



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT KITALE

JUDICIAL REVIEW NO. 3 OF 2016

REPUBLICAPPLICANT

VERSUS

THE DIRECTOR OF PUBLIC PROSECUTION.....1ST RESPONDENT

KITALE COUNTY CRIMINAL INVESTIGATIONSOFFICER2ND RESPONDENT

(KISHOR VELJI PATANISUBJECT)

J U D G M E N T

The notice of motion dated 22nd June 2016 prays for the following relief

- 1) **An Order of Ceterari do issue to bring to this Honourable Court for purposes of quashing the decision of the Kitale County Criminal Investigation Officer to confiscate and detain motor vehicle registration number KBH 126W Toyota Corana Saloon.**
2. **An Order of prohibition do issue against the 2nd respondent barring him from bringing fake/and or false charges against the applicant in relation to ownership of motor vehicle registration number KBH 126W Toyota Corona Saloon.**
3. **An Order of Mandamus do issue compelling the 2nd respondent to release to the applicant motor vehicle number KBH 126W Toyota Corana Saloon.**

The same is supported by the affidavit of **Kishor Velji Patani** together with the statements to be relied upon . The application is not opposed. The applicant contents that he purchased the suit motor vehicle from one **Peter Waithunguri** for a total purchase consideration of Kshs 550,000. He was handed all the documents pertaining to the said vehicle.

Without transferring it to himself he sold the same vehicle to one **Brennda Akumu Omondi** for a total purchase consideration of Kshs 600,000/-. The said Omondi later complained that the vehicle was being looked for by the police on the allegation of having been stolen. The vehicle was detained at Kitale police station where the applicant was forced to refund M/s Omondi the sum of Kshs 600,000/-. Todate the said vehicle is still parked at the Kitale police station.

He further states that neither the police or any other person has preferred any charges against him and therefore he continuous to suffer mental loss since he has been branded a suspect and that all efforts to have the vehicle released to him have been fruitless.

The court has perused the entire application as well as the supporting documents. It appears from the affidavit of service of Elizabeth Omwenyo that the respondents were served but to date they have not filed any response.

Consequently my understanding is that they have no claim against the applicant or the said motor vehicle. If indeed they were interested in preferring any charge against the applicant then they should have done so by now.

In the premises I shall allow the application as follows;

(1) An order of Certiorari is hereby issued bringing to this court for purposes of quashing which I hereby do the decision of Kitale County Criminal Investigation Officer confiscating and detaining Motor vehicle Reg. No KBH 126W Toyota Corona Saloon.

(2) An Order of Mandamus is hereby issued compelling the 2nd respondent to released to the applicant Motor vehicle Registration number KBH 126W Toyota Corona Saloon further

3) Costs to the applicant.

Orders accordingly.

Delivered this 5th day of October, 2016.

H.K. CHEMITEI

JUDGE

In the presence of;

Arunga for Obwonya for Applicant

No appearance for Respondents

Kirong – Court Assistant