



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

JUDICIAL REVIEW APPLICATION NO. E1115 OF 2020

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

BETWEEN

ALEX MISIGO MATISHA.....APPLICANT

VERSUS

THE REGISTRAR OF SOCIETIES.....RESPONDENT

AND

SIMON RUGUT.....1ST INTERESTED PARTY

SAMSON KHALWALE.....2ND INTERESTED PARTY

JACOB LUSENO3RD INTERESTED PARTY

LEVI BOSIKO BWAMU4TH INTERESTED PARTY

MAXWEL SHITSIMI5TH INTERESTED PARTY

RULING

1. The Applicant herein has filed an application by way of a Chamber Summons dated 9th October 2020, seeking the following orders that it be certified urgent, and that he be granted leave to seek by way of Judicial Review, for an order of Mandamus to compel the Respondent to forthwith intervene in the affairs of the African Church of the Holy Spirit which is currently embroiled in leadership wrangles and financial impropriety with normal operations heading to a standstill. The Applicant also seeks orders that the costs of the application be provided for.

2. The said application is supported by a statutory statement dated 9th October 2020, and a verifying affidavit sworn on the same date by the Applicant. Upon perusal of the application and supporting documents, I note that the Applicant states that executive officers of the subject church have dragged the church in to court cases, and has cited Civil Case No. 238/2020 at Nakuru Magistrate court, Civil Case No.324/2016 at the Chief Magistrate's Court in Kakamega and Civil Suit No. 7308/2019 at Nairobi Milimani Commercial Magistrate Court, and annexed copies of pleadings and orders given in the said suits. I also note that the Applicant and some of the Interested Parties are parties in some of the cited pending cases.

3. In the circumstances, the question of leave to commence judicial review proceedings against the Respondent requires to be heard *inter partes*, and particularly to address the issue of whether the instant application is an abuse of the process of Court, before any orders can be granted by this Court.

4. I accordingly hereby direct and order as follows:

I. The Applicant shall serve the Respondent and Interested Parties with the Chamber Summons dated 9th October 2020, (ii) skeletal submissions on the said Chamber Summons (iii) a copy of these directions and (iv) a hearing notice with twenty-one (21) days of today's date.

II. The Respondent and Interested Parties are granted leave to file and serve their responses to the Chamber Summons

dated 9th October 2020 and skeletal submissions thereon within twenty-one (21) days of service by the Applicant.

III. The Chamber Summons dated 9th October 2020 shall be heard on 14th December 2020.

IV. In view of the Ministry of Health directives on the safeguards to be observed to stem the spread of the current COVID-19 pandemic, this Court shall hear and determine the Applicant's Chamber Summons dated 9th October 2020 on the basis of the electronic copies of the pleadings and the written submissions filed by the parties.

V. All the parties shall file their pleadings and submissions electronically, by filing them with the Judiciary e-filing system, and send copies by electronic mail to the Deputy Registrar of the Judicial Review Division at judicialreview48@gmail.com and asunachristine51@gmail.com.

VI. The service of pleadings and documents directed by the Court shall be by way of personal service and electronic mail, and in the case of service by way of electronic mail, the parties shall also email a copy of the documents so served to the Deputy Registrar of the Judicial Review Division at judicialreview48@gmail.com with copies to asunachristine51@gmail.com.

VII. The parties shall also be required to file and send to the Deputy Registrar of the Judicial Review Division their respective affidavits of service evidencing personal service, by way of electronic mail to judicialreview48@gmail.com with copies to asunachristine51@gmail.com.

VIII. The Deputy Registrar of the Judicial Review Division shall put this matter on the Division's causelist for hearing on 14th December 2020.

IX. The Deputy Registrar of the Judicial Review Division shall send a copy of these directions to the Applicant by electronic mail by close of business on Thursday, 15th October 2020.

X. Parties shall be at liberty to apply.

5. Orders accordingly.

DATED AND SIGNED AT NAIROBI THIS 14TH DAY OF OCTOBER 2020

P. NYAMWEYA

JUDGE