



IN THE HIGH COURT OF KENYA AT MERU

JUDICIAL REVIEW APPLICATION NO. 3 OF 2013

IN THE MATTER OF AN APPLICATION BY ELIJAH MWENDA NKUBITU FOR JUDICIAL REVIEW ORDERS OF MANDAMUS AND PROHIBITION

IN THE MATTER OF SECTION 8 AND 9 OF THE LAW REFORM ACT CAP.26 LAWS OF KENYA

AND

IN THE MATTER OF ARTICLES 31(B), 40(3) AND 47 OF THE CONSTITUTION OF KENYA, 2010

AND

IN THE MATTER OF MOTOR VEHICLE REGISTRATION NO. KBF 147 K TOYOTA SCP11 SALOON

REPUBLIC.....APPLICANT

VERSUS

THE DISTRICT CRIMINAL INVESTIGATIONS OFFICER (DCIO)

NORTH IMENTI.....1ST RESPONDENT

THE DIRECTOR OF PUBLIC PROSECUTIONS.....2ND RESPONDENT

THE HON. ATTORNEY GENERAL.....3RD RESPONDENT

SHADRACK MUCHUI.....INTERESTED PARTY

ELIJAH MWENDA NKUBITU.....EX PARTE APPLICANT

JUDGEMENT

In his application, the applicant sought an order of mandamus directing the 1st Respondent (DCIO North Imenti) to release Motor vehicle registration No. KBF 147K TOYOTA SCP II SALOON TO Elijah Mwenda Nkubitu forthwith. He also sought an order for the writ of prohibition, prohibiting the 1st Respondent (DCIO North Imenti) from withholding, detaining, impounding, restraining and/or otherwise howsoever interfering with Elijah Mwenda Nkubitu's possession, user and/or enjoyment of Motor vehicle Registration No. KBF 147K TOYOTA SCPII SALOON.

On 3rd July, 2014, the parties urged this Court to adopt the terms of their consent as an order of the court. The consent is contained in a letter addressed to the Deputy Registrar, High Court of Kenya, Meru which

requests for a Consent Judgment in the following terms:

“1. THAT the D.C.I.O Meru do release Motor Vehicle Registration No. KBF 147K to its owner ELIJAH MWENDA NKUBITU forthwith.

2. THAT SHADRACK MUCHUI LIMIRI shall pay the costs/charges/expenses for change of engine oil and replacement of battery and the same be done within (14) days from the date of release of the vehicle (KBF 147K) by the D.C.I.O.

3. THAT all and/or any ownership documents in respect of the Motor Vehicle Reg. No. KBJ 147 K held by the D.C.I.O and/or by SHADRACK MUCHUI LIMIRI shall be handed over to ELIJAH MWENDA NKUBITU immediately upon the release of the said Motor Vehicle.

4. THAT each party shall bear its own costs.

Judgment is hereby delivered adopting the terms of the consent as an order of this Court. It is ordered that this suit be marked as settled. The parties may not revive or return the suit to Court.

It is so ordered.

Delivered in Open Court at Meru this 3rd day of July, 2014 in the presence of:

Cc Lilian/Daniel

Ngunjiri for Applicant

Kieti for 1st, 2nd and 3rd Respondents

Mutuma for Interested Party.

P. M. NJOROGI

JUDGE