



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT EMBU

JR MISC APPLICATION NO. 1 OF 2016

**IN THE MATTER OF AN APPLICATION BY MANYOTA LIMITED FOR JUDICIAL
REVIEW FOR ORDERS OF CERTIORARI**

AND

IN THE MATTER OF MOTOR VEHICLE REGISTRATION NUMBER KBR 449E

AND

IN THE MATTER OF KENYA NATIONAL HIGHWAYS AUTHORITY

AND

IN THE MATTER OF THE TRAFFIC ACT CAP 403 LAWS OF KENYA

MANYOTA LTD.....PLAINTIFF

VERSUS

KENYA NATIONAL HIGHWAY AUTHORITY.....RESPONDENT

RULING

1. The applicant is seeking *ex-parte* leave to file for orders of certiorari and mandamus against the Kenya National Highways Authority. The order of certiorari is sought to quash the decision of the respondent which gave rise to the confiscation of the number plates of motor vehicle registration number KBR 449E. Mandamus is sought to compel the respondent to return the number plates of the said motor vehicle.
2. The application is brought under Order 53, the inherent jurisdiction of the court and all other enabling provisions of the law. It is supported by a statement of facts and an affidavit verifying the facts.
3. Counsel for the *ex-parte* applicant made oral submissions in support of the application. In addition to the foregoing orders, he also submitted that if it is granted it should also operate as a stay of what is complained of.
4. According to him, the police acted in excess of their jurisdiction in issuing a prohibitory order and in confiscating the number plates of the motor vehicle. Under sections 106 and 107 of the Traffic Act (Cap 406) Laws of Kenya, the police are allowed to take an abandoned motor vehicle and not its number plates. The taking of the motor vehicle's number plates is not allowed. Because of this, the owner is unable to use the motor vehicle.
5. I have perused the statement of facts and the verifying affidavit. I find that the *ex-parte* applicant has made out a case for the grant of the *ex-parte* leave to file a motion for the orders of certiorari

and mandamus. The grant of this *ex-parte* leave shall not operate as a stay of the proceedings in issue.

6. In terms of Order 53, the *ex-parte* applicant has to file his notice of motion within 21 days. Additionally, the *ex-parte* applicant is required to serve all interested parties, if any.
7. Costs of this application shall be costs in cause.

RULING DATED, SIGNED and DELIVERED in open court at **EMBU** this **3rd**. day of **FEBRUARY 2016**.

In the presence of Mr Mutahi holding brief for Mr Kabue and in the absence of the respondent.

Court clerk Mr Njue

J.M. BWONWONGA

JUDGE

03.02.16