABURILI

JUDGE