

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAIROBI

CRIMINAL REVISION CASE 143 OF 2019

KENNETH OMONDI & 39 OTHERS.....APPLICANT

VERSUS

REPUBLIC.....RESPONDENT

RULING

I have considered the submissions made by the parties herein today. This matter first came up before the court by a certificate of urgency way back on 13.11.2020. On 17.11.2020, this court considered the submissions of the parties and the circumstances of the case, and allowed and granted the plea of the applicants for an order of stay of execution of orders of the Hon. Justice Kimaru issued on 11.11.2020. This court issued the orders of stay prayed for after considering the urgency of the matter and the fact that the Respondent would not be prejudiced if the application was heard and disposed of with the urgency with which it came.

The said orders have been extended from time to time ending with the date of today. The respondent has submitted on the prejudice that they have continued to suffer by the existence of these orders. I take note that these were ex-parte orders. Ideally, the application ought to have been disposed of without unreasonable delay so as to avoid any prejudice to either parties. For various reasons, this has not been possible, leading to the apparent delay in the determination of this application.

To avoid any possibility of further prejudice to the Respondent, and believing that the applicant's case (application) could still be pursued even in the interim orders herein are discharged, I am persuaded by the submissions by the Respondent side, that it is in the interest of justice that the interim orders of stay first issued on 17.11.2020 be discharged. I accordingly discharge the said orders.

Regarding the application for adjournment, same is not opposed. This application is adjourned. Leave is granted to the applicants to file any further supplementary affidavits and or applications and submission. Corresponding leave is granted to the Respondent to file any responses to the same.

In view of the submissions of Mr. Kithi, that there is a possibility that the applicants may file fresh applications, and Ms. Waweru's submissions that they are still in the process of obtaining instructions from their client, it is clear that issuing a hearing date in court today would not be possible or practical. In the circumstances, I order that upon filing of the intended pleadings i.e. affidavits, applications, submissions, a date for further directions be fixed at the registry. The same to be fixed on priority basis. It is so ordered.

D. O. OGEMBO

JUDGE

1.10.2021.