



IN THE COURT OF APPEAL

AT NAIROBI

(CORAM: WAKI, VISRAM & NYAMU, JJ.A)

CIVIL APPLICATION NO. NAI. 3 OF 2011 (UR. 3/2011)

BETWEEN

**THE REGISTERED TRUSTEES OF THE CATHOLIC DIOCESE OF
MACHAKOS.....APPLICANT**

AND

THE REGISTRAR OF TITLES, NAIROBI1ST RESPONDENT

THE HON. THE ATTORNEY GENERAL2ND RESPONDENT

(An application for stay of the orders pending the lodging, hearing and determination of an intended appeal from a Ruling of the

High Court of Kenya at Machakos (Waweru, J) dated 10th December, 2010

in

H. C. Misc. Civil Appl. No. 218 of 2010)

RULING OF WAKI, JA

I have perused the draft Rulings of my brothers Visram and Nyamu, JJ.A and I am grateful for that opportunity. I agree with Nyamu JA that there are weighty issues of fact and law which not only lie before the superior court awaiting consideration in the Judicial Review application but will also arise before the appellate court in the intended appeal. There will also be issues of public and private interests to be balanced. But the issue before us is fairly limited and that is whether the interlocutory application before us is proper. In essence what the applicant prays we do is to stay the order of the superior court refusing stay, which would amount to granting the order that was rejected even before the intended appeal is heard. In that sense I have sympathy for the course taken by my brother Visram JA which I am inclined to agree with.

In the result the final order would be as proposed by Visram JA for dismissal of the application with costs as proposed therein.

Dated and delivered at Nairobi this 18th day of March, 2011.

P. N. WAKI

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JUDGE OF APPEAL

I certify that this is a true copy of the original.

DEPUTY REGISTRAR