

**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT NAIROBI**  
**JUDICIAL REVIEW DIVISION**  
**JUDICIAL REVIEW APPLICATION NO. E367 OF 2025**

**IN THE MATTER OF AN APPLICATION FOR LEAVE TO APPLY FOR ORDERS  
OF JUDICIAL REVIEW (ORDERS OF CERTIORARI, PROHIBITION &  
MANDAMUS**

**IN THE MATTER OF: ARTICLES 22,23,47, OF THE CONSTITUTION OF KENYA,  
2010**

**-AND-**

**IN THE MATTER OF: FAIR ADMINISTRATIVE ACTION ACT, 2015**

**-AND-**

**IN THE MATTER OF: ORDER 53 OF THE CIVIL PROCEDURE RULES, 2010**

**-AND-**

**IN THE MATTER OF: THE SURVEY ACT, CAP, 299**

**-BETWEEN-**

**FREDRICK GITUMA JOHN.....APPLICANT**  
**(Suing on his own behalf and on behalf 190 Bachelor of Technology in Land  
Surveying degree holders from the Technical University of Kenya)**

**-AND-**

**LAND SURVEYORS' BOARD.....RESPONDENT**  
**THE TECHNICAL UNIVERSITY OF KENYA.....1<sup>ST</sup> INTERESTED PARTY**  
**COMMISSION FOR UNIVERSITY EDUCATION.....2<sup>ND</sup> INTERESTED PARTY**  
**SILAS KIPKAZI TUMO.....3<sup>RD</sup> INTERESTED PARTY**

**RULING ON AN APPLICATION FOR LEAVE TO APPLY FOR  
JUDICIAL REVIEW ORDERS**

1. The chamber summons dated 20<sup>th</sup> November, 2025 is brought under certificate of urgency.
2. I have perused the application, grounds in support thereof, the statutory statement and verifying affidavit. I am satisfied that the application is urgent as it touches on the professional and academic careers of the applicants. I certify it as urgent.
3. On the main prayers, the applicants seek the following reliefs:

2. *That this Honourable Court be pleased to grant leave to the Applicant to institute and prosecute this suit in a representative capacity, for himself and on behalf of all other persons having the same interest in the subject matter of this suit and to issue a Notice of the suit by way of advertisement or as the court may direct.*
3. *Leave be granted to commence Judicial Review proceedings for an order of Certiorari, to quash the decision of the Respondent disallowing the Applicant and all other affected persons who hold Bachelor of Technology in Land Surveying degrees and had met all other requirements to sit for the Land Law Examination and had applied for that Examination as required under the Gazette Notice No. 12788 dated 01.09.2025.*
4. *Leave be granted to commence Judicial Review proceedings for an order of Certiorari, to quash the decision of the Respondent disallowing holders the Applicant, the 190 Bachelor of Technology in Land Surveying degree holders from the Technical University of Kenya and all other affected persons having the same interest from licensing.*
5. *Leave be granted to commence Judicial Review proceedings for an order of Prohibition, prohibiting the Respondent from implementing the unlawful decision.*

6. *Leave be granted to apply for an order of mandamus against the Respondent compelling the Respondent to allow the Applicant and all other persons that had applied for the Land Law Examination and had met required threshold including holding a Bachelor of Technology in Land Surveying degree from the Technical University of Kenya.*
7. *The leave granted does operate as stay of the decision of the Board barring the applicant and all other persons that had applied for the Land Law Examination and had met the required threshold including holding a Bachelor of Technology in Land Surveying degree from the Technical University of Kenya.*
8. *The leave granted do operate as stay of the decision of the Board barring the Applicant, the 190 Bachelor of Technology in Land Surveying degree holders from the Technical University of Kenya including all other affected persons having the same interest from licensing.*
9. *That upon grant of leave, an ex-parte injunction do issue to restrain the Respondent whether by themselves, their servants or agents from administering the Land Law Examination as per the gazette Notice No. 12788 dated 01.09.2025 until the*

*application for judicial review is heard and determined or further orders.*

**10. The costs of this application be provided for.**

4. The application is supported by the annexed Affidavit of FREDRICK GITUMA JOHN and based on the grounds in the statutory statement and verifying affidavit together with annexures thereto.
5. I have carefully considered the application as presented and the grounds in support and I am satisfied, without delving into the depths of the matters raised, that the application is not frivolous or hopeless. The application raises arguable matters which this court will delve into at the substantive stage. There are allegations of the Respondent made a decision to disallow the Bachelor of Technology degree from licensing, a decision which was not formally adopted by the board, a Clear indication that the decision had not been affirmed. Further allegation is that in the absence of a policy by the board, the law cannot be retrospective in effect and must be applied progressively should it be formulated particularly where constitutional rights and fundamental freedoms that are inherently acquired are likely to be infringed, threatened, denied or violated.
6. In other words, there are serious allegations of violation and or threatened violation of rights guaranteed under the constitution thereby calling upon this Court to intervene. As to whether those allegations are true, is a question that this court will interrogate at the substantive stage.

7. In the premises, I am satisfied that the leave sought is merited. I grant the applicants leave to file a representative suit and to apply for all the judicial review orders as sought in the chamber summons dated 20/11/2025, challenging the decisions made by the respondent affecting the applicants professional and academic qualifications.
8. The Substantive motion to be filed and served upon the respondent and interested parties ***within 21 days of today and in a fresh Judicial review file.***
9. The applicants also pray that the leave so granted do operate as stay of implementation or enforcement of the decision of the Respondent which is impugned. The prayers for stay are framed as follows:

***" 7. The leave granted do operate as stay of the decision of the Board barring the applicant and all other persons that had applied for the Land Law Examination and had met required threshold including holding a Bachelor of Technology in Land Surveying degree from the Technical University of Kenya.***

***8. The leave granted do operate as stay of the decision of the Board barring the Applicant, the 190 Bachelor of Technology in Land Surveying degree holders from the Technical University of Kenya including all other affected persons having the same interest from licensing.***

***10 . That upon grant of leave, an ex-parte injunction do issue to restrain the Respondent whether by themselves, their servants or***

*agents from administering the Land Law Examination as per the gazette Notice No. 12788 dated 01.09.2025 until the application for judicial review is heard and determined or further orders "*

10. Under **Order 53 Rule 1 (4) of the Civil Procedure Rules:**

*"The grant of leave under this rule to apply for an order of prohibition or an order of certiorari shall, if the judge so directs, operate as a stay of the proceedings in question until the determination of the application, or until the judge orders otherwise."*

11. Stay is intended to preserve the status quo and to prevent a situation where, should the applicant be successful in challenging the impugned decision, then he shall not be rendered a pious explorer in the judicial process. Stay also guarantees access to justice and the other constitutionally guaranteed rights including the right to be heard as stipulated in **Article 50(1) of the Constitution.**

12. In this case, the applicants lament that being graduates already, being told to go and resit an examination for their degree certificates to be recognized for licensing is an affront to their professional qualifications which were duly approved by the University before they were allowed to graduate.

13. The applicants have sought and obtained leave to apply for among other judicial review orders, the orders of certiorari, to remove into this court and

quash the impugned decision. In the premises, I am satisfied that unless the stay sought is granted, the applicants affected by the impugned decision will suffer prejudice.

14. I therefore order that the leave so granted shall operate as stay of implementation of the decision which is hereby impugned as sought in prayers 7, 8 and 9 of the Chamber Summons dated 20/11/2025, until the judicial review proceedings are filed, heard and determined on merit. the said proceedings shall be fast tracked once filed. for avoidance of doubt, additionally, the *Respondent whether by themselves, their servants or agents are hereby temporarily restrained from administering the Land Law Examination as per the gazette Notice No. 12788 dated 01.09.2025 until the application for judicial review is heard and determined or further orders of this court are made.*

15. I make no orders as to costs.

16. This file is closed.

**Dated, Signed and Delivered at Nairobi this 21<sup>st</sup> Day of November, 2025**

**R.E. ABURILI  
JUDGE**