

**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT KISUMU**  
**JUDICIAL REVIEW APPLICATION NO. E015 OF 2025**

REPUBLIC.....APPLICANT  
ANT

VERSUS

THE CITY MANAGER, KISUMU CITY &  
SECRETARY KISUMU CITY BOARD.....1<sup>ST</sup>  
RESPONDENT

THE CHIEF FINANCE OFFICER,  
COUNTY GOVERNMENT OF KISUMU.....2<sup>ND</sup>  
RESPONDENT

AND

SPACEBUSTER LIMITED.....EX PARTE  
APPLICANT

**RULING**

1. Before me is the chamber summons application dated 26<sup>th</sup> October, 2025, through which the *ex parte* Applicant seeks for leave to file an application seeking for the judicial review order of *mandamus* against the Respondents.
  
2. Although the Respondents, having been notified of the *ex parte* chamber summons through service, proceeded to file a detailed replying affidavit in opposition to the application for leave, my understanding of the applicable law is that an application for leave ought to be *ex parte* in nature as it is only a precursor to the main judicial review application.

3. The relevant provision to that end is *Order 53 Rule 1(1) and (2)* of the *Civil Procedure Rules*. Let us read the provisions:

**Order 53. Rule 1. Applications for mandamus, prohibition and certiorari to be made only with leave**

**(1) No application for an order of mandamus, prohibition or certiorari shall be made unless leave therefor has been granted in accordance with this rule.**

**(2) An application for such leave shall be made *ex parte* to a judge in chambers, and shall be accompanied by**

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**(a) a statement setting out the name and description of the applicant, the relief sought, and the grounds on which it is sought; and**

**(b) affidavits verifying the facts and averment that there is no other cause pending, and that there have been no previous proceedings in any court between the applicant and the respondent, over the same subject matter and that the cause of action relates to the applicants named in the application.**

(Underlined emphasis).

4. It is clear from the above provisions that an application for leave is *ex parte* by nature. I will not, in the circumstances consider, in determining the application, the replying affidavit filed in response thereto.
5. All said, I have considered the application, the verifying affidavit, the accompanying statement and I am satisfied that the application is not frivolous, vexatious or hopeless as it presents an arguable or *prima facie* case for consideration through a substantive application for judicial review.
6. Being of that persuasion, I hereby grant leave to the *ex parte* Applicant to commence against the Respondents, the judicial review proceedings seeking for mandamus. I direct that the substantive application for mandamus be filed and served within 21 days from the date hereof.
7. This matter will be mentioned on 19<sup>th</sup> February, 2026 for further directions.
8. Orders accordingly.

DELIVERED (virtually), DATED & SIGNED this 13<sup>th</sup> day of November, 2025.

**JOE M. OMIDO**  
**JUDGE**

FOR *EX PARTE* APPLICANT: **Mr. Ouma.**

FOR RESPONDENTS: **Mr. Mong'eri.**

COURT ASSISTANTS: **Mr. Ngoge & Mr. Juma.**