



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

JUDICIAL REVIEW APPLICATION NO. 63 OF 2020

IN THE MATTER OF AN APPLICATION FOR LEAVE FOR JUDICIAL REVIEW ORDERS OF MANDAMUS

BETWEEN

LEONARD MACKENZIE suing as the administrator of the

estate of the late JOYCE MUMO MACKENZIE).....APPLICANT

VERSUS

THE ATTORNEY GENERAL.....1ST RESPONDENT

THE PERMANENT SECRETARY, MINISTRY

OF INTERIOR AND COORDINATION

OF NATIONAL GOVERNMENT.....2ND RESPONDENT

RULING

The Application

1. The Applicant herein has moved this Court in an application brought by way of Chamber Summons dated 4th March 2020. He is seeking leave to apply for judicial review orders of mandamus, to compel the Respondents to effect payment of Kshs 3,574,370.86/= awarded in High Court Civil Case No. 135 of 2008 as damages, costs and accrued interest. The application is supported by a statutory statement dated 4th April 2020, and a verifying affidavit sworn on the same date by the Applicant.

2. It is notable that after the filing of the said application, court operations were scaled down due to the COVID-19 pandemic, and hearings are now being held electronically. The Applicant in this regard electronically filed an affidavit of service sworn on 5th May 2020, which was sent by email to the Deputy Registrar of this Court on 6th May 2020, attesting to the service of the application on the Respondents.

3. On 5th May 2020, the Respondents filed a replying affidavit, sworn on the same date by James Mwatsuma, an advocate at the State Law Office, which also sent by electronic mail to the Deputy Registrar. The said deponent contended that the suit giving rise to the prayer for leave for orders of mandamus, namely HCCC Suit No. 135 of 2008, was dismissed by the Machakos High Court.

4. In addition, I note from a perusal of the Applicant's pleadings that the two suits in which the Applicant claims that judgment was entered in his favour for decretal sums and costs, namely HCCC Suit No. 135 of 2008 and High Court Petition No 99 of 2011, were both filed and heard in the Machakos High Court. As the status of, and orders given in the said cases are contested by the Respondents, there will be need to peruse the original files in those cases. It is therefore proper, prudent and more convenient that this application be heard in the Machakos High Court.

The Orders:

5. In the premises I direct and orders as follows:

I. This suit be and is hereby transferred to the Machakos High Court for further hearing and determination.

II. The Applicant shall take out new hearing dates for the Chamber Summons dated 4th March 2020 at the Machakos High Court registry.

III. The Deputy Registrar of the Judicial Review Division shall send a copy of this ruling and orders by electronic mail to the Applicant, Respondent, and to the Deputy Registrar of the Machakos High Court, by close of business on Friday, 8th May 2020.

6. Orders accordingly.

DATED AND SIGNED AT NAIROBI THIS 6th DAY OF MAY 2020

P. NYAMWEYA

JUDGE