



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**  
**AT NAIROBI (MILIMANI LAW COURTS)**

**PETITION 9 OF 2012**

**HON. WASHINGTON JAKOYO**

**MIDIWO.....APPLICANT**

**VERSUS**

**DIRECTOR PUBLIC PROSECUTOR.....1<sup>ST</sup>**  
**RESPONDENT**

**THE COMMISSIONER OF POLICE.....2<sup>ND</sup>**  
**RESPONDENT**

**THE DIRECTOR CID.....3<sup>RD</sup>**  
**RESPONDENT**

**THE HON. ATTORNEY GENERAL.....4<sup>TH</sup>**  
**RESPONDENT**

**THE CHIEF MAGISTRATE NAIROBI LAW COURTS.....5<sup>TH</sup>**  
**RESPONDENT**

**R U L I N G**

On 6-7-2012 when the matter was to come up for hearing of the main petition the applicant file an application dated 5-7-2012 under certificate of urgency seeking the following orders:-

**(a)This honourable court be pleased to determine the present application in priority to the petitioner's application dated 24-4-2012.**

**(b)This honourable court be pleased to order one James Mungai Warui to appear before this court for purposes of being cross examined on the contents of the affidavit sworn by him on 3-5-2012 and lodged on 4-5-2012.**

**(c)That this honourable court be pleased to order one James Mungai Warui to produce the statement of the 25 witnesses, the documentary exhibits findings and recommendations made by the police as well as the documentary findings and conclusions of the 1<sup>st</sup> respondent be relied on.**

**(d)That this honourable court be pleased to order one Mr. John Kariuki SSP to appear before this for purposes of being cross examined on the contents of the affidavit sworn by him on 23-4-2012.**

The application is supported by the applicant's affidavit sworn on 5-7-2012.

According to the applicant of James Mungai Warui's affidavit refers to an investigation file by the 2<sup>nd</sup> respondent and that in his support he has mentioned one John Kariuki SSP who alleged that a warrant of arrest be issued against the applicant who could not be traced.

When this application came up for hearing the respondent chose not to file any responses, but to rely on their substantive submissions already on record.

I have carefully read the entire application together with the affidavit of James Mungai Warui and John Kariuki. The affidavit of John Kariuki SSP is an annexure to the affidavit of Beatrice Akinyi Maganda.

After carefully assessing the application, I do not find any merit in it. The issues which the applicant seeks to cross examine the deponents contained in their affidavits are clear and can be well understood without the deponents being cross examined.

I do therefore disallow the same and order the parties to proceed with what is already on record and let this matter be determined without further undue delay.

**Dated, signed and delivered at Kisumu this 10<sup>th</sup> day of July, 2012**

**H.K. CHEMITEI  
JUDGE**

.....for the applicant

.....for the respondents

HKC/va