



**Musau & 3 others v Mombasa County Criminal Investigating Officer (CCIO)  
& another; G4s Kenya Limited (Interested Party) (Miscellaneous Criminal  
Application 19 of 2020) [2024] KEHC 533 (KLR) (25 January 2024) (Ruling)**

Neutral citation: [2024] KEHC 533 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT MOMBASA  
MISCELLANEOUS CRIMINAL APPLICATION 19 OF 2020**

**A. ONG'INJO, J**

**JANUARY 25, 2024**

**IN THE MATTER OF AN APPLICATION UNDER ARTICLES 165(3), 2, 10,  
19, 20(1) (2) (3) (4), 21 AND 22 OF THE CONSTITUTION OF KENYA 2010**

**AND**

**IN THE MATTER OF CHAPTER FOUR OF THE CONSTITUTION OF KENYA 2010**

**AND**

**IN THE MATTER OF ARTICLES 27 & 40 OF THE CONSTITUTION 2010**

**AND**

**IN THE MATTER OF PROTECTION TO PROPERTY UNDER  
ARTICLE 40 OF THE CONSTITUTION OF KENYA 2010**

**AND**

**IN THE MATTER OF NATIONAL GOVERNMENT CO-ORDINATION ACT  
(ACT NO.1 OF 2013), NATIONAL POLICE SERVICE ACT (ACT NO.11A OF 2011)**

**AND**

**IN THE MATTER OF SECTIONS 121 OF THE CRIMINAL  
PROCEDURE CODE (CHAPTER 75 LAWS OF KENYA**

**BETWEEN**

**JACOB MUTUKU MUSAU ..... 1<sup>ST</sup> APPLICANT**

**SYLVESTER MBULI MBUVI ..... 2<sup>ND</sup> APPLICANT**

**AMOS MUTUKU MUSYOKA ..... 3<sup>RD</sup> APPLICANT**

**PATRICK KARANJA NJAU ..... 4<sup>TH</sup> APPLICANT**

**AND**



**MOMBASA COUNTY CRIMINAL INVESTIGATING OFFICER  
(CCIO) ..... 1<sup>ST</sup> RESPONDENT  
DIRECTOR OF PUBLIC PROSECUTION ..... 2<sup>ND</sup> RESPONDENT  
AND  
G4S KENYA LIMITED ..... INTERESTED PARTY**

**RULING**

1. By a Notice of Motion application dated 6.10.2023, the applicant herein came under Certificate of Urgency seeking that the orders made on 5.10.2023 dismissing their application be set aside and that their application be reinstated and heard on merit.
2. This court gave directions that the application be given by way of written submissions and parties were given timelines to respond and file submissions. However, this court has not located any responses or submissions from the respondents and Interested Parties and considering the applicant's advocate sent a representative to hold her brief on 5.10.2023 and place the file aside but did not appear later when the file was called out, this court will allow the application subject to the applicant paying thrown away costs of Kshs. 20,000 to the Interested Party's advocate.
3. The applicant is granted the last opportunity to prosecute their case on a date to be agreed on by the parties in court. Failure to prosecute within the set timelines, the application will stand dismissed.

**DATED, SIGNED AND DELIVERED IN OPEN COURT/ONLINE THROUGH MS TEAMS,  
THIS 25<sup>TH</sup> DAY OF JANUARY 2023**

**HON. LADY JUSTICE A. ONG'INJO**

**JUDGE**

In the presence of: -

Ogwel- Court Assistant

Mr. Langat H/B for Ms. Jeruto Advocate for Applicants

Mr. Ngiri for 2<sup>nd</sup> Respondent

Ms. Lelu Advocate H/B for Mr. Mugambi Advocate for Interested Party

**HON. LADY JUSTICE A. ONG'INJO**

**JUDGE**

**Orders:** Hearing on 20.5.2024 for applicants' case. Hearing on 21.5.2024 for Respondent and Interested Party's case.

Ruling on 20.6.2024.

Notice to issue to 1<sup>st</sup> Respondent.

Copy of ruling to be supplied to parties on payment of copying charges.

**HON. LADY JUSTICE A. ONG'INJO**

**JUDGE**



25.1.2024

