

IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA

[ARUSHA SUB-REGISTRY]

AT ARUSHA

MISCELLANEOUS CAUSE NO 20592 OF 2024

**IN THE MATTER OF AN APPLICATION FOR PREROGATIVE ORDERS OF
CERTIORARI AND MANDAMUS**

AND

**IN THE MATTER OF THE LAW REFORM (FATAL ACCIDENTS
MISCELLANEOUS PROVISION) ACT CAP 310 R.E 2019**

AND

**IN THE MATTER OF THE LOCAL GOVERNMENT (DISTRICT AUTHORITIES)
ACT CAP 287 R.E 2002**

**AND IN THE MATTER OF THE AMRI YA MAREKEBISHO YA AMRI YA
MGAWANYO WA MAMLAKA WA MAENEO YA UTAWALA KATIKA SERIKALI
ZA MITAA (MAMLAKA ZA WILAYA) YA MWAKA 2024 G.N 673 OF 2024**

AND

**IN THE MATTER FOR LEAVE TO FILE JUDICIAL REVIEW TO CHALLENGE
AMRI YA MAREKEBISHO YA AMRI YA MGAWANYO WA MAMLAKA WA
MAENEO YA UTAWALA KATIKA SERIKALI ZA MITAA (MAMLAKA ZA
WILAYA) YA MWAKA 2024 G.N 673 OF 2024 FOR BEING ILLEGAL AND
ULTRA VIRES**

BETWEEN

ISSAYA OLEPOSE..... APPLICANT

VERSUS

THE MINISTER PRESIDENT'S OFFICE REGIONAL ADMINISTRATION

AND LOCAL GOVERNMENT.....1ST RESPONDENT

THE ATTORNEY GENERAL.....2ND RESPONDENT

ORDER OF THE COURT

The applicant one ISSAYA OLEPOSE has filed this application seeking leave to file application for judicial review for orders of certiorari and mandamus to quash AMRI YA MAREKEBISHO YA AMRI YA MGAWANYO WA MAMLAKA WA MAENEO YA UTAWALA KATIKA SERIKALI ZA MITAA

(MAMLAKA ZA WILAYA) YA MWAKA 2024 G.N 673 OF 2024 for being unreasonable, illegal, irrational and, for being tainted with procedural impropriety. On top of that the applicant is seeking this court's pleasure to issue an interim order to suspend the operation of AMRI YA MAREKEBISHO YA AMRI YA MGAWANYO WA MAMLAKA WA MAENEO YA UTAWALA KATIKA SERIKALI ZA MITAA (MAMLAKA ZA WILAYA) YA MWAKA 2024 G.N 673 OF 2024 pending determination of this application.

This application is brought under section 17,19 of THE LAW REFORM, FATAL ACCIDENT AND MISCELLANEOUS PROVISIONS ACT, CAP 310 R.E 2002 & Rule 5(1) and 7(5) of the LAW REFORM (FATAL ACCIDENT AND MISCELLANEOUS PROVISION) (JUDICIAR REVIEW AND FEES) RULES, GN.324 OF 2014. It is supported by the applicant's statement and a deposed affidavit.

At the hearing of this application both sides were duly represented. Mr. PETER NJAU learned advocate appeared for the Applicant whilst Mr. LEYANI MBISE assisted by Ms. CHRISTABELLA MADEMBWE, State Attorneys, appeared for the respondents.

At the outset it was agreed by the parties that the hearing of this application should focus on the interim order. This is because, by the time the court convened, the respondent had not filed the counter affidavit due to urgency notice.

Submitting in support of the application for issuance of interim order, Mr. Njau commenced by praying the contents of the applicant's affidavit, particularly paragraph 6, to be adopted to form part of his oral submissions.

Briefly, Mr. Njau submitted that on the 2nd day of August 2024, the 1st Respondent issued G.N No. 673 /2024 entitled AMRI YA MAREKEBISHO

YA AMRI YA MGAWANYO WA MAENEO YA UTAWALA KATIKA SERIKALI ZA MITAA (MAMLAKA ZA WILAYA) YA MWAKA 2024 which deregistered Wards(kata), Villages (vijiji), and Hamlets (vitongoji) in several Districts including Ngorongoro, Bahi, Chemba, Kasulu, Kakonko, Hai and Rombo.

The learned advocate stressed that the residents of Ngorongoro District including the applicant were never notified nor afforded the right to be heard by the 1st Respondent prior to promulgation of the impugned GN which deregistered among other areas, *Ormekeke* Hamlet where the applicant resides and work for gain.

Further to that, the learned advocate submitted that after such deregistration, Ngorongoro District Council issued a notice which requires all residents of the affected areas to vacate from the said areas without providing them with alternative residence. He then prayed the court to exercise its discretion and grant interim order to suspend the notice which requires all the residents of Ngorongoro to vacate.

Responding to the submission by the learned counsel for the applicant, Mr. Mbise submitted that the court may grant an interim order only if the applicant advance sufficient reasons especially on how the implementation of the said order will affect the applicant.

According to Mr. Mbise, the applicant failed to advance sufficient reasons as he failed to state on how he is going to be affected. The learned state believed the applicant failed to show if he is going to suffer irreparable loss. He then prayed this application to be denied.

In a brief rejoinder, Mr. NJAU reiterated on what he submitted in his submission in chief particularly what is deposed by the applicant at para 6 of his affidavit. He concluded with a prayer to have the interim order granted.

I have considered the applicant's application as well as the rival submission from both sides. It is evident that the 1st respondent issued AMRI YA MAREKEBISHO YA AMRI YA MGAWANYO WA MAMLAKA WA MAENEO YA UTAWALA KATIKA SERIKALI ZA MITAA (MAMLAKA ZA WILAYA) YA MWAKA 2024 G.N 673 OF 2024 which deregistered Wards(kata), Villages (vijiji) and Hamlets (Vitongoji) in various Districts such as Ngorongoro, Bahi, Chemba, Kasulu, Kakonko, Hai and Rombo.

It is also evident that based on the said G.N., Ngorongoro District issued a notice which requires all the residents of the affected areas within Ngorongoro District council to vacate from those areas without providing them with alternative residence.


Under these circumstances, this court, by considering the urge to maintain the status quo of the parties pending determination of application for leave filed before the court, finds it pertinent to grant the prayers by the applicant.

Consequently, it is hereby ordered that the operation of AMRI YA MAREKEBISHO YA AMRI YA MGAWANYO WA MAMLAKA WA MAENEO YA UTAWALA KATIKA SERIKALI ZA MITAA (MAMLAKA ZA WILAYA) YA MWAKA 2024 G.N 673 OF 2024 in Ngorongoro District and the subsequent notice of eviction issued by Ngorongoro District Council are hereby suspended pending hearing and determination of this application for leave to apply for judicial review.

Order accordingly.

Dated at Arusha this 22nd day of August 2024.




A. Y. MWENDA
JUDGE.
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