

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
JUDICIAL REVIEW DIVISION
JUDICIAL REVIEW MISC. APPLICATION NO. E151 OF 2025

**IN THE MATTER OF ARTICLES 2,3,10,19,20,21,22,23 & 47 OF THE CONSTITUTION
OF KENYA, 2010**

**IN THE MATTER OF THE VIOLATION OF RIGHTS AND FUNDAMENTAL
FREEDOMS**

BETWEEN

REPUBLIC.....APPLICANT

-VERSUS-

EMBU GOLF & COUNTRY CLUB.....1ST RESPONDENT

DAVID NJUGUNA NJOROGE.....2ND RESPONDENT

PENINAH MAKENA MWENDWA.....3RD RESPONDENT

ISAIAH KAGOCE.....4TH RESPONDENT

AND

KENNETH NYAGA MWIGE..... EXPARTE APPLICANT

AND

KENYA GOLF UNION..... INTERESTED PARTY

RULING

1. The chamber summons dated 14th November, 2025 seeks leave of this court to apply for Judicial Review orders of certiorari and mandamus challenging the decision of the respondents to expel the applicant from the 1st respondent member's club.
2. The applicant asserts that the expulsion was illegal, unreasonable and procedurally improperly done without according him an opportunity to be

heard thereby violating his right to fair administrative action, among other alleged constitutional violations. The expulsion is alleged to have been taken summarily on 20th October 2025.

3. The application is brought under certificate of urgency. However, it is nearly one month from the date of expulsion and therefore this court does not find the application to be urgent and it declines to certify the application as urgent.
4. Nonetheless, pursuant to **Order 53 Rule 1 of the Civil procedure Rules**, this Court has the power and discretion to entertain such application in Chambers and ex parte, provided it is satisfied that an arguable prima facie case is established to warrant a further inquiry at the substantive stage, and that therefore on the face of it, without delving into the merits of the intended application, it is not frivolous or hopeless. The threshold is an arguable case and an arguable case is not necessarily one that must succeed, but discloses a cause of action for further consideration inter-partes at the substantive stage.
5. Furthermore, the right to be heard is intertwined with access to justice as guaranteed in **Articles 50(1) and 48 of the Constitution** respectively and therefore this court will not lock out the applicant from ventilating his grievances.

6. I therefore exercise discretion and grant leave to the applicant to institute Judicial Review proceedings as sought in the chamber summons dated 14th November, 2025.
7. The substantive motion shall be filed and served upon the respondents and interested parties within 21 days of this order and in a fresh Judicial Review file, this being a miscellaneous file.
8. On the prayer that leave so granted do operate as stay of the alleged summary expulsion of the applicant from the 1st respondent Club, pending the hearing and determination of the substantive notice of motion, I note that the applicant in the prayer for stay or that the status quo to be maintained states that the status quo prevailing prior to his expulsion on 20th November, 2025 which is a future date. I decline to entertain the prayer for stay or to issue a status quo order as the prayer thereof is based on the cited date being a future date.
9. The applicant is at liberty to apply for stay orders in the main motion. Costs if any shall be in the main motion.
10. This file is therefore closed.

Dated, Signed & Delivered virtually at Nakuru this 17th Day of November, 2025

**R.E. ABURILI
JUDGE**

ORIGINAL