



IN THE HIGH COURT AT NAIROBI
MILIMANI LAW COURTS
CONSTITUTIONAL AND HUMAN RIGHTS DIVISION
PETITION NO. 213 OF 2014

BETWEEN

THE LAW SOCIETY OF KENYA PETITIONER

AND

THE CABINET SECRETARY TREASURY..1ST RESPONDENT

THE ATTORNEY GENERAL 2ND RESPONDENT

RULING

1. The matter before the court is a Notice of Motion dated 5th May 2013 and it is founded on a petition dated 5th May 2013. The Law Society acting in public interest seeks, inter alia, the following interim reliefs.

[a] That this application be certified extremely urgent and be

heard ex-parte at the first instance.

[b] That pending the hearing and determination of this

application interpartes conservatory orders do issue staying the decision of the respondents for and on behalf of the Government of Kenya to pay Universal Satspace (North America) LLC, in pursuance of judgment in High Court of Justice Queens Bench Claim No. 2006 Folio 881.

2. The judgment sought to be stayed is one arising from the now infamous Anglo Leasing contracts which have been the subject of investigations by the Kenya Anti-Corruption Authority, the predecessor to the Ethics and Anti-Corruption Authority.
3. Mr Mwamu, who appeared with Mr Khamati, urged the court to grant interim relief to prevent the 1st respondent from paying out monies pursuant to the judgment as this would be contrary to the Constitution. He submitted that the judgment was not valid in Kenya as it was not registered, that it was obtained in breach of the rules of natural justice and the Republic of Kenya was denied an opportunity to put forth a formidable defence.

4. I am alive to the fact that this is an ex-parte hearing and the judge hearing the matter will have the opportunity to assess the pith and substance of the allegations. Whereas I am satisfied that the matter is urgent, I am not convinced that ex-parte orders are merited without service to the respondents. The payment of such a sum in the magnitude of USD 12,366,816/00 is not so imminent as to demand an ex-parte order.
5. I therefore direct that the petition and application be served on the respondents and the same is fixed for directions and further orders on 7th May 2014.

DATED and DELIVERED at NAIROBI this 5th day of May 2014.

D.S. MAJANJA

JUDGE

Mr Mwamu with him Mr Khamati instructed by Mwamu and Company Advocates for the petitioner ex-parte.