



REPUBLIC OF KENYA

IN THE EMPLOYMENT AND LABOUR RELATIONS COURT

AT NAIROBI

JR CAUSE NO. 39 OF 2018

IN THE MATTER OF AN APPLICATION FOR LEAVE TO APPLY FOR

JUDICIAL REVIEW ORDERS OF CERTIORARI AND PROHIBITION

AND

IN THE MATTER OF SECTION 8 AND 9 OF THE LAW REFORM ACT

AND

IN THE MATTER OF THE FAIR ADMINISTRATIVE ACTION ACT, 2015

AND

IN THE MATTER OF THE CONSTITUTION OF KENYA, 2010

AND

IN THE MATTER OF AN APPLICATION FOR JUDICIAL REVIEW

ORDERS OF CERTIORARI, PROHIBITION BY GUYO SHANDA UMURO

BETWEEN

GUYO SHANDA UMURO **APPLICANT**

v

COUNTY GOVERNMENT OF MARSABIT,

DEPARTMENT OF AGRICULTURE, LIVESTOCK AND

FISHERIES DEVELOPMENT **1st RESPONDENT**

MINISTRY OF AGRICULTURE, LIVESTOCK, FISHERIES AND

IRRIGATION, STATE DEPARTMENT OF LIVESTOCK **2nd RESPONDENT**

ATTORNEY GENERAL **3rd RESPONDENT**

WATO DENG HALAKE **INTERESTED PARTY**

RULING/DIRECTIONS

1. When this file was placed before the Court on 24 June 2019, Mr. Minishi, advocate for the 1st Respondent informed the Court that there were 2 applications on file pending determination.
2. Given the opportunity to address the Court, Mr. Wangila, advocate holding brief for the applicant sought to have the his (applicant's) application dated 5 February 2019 heard and determined first.
3. The Court then took a cursory glance at the record and found some confusion, hence it directed that it would go through the file and give directions today.
4. On 24 December 2018, Guyo Shanda Umuro (applicant) filed in Court 2 applications under certificate of urgency.
5. The first application through *Summons* sought leave to have a motion filed at the same time admitted and heard during the vacation (there was no such Motion on record).
6. The second application, also a *Summons* sought leave to apply for judicial review orders, and that the leave if granted do operate as stay of the decision taken by the Respondents to remove the applicant from the position of *County Project Team Leader, Regional Pastoral Livelihoods Resilience Project, Kenya*.
7. The applicant was not in Court when the file was placed before Court on 24 December 2018, but because there was a certificate of urgency, the Court made an order

Application through Summons allowed.

8. The applicant extracted an order in terms of the Court order.
9. On 31 December 2018, *Minishi & Associates Advocates* filed a *Notice of Appointment* to come on record for the 1st Respondent.
10. Come 9 January 2019, the applicant again filed 2 applications under certificate of urgency.
11. The first application, a *Summons* dated 8 January 2019 sought an order that the Notice of Motion dated *24 December 2018* be heard during the vacation (there is no such dated application on record) while the second application (also dated 8 January 2019) sought contempt orders against some 3 named persons.
12. When the 2 applications were placed before the Duty Court on 10 January 2019, it ordered service upon the Respondents with an *inter partes* hearing scheduled for 22 January 2019.
13. Before the Courts ink could dry, the applicant moved the Court yet again on 11 January 2019 seeking leave to commence contempt proceedings against some 3 named persons. There was yet again a second application filed on the same day seeking leave to have the contempt application heard during the vacation.
14. When this latter application was placed before the Duty Court, it noted that it had handled a similar application only the previous day. Nevertheless, the Court directed that the application be served for mention on 22 January 2019.
15. The Attorney General came on record on 17 January 2019 and on 18 January 2019, the applicant filed a substantive Motion seeking judicial review orders.
16. On 22 January 2019, the Court allowed the application seeking leave to commence contempt proceedings, and the applicant was directed to file the application within 14 days. Mention was fixed for 28 February 2019 to confirm the filing, and for further directions. The applicant filed the application on 5 February 2019.
17. The 2nd and 3rd Respondents filed a *Notice of Preliminary Objection* on 14 February 2019.
18. On 28 February 2019, the Court allowed the Respondents time to file their responses to the contempt application with mention set for 20 March 2019.
19. Not to be left behind, the 1st Respondent filed a motion under certificate of urgency on 12 April 2019 seeking stay of the orders issued on 24 December 2018.
20. It is the applicant's contempt application and the 1st Respondent's stay application which came up on 24 June 2019.
21. It cannot be ruled out that part of the confusion in the file has been engendered by the multiplicity of applications by the applicant and his reference to a Notice of Motion dated 24 December 2018 was not on file/record.
22. However, the state of the record as it is now suggests that apart from admitting the application seeking to be heard during the vacation, the Court did not grant leave to commence judicial review orders on 24 December 2018. The Court only dealt with the *institative application* to be heard during the vacation.

23. The applicant would probably have been alert to that state of the record had he attended Court on 24 December 2018 or realised that there must have been an erroneous reference to a Notice of Motion in his applications.

24. With the clarification given, the Court directs that

(i) The application for leave and that leave do operate as a stay be heard on a mutually convenient date to be scheduled hereinafter.

(ii) The parties to address the Court on what should happen to the multiple applications on record.

25. No order as to costs.

Delivered, dated and signed in Nairobi on this 28th day of June 2019.

Radido Stephen

Judge

Appearances

For applicant Bake Hassan, Hisham & Associates Advocates

For 1st Respondent Minishi & Associates Advocates

For 2nd & 3rd Respondents Hon Attorney General

Interested Party No appearance

Court Assistant Lindsey