



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT KAJIADO

MISC.CIVIL APPLICATION NO 6 OF 2018

N THE MATTER OF AN APPLICATION FOR JUDICIAL REVIEW

BY WAY ORDERS OF CERTIORARI AND PROHIBITION

AND

IN THE MATTER OF SECTION 8 & 9 OF THE LAW

REFORM ACT CHAPTER 26 LAWS OF KENYA

AND

IN THE MATTER OF ORDER 53 OF THE

CIVIL PROCEDURE RULES 2010

AND

IN THE MATTER OF SECTIONS 8, 9, 10 & 11 OF

THE FAIR ADMINISTRATIVE ACTIONS ACT

AND

IN THE MATTER OF: ARTICLES 19, 20, 22, 23, 29, 47,

48, 50 AND 162 OF THE CONSTITUTION OF KENYA

REPUBLIC.....APPLICANT

VERSUS

THE PRINCIPAL MAGISTRATE'S

COURT AT MAVOKO.....RESPONDENT

AND

FRANCIS NGIGE WAWERU.....INTERESTED PARTY

EX-PARTE

HON. JOSEPH OLE LENKU

GOVERNOR KAJIADO COUNTY.....1ST APPLICANT

RULING

Introduction.

1. By a Notice of Motion dated 2nd May 2018, the ex parte Applicants' approached the Court seeking:
 - a. An Order of **Certiorari** to remove into the Honorable court and quash the decision of Honourable L Kassam (SPM) contained in the Warrant of arrest in execution to arrest the Governor of OlKejuado County Government dated 12th March 2018
 - b. An Order of **Prohibition** directed to the Respondent prohibiting further enforcement of the warrants of arrest dated 12th March 2018 and/or incarceration of the ex-parte applicant in civil prison arising out of the same facts and proceedings in Civil Suit No. 386 of 2014.
 - c. An Order of **Prohibition** directed to the Respondent, Hon L. Kassam, from in any manner howsoever establishing or continuing with any execution proceeding against the Exparte applicants whatsoever whether the proceedings are the same or arise out of the same facts as those which led to warrant of arrest dated 12 March 2018.
 - d. Any further Orders and directions the court may deem fit and just to grant.
 - e. The cost of this application be provided for.
2. The application was grounded on the grounds on the face of it and on the Statutory Statement and Verifying Affidavit Sworn by Joseph Ole Lenku on the 15th May 2018. On the 25th May 2018, the interested party, Francis Ngige Waweru swore an affidavit in reply to the Application. The Exparte Applicant filed their submissions on the 23rd July 2018.

Applicants' Case

3. The Applicants gravamen is centered on the legality of the Warrant of arrest issued against the 1st Ex parte Applicant by the Respondent as a result of contempt of court proceedings in **Mavoko civil suit no. 386 of 2014, Francis Ngige Waweru versus County Government of Olkajiado.**
4. A brief background on the genesis of the arrest warrant is necessary to better understand the circumstances we find ourselves in. It was averred that vide a Plaint dated 24th April 2014, the interested party herein, Francis Ngige Waweru, sought an order to compel the Ex parte Applicant to raise rates invoices on Plot Numbers 111, 112, 121 and 122 Noonkopir Town. In a Judgement dated 4th December 2014, The Respondent herein entered judgement for the Plaintiff against the Defendant and subsequently issued a Decree dated 20th January 2015 compelling the Kajiado County to raise the Rate Invoice of the above-mentioned plots.
5. An Application dated 17th March 2015 seeking to set aside the cited Judgement and Order of was dismissed with costs to the interested party who subsequently sought to execute his decree vide an Application for contempt of court dated 29th February 2016 against the then Governor of Kajiado County. In a ruling dated 19th July 2017, the Respondent herein allowed fully this Application dated 29 February 2016 and subsequently issued an extract order dated 20th July 2017 to the same effect. The Exparte Applicants allege that no notice was given to them.
6. According to the Applicant, on 12th March 2018 a warrant of arrest was issued against the Governor of Olkejuado County Government which warrant did not impugn any charge or sentence against a specific person but against the office of the 1st Exparte applicant. This, in the eyes of the Exparte Applicant was unfair as the Exparte Applicant was neither a party to the committal proceedings in Mavoko Civil Case No. 384 of 2018 nor was he afforded an opportunity of being heard before the said warrants were issued and/or extracted contrary to Articles 47 and 50 of the Constitution and the Contempt of Court Act.
7. It was averred that in the aftermath of the August 2017 General Election, Kajiado County underwent a change in administration and the 1st Ex parte applicant was elected Governor. It was the Applicants case that he was not privy to the execution and contempt of court proceedings arising from Mavoko Civil Case No. 368 of 2014 and that the arrest warrants had been issued irregularly against the 'Governor of Kajiado County' as opposed to stating the exact name of the person against whom the arrest was to be effected.
8. It was the Applicants' view therefore that the Respondent's actions and decisions as a whole were not only unfair, but they went against the established principles of natural justice and are stained with illegality, unfairness and/or irrationality warranting grant of the judicial review orders sought in the extant application.

Interested Party's case.

9. The interested party averred that he was the plaintiff in Mavoko Principal Magistrates Civil Case Number 386 of 2014. In that case, he sought to be supplied with rates invoices by the Applicant's office in respect of plot Numbers 111, 112, 121 and 122 Noonkopir Township and the suit was heard by the said court after the Counsel for the Applicant had been served. All the parties were notified of the judgment date where some orders were made against the office of the Applicant.

10. It was averred that the Applicant ought not to be absolved from liability simply because he was not in office when the cause of action arose as there is nothing in the law that prohibits the Magistrates court from punishing a litigant for contempt of court. As such, the Applicant is not entitled to the writs of Prohibition and Certiorari and the application ought to be dismissed with costs.

Ex Parte Applicants submissions

11. Counsel for the Ex Parte Applicant formulated two main issues for determination namely:

- a. That in issuing the warrants of arrest dated 12th March 2018 against the 1st exparte applicant, who is the current sitting Governor of Kajiado County on the basis of contempt of court proceedings initiated and concluded against his predecessor, the Respondent breached the rules of natural justice.
- b. That the respondent is guilty of procedural ultra vires and/or error of the law and its decisions are unreasonable, improper, invalid and illogical.

12. Starting with the issue of failure by the Respondent to observe the principles of Natural Justice, learned Counsel for the Exparte Applicants' relied on **Ridge v Baldwin 1963** All ER 66 for the submission that the consequence of the failure to observe the rules of natural justice is to render the decision void and not voidable.

13. It was Counsel's submission that even though the contempt of court proceedings were instituted against the former governor of Kajiado County and ruling delivered while he was still in office, the Respondent had seen it fit and proceeded to punish, unfairly so, his successor, who was not party to the contempt of proceedings, and was never aware of and had never been served with any notices or orders in **Mavoko Civil Case No. 386 of 2014**. According to Counsel therefore, the Respondent in allowing the issuance of warrants of arrest seemingly against the 1st ex parte Applicant had breached the principles of natural Justice, and this decision ought to be quashed as such arbitrariness and excessiveness should not be allowed.

14. It was also submitted that the Respondent's decision to issue arrest warrant had denied the 1st Exparte Applicant a chance to be heard and went Articles 29, 47 and 50 of the Constitution. To Counsel, it was illogical and unfair for the applicant to be punished first, then be accorded a hearing later. It was further unreasonable that the Respondent issued an arrest warrant against the governor of Olkejuado County but did not state the exact names of the persons found in contempt or ought to be arrested.

15. Citing **Jacob Zedekiah Ochino & Another Vs George Aura Okombo & Others, Civil appeal number 36 of 1989 4851 (CAK) KLR 165** learned counsel submitted that no order requiring a person to do or abstain from doing any act may be enforced by contempt unless a copy of the order has been served personally and endorsed with a notice informing him that if he disobey the order he is liable to the process of execution.

16. Citing **Woburn Estate Limited v Margaret Bashforth (2016) eKLR**, Counsel posited that the Respondent breached the rules of natural justice and statutory procedure and further contravened the Applicants' legitimate expectation and fair administrative action in failing to grant the ex parte Applicant an opportunity to be heard before a decision to find them in contempt was reached.

17. It was further argued that it was prejudicial and offended all notions of fairness to deliver the ruling dated 19th July 2017 and the subsequent warrants of arrest dated 12th March 2018 without any notice to the Exparte Applicants thereby denying them their right to a fair trial. It was submitted that denial of a right to be heard rendered any decision void ab initio. The Right to be heard was a constitutional right in Article 47 and 50. The right of hearing was immutable to the Applicant. Counsel relied on **Onyango Oloo v Attorney General (1986-1989) EA 456 CAK** for this position.

18. Counsel further based his arguments on **Taib v. Minister for Local Government** and also on **Republic v KRA Ex parte yava Towers Ltd (2008) KLR** for the assertion that Judicial review was concerned with the decision-making process and not with the merits of the decision itself.

19. Turning to the issue of the illegality of the Respondent's decisions, Counsel begun by submitting on the Respondent's powers to punish for contempt of court under Section 10 (6) of the **Magistrates Court Act No. 26 of 2015**. It was submitted that this section is instructive that the Respondent, being a subordinate Court may under the Act, sentence a person who commits an offence under subsection (1) to imprisonment for a term not exceeding five days, or a fine not exceeding one hundred thousand shillings, or both. For this reason, the Respondent lacked jurisdiction to grant the prayers sought in the interested party's application dated 29th February 2016; that the Governor of Olkajiado be imprisoned for a period of 6 months.

20. According to Counsel, in allowing the said contempt application in its totality without any modification and subsequently issuing the arrest warrants the Respondent acted ultra vires as the **Magistrates Court Act No. 26 of 2015** did not vest the court with the powers to issue such orders.

21. It was further submitted that the impugned decision was ultra vires of Section 30 of the **Contempt of Court Act No. 46 of 2016** which provides for punishment against the management of state organ, government department, ministry or corporation and the process to be followed.

22. Counsel submitted that the ex parte applicant was being punished for contempt yet he was not even aware of the contempt of court proceedings. Secondly, pursuant to section 30 of the contempt of Court Act, no 30 days' notice was issued upon or served on the exparte applicants' before the commencement of the contempt of court proceedings or issuance of the arrest warrants by the Respondent.

23. It was further asserted that due procedure for execution of decrees against county governments was not followed by the interested party as **Order 29 Rule 2 (2) (b) of the Civil Procedure Rules 2010** provided that no order against the Government may be made under Order 22 consequently the proper procedure for execution against the Kajiado County Government should have been under Order 53 of the Civil Procedure Rules 2010 and not via a contempt of court application. Therefore, the contempt of court application dated 29th February 2016 was illegal and void ab initio and the proceedings, the ruling thereto and all consequential orders based upon it are equally null and void. This position was buttressed by **Republic v Attorney General & another ex-parte Stephen Wanyee Roki (2016) KLR** where it was held:

‘...that being the position, execution under the Civil Procedure Rules is barred in so far as the County Governments re concerned. What then is the option available to a party in whose favour judgement has been decreed? ...It follows that the only remedy available to such a person is to institute judicial review proceedings and seek an order of mandamus compelling the County Government to settle the decree in question...’

24. With regards to the Respondent’s error of law and procedural impropriety, counsel argued that until the case at the Environment and land Court, being **ELC No. 361 of 2016 Francis Ngige Waweru V Joseph Wacira, Kajiado County and 4 others** is heard and determined, the applicants cannot be held to be in contempt in the suit at the magistrate’s court, **Mavoko Civil Case No. 386 of 2014**. This is because the main issue in contention, the substratum of the suit is yet to be determined by ELC Court. That therefore renders the orders that trial court at Mavoko irregular and improper.

25. Submitting on the irrationality of the Respondent's decision, Counsel argued that the warrants of arrest issued on 12th March 2018 against the governor of Kajiado County were not rational as there was a change of administration following the general elections held on 8th August 2018. The contempt of court proceedings by the interested party were instituted against the 1st Applicant's immediate predecessor and the ruling on the said application delivered before the current administration of Kajiado County came into office. Both the ruling and warrants of arrest issued do not state the exact names of the persons found in contempt or ought to be arrested but have been irregularly issued against *‘The Governor of Kajiado County.’*

26. In conclusion counsel reiterated that the conduct of the Respondent infringed the Applicant's fundamental rights, in particular the 1st exparte applicants' rights to a fair hearing, as guaranteed by the Constitution and had denied the Applicant the right to fair administrative action. Further it was submitted that the pending arrest of the 1st Applicant herein had a potential of bringing to a standstill or throwing into disarray the functions of Kajiado County.

Analysis and Determinations

27. With due consideration having been given to the submissions made and the pleadings filed by the respective parties, I will now move to render my opinion on the same. At the heart of this dispute is the decision by the Honorable magistrate presiding over **Mavoko civil suit no. 386 of 2014, Francis Ngige Waweru versus County Government of Olkajiado** to issue arrest warrants arising from a contempt of court decision in the same matter.

28. To my mind therefore, the sole issue for determination is whether the magistrate in the aforementioned case acted within their powers in issuing the arrest warrants out of the contempt of court application. After all, it is well settled that in a judicial review application, it is not the merit of a decision that invites scrutiny to it but rather propriety or lack thereof of the procedure that led to the decision itself. See **Republic v KRA Ex parte yaya Towers Ltd (2008) KLR**.

29. My point of departure in this particular case is the contempt of court proceedings as instituted by the Interested Party. It is peculiar that upon obtaining a decree against the 2nd Exparte Applicant, the evidence on the record shows that the Interested Party proceed to seek its enforcement by instituting committal proceedings against the Governor of Kajiado County for failure to comply with the decree. This peculiarity begins with the fact that the Interested Party did not follow the laid down procedure for executing a claim against government but does not end there as shall be seen shortly.

30. Before going any further, I would first like to examine the laid-out procedure in law with regards to executing decrees against the government. **Section 21(4) of the Government Proceedings Act Cap 40 Laws of Kenya** provides:

Save as provided in this section, no execution or attachment or process in the nature thereof shall be issued out of any court for enforcing payment by the Government of any money or costs, and no person shall be individually liable under any order for the payment by the Government or any Government department, or any officer of the Government as such, of any money or costs.

31. **Section 21 (1) of the Act** provides:

“Where in any civil proceedings by or against the Government, or in proceedings in connection with any arbitration in which the Government is a party, any order (including an order for costs) is made by any court in favour of any person against the Government, or against a Government department, or against an officer of the Government as such, the proper officer of the court shall, on an application in that behalf made by or on behalf of that person at any time after the expiration of twenty-one days from the date of the order or, in case the order provides for the payment of costs and the costs require to be taxed, at any time after the costs have been taxed, whichever is the later, issue to that person a certificate in the prescribed form containing particulars of the order: Provided that, if the court so directs, a separate certificate shall be issued with respect to the costs (if any) ordered to be paid to the applicant.”

32. On the other hand, **Section 21 (3) of the said Act** provides:

“If the order provides for the payment of any money by way of damages or otherwise, or of any costs, the certificate shall state the

amount so payable, and the Accounting Officer for the Government department concerned shall, subject as hereinafter provided, pay to the person entitled or to his advocate the amount appearing by the certificate to be due to him together with interest, if any, lawfully due thereon: Provided that the court by which any such order as aforesaid is made or any court to which an appeal against the order lies may direct that, pending an appeal or otherwise, payment of the whole of any amount so payable, or any part thereof, shall be suspended, and if the certificate has not been issued may order any such direction to be inserted therein.”

33. It is clear that even though one may not pursue execution proceedings against the government perse, a party wishing to realize the fruits of a judgement against the government must first start by getting issued with a certificate of costs and certificate of order against the Government. In the instant matter, from a reading of the evidence on record, it is clear the Governor who was served with court process on this matter was one Hon David Nkediaye. In his disposition the interested party has not discharged the burden that the decree issued on 20.1.2015 has been brought to the attention of the exparte applicant.

34. The allegations made in respect to the court order and contempt proceedings are in respect on the failure of the exparte applicant to provide certain documents relating to Noonkopir TOWNSHIP/111 ,112 and 122. On the other hand as supported by the annexures there is a pending suit referenced ELC NO 361 OF 2016 at Nairobi touching on the same suit Land. In addition, in the affidavit of Hon Nkediaye deponed and contended that the interested party claim had not ripened as the ELC in Nairobi is yet to determine ownership of the parcels of Land subject matter before Mavoko Court.

35. On perusal of the application and submissions the interested party does not state that he has requested for the information from the first exparte applicant in particular and the request has been rejected. A reading of our order 11 of the civil procedure Rules has express provisions where discovery and exchange of pleadings could have answered the question being raised in this judicial review proceedings.

36. The issues raised in this application were substantially dealt with in accordance with the principles set out in **Kenya Society for the Mentally Handicapped V Attorney General and others Nairobi petition NO 155A of 2011** where the court stated inter alia “*coercive orders of the court should only be used to enforce Article 35 where a request has been made to the State or its agency and such request denied. Where the request is denied, the court will interrogate the reasons and evaluate whether the reasons accord with the constitution. Where the request has been neglected then the state organ must be given an opportunity to respond and peremptory order made should in the circumstances justify such an order*”

37. The problem then having considered the application and rejoinder by the respondent is whether the learned magistrate had enough evidence to support the finding and the resulting order on contempt proceedings against the exparte applicant. The display in my view of enforcing right to access to information by use of the Police is one described in the above case as coercive powers of the court in unnecessary circumstances. This court is clothed with constitutional jurisdiction to intervene in cases of this nature where an inferior Tribunal has wrongly exercised the discretion occasioning a failure of justice.

38. After compiling the aforementioned, the next step would have been for the Interested Party to seek a writ of mandamus compelling the relevant officer in the county government to honor the decree. This position was shared by Odunga J in High Court **Judicial Review Miscellaneous Application No. 44 of 2012 between the Republic vs. The Attorney General & Another ex parte James Alfred Koroso** where he opined:

“...In the present case the ex parte applicant has no other option of realizing the fruits of his judgement since he is barred from executing against the Government. Apart from mandamus, he has no option of ensuring that the judgement that he has been awarded is realized...”

39. Similarly, in **Republic v Attorney General & another ex-parte Stephen Wanyee Roki (2016) KLR** it was held:

‘...that being the position, execution under the Civil Procedure Rules is barred in so far as the County Governments are concerned. What then is the option available to a party in whose favour judgement has been decreed? ...It follows that the only remedy available to such a person is to institute judicial review proceedings and seek an order of mandamus compelling the County Government to settle the decree in question...’

40. The Court in **Miscellaneous Civil Application 350 of 2015, Republic v County Secretary, Nairobi City County & another Ex Parte Wachira Nderitu Ngugi & Co. Advocates [2016] eKLR** held a similar view to wit:

“the law as it stands presently is that no execution can be levied against the property of a Government in settlement of a decree in a civil case and hence the only recourse available to a decree holder is to apply for mandamus against the Chief Officer of the Government, and upon obtaining such orders, the decree holder will be at liberty to apply for committal of the Chief Officer if the order of mandamus is not complied with...”

41. This position is further explored by Githua J in **Republic vs. Permanent Secretary, Ministry of State for Provincial Administration and Internal Security Exparte Fredrick Manoah Egunza [2012] eKLR** who opined:

“In ordinary circumstances, once a judgment has been entered in a civil suit in favour of one party against another and a decree is subsequently issued, the successful litigant is entitled to execute for the decretal amount even on the following day. When the Government is sued in a civil action through its legal representative by a citizen, it becomes a party just like any other party defending a civil suit. Similarly, when a judgment has been entered against the government and a monetary decree is issued against it, it does not enjoy any special privileges with regards to its liability to pay except when it comes to the mode of execution of the decree. Unlike in other civil proceedings, where decrees for the payment of money or costs had been issued against the Government in favour of a litigant, the said decree can only be enforced by way of an order of mandamus compelling

the accounting officer in the relevant ministry to pay the decretal amount as the Government is protected and given immunity from execution and attachment of its property/goods under Section 21(4) of the Government Proceedings Act. The only requirement which serves as a condition precedent to the satisfaction or enforcement of decrees for money issued against the Government is found in Section 21(1) and (2) of the Government Proceedings Act (hereinafter referred to as the Act) which provides that payment will be based on a certificate of costs obtained by the successful litigant from the court issuing the decree which should be served on the Hon Attorney General. The certificate of order against the Government should be issued by the court after expiration of 21 days after entry of judgment. Once the certificate of order against the Government is served on the Hon Attorney General, Section 21(3) imposes a statutory duty on the accounting officer concerned to pay the sums specified in the said order to the person entitled or to his advocate together with any interest lawfully accruing thereon. This provision does not condition payment to budgetary allocation and parliamentary approval of Government expenditure in the financial year subsequent to which Government liability accrues.”

42. Rather than follow the above laid out procedure in the execution of the decree in their favour, the Interested party instituted contempt of court proceedings as the first step. Curiously, the Honorable magistrate allowed the Interested Parties application. This, respectfully, was in my view a misapprehension of the law. The Honorable magistrate ought not to have granted the said contempt order on the basis that the Interested Party had failed to follow the laid down procedure for execution of decrees against government. In granting said orders and issuing a warrant of arrest, the magistrate had acted beyond his powers.

43. In addition to the foregoing, by allowing a contempt of court application based upon nonperformance of a decree, the learned magistrate acted beyond their jurisdiction as envisioned under **Section 6 of the Contempt of Court Act no. 46 of 2016** which provides:

“6. Jurisdiction of subordinate courts to punish for contempt of court

Every subordinate court shall have power to punish for contempt of court on the face of the court in any case where a person —

(a) assaults, threatens, intimidates, or willfully insults a judicial officer or a witness, during a sitting or attendance in a court, or in going to or returning from the court to whom any relevant proceedings relate;

(b) willfully interrupts or obstructs the proceedings of a subordinate court; or

(c) willfully disobeys an order or direction of a subordinate court.”

44. Section 6 does envision a scenario where one willfully disobeys a decree as is suggested to be the case in **Mavoko Civil Suit No. 386 of 2014, Francis Ngige Waweru versus County Government of Olkejuado**. Looking through the record it's clear that the decree complained of was extracted in January 2015. The procedure in and by itself prima facie does not typify that the exparte applicant willfully disobeyed or acted against the court order. To the extent that the trial court made a finding that the Exparte applicant was in contempt of court the evidence ought to show that there was adherence to constitutional right to a fair hearing and due process. This to me is a conditional precedent to trigger contempt proceedings. It was up to the interested party to satisfy the court that the decree and order had been served upon the exparte applicant before exercising jurisdiction over the subject matter.

45. The basis upon which the trial court proceeded is in contravention of the principles in the case of **Anisminic Ltd V Foreign Compensation Commission** where the court held as follows:

“...there are many cases where, although the tribunal had jurisdiction to enter on the inquiry, it has done or failed to do something in the course of the inquiry which is of such a nature that its decision is a nullity. It may have given its decision in bad faith. It may have failed in the course of inquiry to comply with the requirement of natural justice. It may in perfect good faith have misconstrued the provisions giving it power to act so that it failed to deal with the question remitted to it and decided some question which was not remitted to it. It may have refused to take into account something which it was required to take into account. Or it may have based its decision on some matter which, under the provisions setting it up, it had no right to take into account. I do not intend this list to be exhaustive. But if it decides a question remitted to it for decision without committing any of these errors it is as much entitled to decide that question wrongly as it is to decide it rightly.”

46. These are the considerations that the trial court ought to have reflected on as the core requirement of the decision which gave rise to the present proceedings.

47. Further in the case of **Mirugi Kariuki V Attorney General civil appeal no 70 of 1981** the court held “It's not the absoluteness of the discretion nor the authority exercising it that matter but whether in its exercise some person's legal right or interests have been affected. This makes the exercise of such discretion justifiable and therefore subject to judicial review”

48. The facts of this case as I understand them fall within the ambit of the principles cited above and in the authorities of **R V Minister for local Government and another Exparte Mwahima eKLR 2002 at page 557, Kenya Commercial Bank Ltd V Kenya National Commission on Human Rights 2008 eKLR page 362 and R V Chief magistrate Exparte Ganijee and another 2002 eKLR 703**.

49. In the instant case bringing all these facts as pleaded and the legal principles in light of this application am satisfied that the action by the learned trial magistrate fell under the threshold of the above cases to warrant judicial review intervention. The granting of orders against the exparte applicant is tainted with impropriety of procedure, breach of the principles on natural justice and due process, failure to serve the requisite notice on the pendency of proceedings to which he has suffered prejudice.

50. My reading of the record before the court below paints a picture that there was no sufficient evidence or material which could have

entitled the trial magistrate to commence contempt proceedings against ex parte applicants.

Disposition

51. In the premises of the foregoing discourse, this court makes the following orders:

- a. An Order of **Certiorari** does hereby remove into the Honorable court and quash the decision of Honourable L Kassam contained in the Warrant of arrest in execution to arrest the Governor of OlKejuado County Government dated 12th March 2018
- b. An Order of **Prohibition** does hereby remove from this Honorable court directed to the Respondent prohibiting further enforcement of the warrants of arrest dated 12th March 2018 and/or incarceration of the ex-parte applicant in civil jail arising out of the same facts and proceedings in **Mavoko Civil Suit No. 386 of 2014.**
- c. An Order of **Prohibition** does hereby remove from this Honorable court directed to the Respondent, Hon L. Kassam, from in any manner howsoever establishing or continuing with any execution proceeding against the Exparte applicants whatsoever whether the proceedings are the same or arise out of the same facts as those which led to warrant of arrest dated 12th March 2018.
- d. There shall be no order as to costs.
- e. It is so ordered.

Dated, Signed and Delivered in open court at Kajiado this 19th Day of September 2018

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REUBEN NYAKUNDI

JUDGE

Representation

- **Mr. Maina for Mr. Letangule for the Ex parte Applicant**
- **The Respondent Counsel Absent**