

IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA

(MAIN REGISTRY)

AT DAR ES SALAAM

MISCELLANEOUS APPLICATION NO. 42 OF 2020

**IN THE MATTER OF AN APPLICATION FOR LEAVE TO APPLY FOR
ORDERS OF CERTIORARI, MANDAMUS, AND PROHIBITION AGAINST
THE DECISION OF RESPONDENTS HOLDING AND CONFISCATING
APPLICANT'S BRITISH PASSPORT NO. 562745957**

AND

IN THE MATTER OF THE TANZANIA CITIZENSHIP ACT, CAP 357 R.E. 2002

BETWEEN

MAYKO JEAS NAMLOWE.....APPLICANT

AND

**THE TANZANIA IMMIGRATION DEPARTMENT.....1ST RESPONDENT
THE ATTORNEY GENERAL.....2ND RESPONDENT
C. G. ANNA MAKAKALA.....3RD RESPONDENT
SAMWEL HAHELANE.....4TH RESPONDENT**

R U L I N G

This ruling seeks to decide whether the court should continue to hear the Miscellaneous Application No. 42/2020 filed by the applicant against the 1st, 2nd, 3rd and 4th Respondents for leave to file an application for orders of certiorari, mandamus and prohibition in relation to the 1st Respondents' decision to collect and seize the applicant's British Passport Number 562745957.

Shortly before hearing the aforementioned application this morning, Ms. Pauline Mdendemi, learned State Attorney informed this Court that the 1st Respondent is ready to return the aforesaid applicant's British Passport because the investigation that was being carried out is

completed. On his part, Mr Leonard Mashabara, learned Counsel for the applicant opposed the 1st Respondent's move to return the applicant's Passport and implored this court to continue with hearing of the instant application, hence this Ruling.

I have paid regard to the brief learned counsels' submissions above. The questions the court is supposed to address are: one, whether the court will be justified to hear the application for leave which if granted, one of the main redress in the substantive application, will be to order the 1st respondent to return the applicant's Passport No. 562745957; and two, whether there are other malpractices practiced by the 1st, 3rd and 4th respondents that can independently sustain the instant application for leave to apply for prerogative orders of certiorari, mandamus and prohibition against them.

In the 1st place, I have no doubt that the 1st Respondent's prayer not to continue with hearing of this matter because they are ready to return the applicant's Passport has been clearly presented in Court and well addressed to the applicant and his counsel who, however, took a different position.

For me, in view of the fact that application for judicial review per Rule 4 of the Law Reform (Fatal Accidents and Miscellaneous Provisions) (Judicial Review Procedure and Fees Rules, 2014 GN 314 of 2014 can be filed by a person whose interest have been or believes will be adversely affected by any act or omission, proceeding of matter, I do not see how this court can go on and entertain the matter which if leave is granted cannot subsequently seek a good redress that the complained of agent (1st Respondent) is ready to meet even before the substantive application for that redress is lodged and determined. All the same, we are all aware

that the court is not duty bound at this stage to prevent the 1st respondent to return the applicant's Passport that she seized under other lawful governing investigation laws and procedures.

This line of thinking is buttressed by the applicant's own averments in his deposed affidavit particularly from paragraphs 14, 15, 16, 17, 18, 23, 24 (d) & (g) where there is emphasize on his seized Passport being returned to him. Under the circumstance, I find and hold that this court is thus not justified to continue hearing the application for leave whose substantive redress can be well and readily met by the 1st Respondent today.

Regarding other malpractices, if any, I right away hold that the same cannot independently be basis of sustaining the instant application as, subject to the applicant's wishes, he can prepare and file a fresh application what will leave out the aspect of return of his passport.

In the final analysis, I find and hold that the 1st Respondent is entitled to go on and return back the applicant's British Passport No. 562745957 today according to the governing operational laws and procedures she relied upon during its seizure. That said, the application is rendered redundant and is hereby struck out. Parties shall bear their own costs.

Order accordingly.



E.M. Feleshi
JUDGE KIONGOZI
2/10/2020

Court: Delivered in the presence of the applicant and his advocate one Leonard Mashabara and Ms Pauline Mdendemi learned State Attorney.



E.M. Feleshi
JUDGE KIONGOZI
2/10/2020