

**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT NAIROBI**  
**(JUDICIAL REVIEW DIVISION)**  
**MISCELLANEOUS APPLICATION No. E167 OF 2025**

**IN THE MATTER OF:- AN APPLICATION BY HUSSEIN MOHAMED ADAN FOR LEAVE TO APPLY FOR JUDICIAL REVIEW AND ORDERS OF CERTIORARI, PROHIBITION AND MANDAMUS**

**AND**

**IN THE MATTER OF:- SECTIONS 2 AND 12 OF THE LANDLORD AND TENANT (SHOPS, HOTELS AND CATERING ESTABLISHMENTS) ACT (CAP 301)**

**AND**

**IN THE MATTER OF:- ARTICLES 47 AND 50 OF THE CONSTITUTION OF KENYA**

**BETWEEN**

**HUSSEIN MOHAMED ADAN.....APPLICANT**

**AND**

**BUSINESS PREMISES RENT TRIBUNAL.....RESPONDENT**

**AND**

**FRANCIS MURUKI NJOGU.....1<sup>ST</sup> INTERESTED PARTY**

**MAINA NJOGU.....2<sup>ND</sup> INTERESTED PARTY**

**RULING**

1. The Chamber Summons dated 20th December, 2025 filed under certificate of urgency seeks leave of court to apply for judicial review orders. I certify it as urgent owing to the alleged impending demolition of the premises which

the applicant claims that he personally financed and constructed, being the hotel and structures on the premises, and that their demolition would cause irreversible loss of capital investment and livelihood.

2. On whether leave sought is merited, an applicant must demonstrate an arguable case. He must also demonstrate that this court has jurisdiction to entertain the proceedings.
3. In the instant matter, the applicant claims that the BUSINESS PREMISES RENT TRIBUNAL Rent Tribunal has no jurisdiction to grant orders that lead to the impending demolition and destruction of his hotel which he constructed on the interested party's land following a lease agreement and that the tenancy is not controlled.
4. Be as it may, it is clear that the proceedings before the Tribunal were under the **Landlord and Tenant (Shops, Hotels and Catering Establishments) Act** Cap 301 of Laws of Kenya. The applicant can still challenge the proceedings before the tribunal which has already made orders which he claims were made without according him a hearing. In the Tribunal, he can challenge its jurisdiction. This is so, considering that appeals from decisions of the Tribunal lie to the Environment and Land Act, as stipulated in section 15 of the **Landlord and Tenant (Shops, Hotels and Catering Establishments) Act** which provides that:

***“5. Appeal to court***

***(1) Any party to a reference aggrieved by any determination or order of a Tribunal made therein may, within thirty days after the date of such determination or order, appeal to the Environment and Land Court:***

***Provided that the Environment and Land Court may, where it is satisfied that there is sufficient reason for so doing, extend the said period of thirty days upon such conditions, if any, as it may think fit.***

***(2) In hearing appeals under subsection (1) of this section the Court shall have all the powers conferred on a Tribunal by or under this Act, in addition to any other powers conferred on it by or under any written law.***

***(3) Deleted by Act [No. 2 of 1970](#), s. 13.***

***(4) The procedure in and relating to appeals in civil matters from subordinate courts to the Environment and Land Court shall govern appeals under this Act:***

***Provided that the decision of the Environment and Land Court on any appeal under this Act shall be final and shall not be subject to further appeal.”***

5. Jurisdiction is everything without which, a court of law acts in vain. This Court's jurisdiction is from the Constitution and statutes. It cannot therefore arrogate itself of jurisdiction that it does not have, Moreover, Article 165(5) (b) expressly bars this Court from hearing and determining disputes which are reserved for the Courts contemplated in Article 162(2) and the Supreme Court.
6. Accordingly, this Court declines to entertain the dispute which is reserved for the sister court, noting that matters of claim of ownership of the premises which are constructed on the interested parties' land and which the interested parties seek to evict the applicant from are matters that are in the realm of the Environment and Land Court. For want of jurisdiction, I decline to grant leave sought and proceed to strike out the chamber summons dated 20th December, 2025.
7. This file is closed.

**Dated, Signed and Delivered at Nairobi this 22nd day of December, 2025**

**R.E. ABURILI**  
**JUDGE**