



**REPUBLIC OF KENYA**

**IN THE ENVIRONMENT AND LAND COURT AT MACHAKOS**

**ELC. MISC. APPLN. NO. 258 OF 2016**

**SAMSON MUTUKU NGUTWA .....APPLICANT**

**VERSUS**

**THE MINISTER FOR LANDS .....1<sup>ST</sup> RESPONDENT**

**THE ATTORNEY GENERAL .....2<sup>ND</sup> RESPONDENT**

**AND**

**KYATI SALVATION ARMY .....INTERESTED PARTY**

**JUDGMENT**

1. In the Notice of Motion dated 20<sup>th</sup> September, 2016, the Ex-parte Applicant has prayed for the following Judicial Review reliefs:

*a. That leave be granted to the Applicant to apply for orders of certiorari to remove and/or quash the findings and Judgment of the Minister dated 14<sup>th</sup> September, 2012.*

*b. That the said leave to operate as stay of execution of the said orders.*

*c. That cost of this Application be paid for.*

2. The Application is supported by the grounds on the face of the Application. In the said grounds, the Applicant has averred that the District Commissioner, Kathiani District in Appeal Case No. 157 of 2007 acted in excess of his powers by dismissing the Applicant's Appeal.

3. The current Application is seeking for leave to commence Judicial Review proceedings. In the Application, the Ex-parte Applicant wants to quash the decision of the Minister which was made on 14<sup>th</sup> September, 2012, four (4) years later.

4. No reason has been given as to why the Ex-parte Applicant had to wait for over four (4) years before filing the current Application.

5. In the absence of any good reason as to why the Application seeking for leave to apply for orders of certiorari was not filed within six (6) months pursuant to the provision of Order 53 Rule 2 of the Civil Procedure Rules, I dismiss the Application dated 20<sup>th</sup> September, 2016 with no order as to costs.

**DATED, DELIVERED AND SIGNED IN MACHAKOS THIS 2<sup>ND</sup> DAY OF MARCH, 2018.**

**O. A. ANGOTE**

**JUDGE**