



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT NAROK**

**JUDICIAL REVIEW NO 16 OF 2017**

**NAROK MUSLIM WELFARE SOCIETY.....APPLICANT**

**VERSUS**

**THE REGISTRAR OF SOCIETIES.....RESPONDENT**

**RULING**

1. This is an application by the proposed interested party namely Ahmed Bashir Gele on behalf of the members of the Narok Muslim Welfare Society to be enjoined to this Judicial Review application as an interested party. The application is brought by way of notice of motion pursuant to section 1A, 1B and 3A of the Civil Procedure Act (Cap 21) Laws of Kenya, Order 51 of the Civil Procedure Rules 2010, Order 1 rule 10, and article 159 (2) (e) of the 2010 Constitution of Kenya.
2. The application is supported by 15 grounds which are set out on the face of the notice of motion together with a 19 paragraphs supporting affidavit.
3. The major grounds in support of the motion are as follows. The applicant has stated that the *ex-parte* applicant (Mohammed Yunis) filed an application on 22/6/2017 seeking orders, which are prejudicial to the interests of the proposed interested party who are *bona fide* members of the be Narok Muslim Welfare Society. The applicant has also stated that the *ex-parte* applicant filed the Judicial Review application without the authority of the *bona fide* members of the society.
4. Furthermore, the applicant has stated that the *ex-parte* applicant filed this application to challenge the respondent's letter in which he himself and his faction were involved in the deliberations leading to the latter. He has also stated that the *ex-parte* applicant was present in the meeting of 22/4/2017, in which the parties agreed that there be a reconciliation amongst the members of the said society. He has also stated that the impugned letter of 7/4/2017 was issued by the respondents after they had held the meeting.
5. Additionally, the applicant has stated that unless they are enjoined as an interested party, the *bona fide* members of the said society will be greatly prejudiced as the suit relates to a dispute of leadership in the society.
6. Furthermore, the applicant has stated that the society have an interest in the suit, since they were part of the meeting of 7/4/2017, which resulted in the impugned letter of 7/4/2017. He has also pointed out that the *ex-parte* applicant's earlier similar suit was dismissed by this court. Finally the applicant has stated that they be allowed to be enjoined as an interested party to enable the court render a decision after hearing all the parties.
7. In his supporting affidavit, the applicant has deponed to the same similar matters, which are set out in the grounds in support of the motion, except for the following matters.
8. They have annexed a document authorizing the applicant to depon to the supporting affidavit on behalf of members of the said society, which is annexed to the affidavit as annex ABG 1. He has also annexed a copy of the minutes of the consultative welfare society as annex ABG 2 which shows that the parties had agreed to have a reconciliation amongst the members of the said society. There are other annexes which I find unnecessary to refer to.
9. On 5/4/2018, counsel for the applicant indicated that the respondent (Registrar of Societies) is not opposed to the application of the interested party to be enjoined.
10. The *ex-parte* applicant has not filed any response to the application, notwithstanding that he was granted leave to respond to the application of the proposed interested party.
11. In the light of the unopposed affidavit evidence, which I find credible, the proposed interested party have a right to be enjoined to the application as they are *bona fide* members of the society. They are a necessary party to the application. Their being enjoined will avoid a multiplicity of suits.

12. In the circumstances, I hereby grant leave to the proposed interested party to be enjoined in the suit in that capacity. Furthermore, I also grant them leave to file a response to the application of the *ex-parte* applicant. Finally, costs of this application would be costs in cause.

**Ruling delivered in open court this 10<sup>th</sup> day of May, 2018 .**

in the absence of the Applicant and in the presence of

Mr. Chege for the Interested Party.

**J. M. BWONWONGA**

**Judge**

**10/5/2018**