

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA**

**(IN THE DISTRICT REGISTRY OF KIGOMA)**

**AT KIGOMA**

**(APPELLATE JURISDICTION)**

**MISC. CIVIL CAUSE NO. 3 OF 2021**

**IN THE MATTER OF AN APPLICATION FOR LEAVE TO APPLY FOR THE  
PREROGATIVE ORDERS OF CERTIORARI, MANDAMUS AND PROHIBITION**

**AND**

**IN THE MATTER OF LAW REFORM (FATAL ACCIDENTS AND  
MISCELLANEOUS PROVISIONS) ACT, [CAP. 310 R.E. 2019] AND THE LAW  
REFORM (FATAL ACCIDENTS AND MISCELLANEOUS PROVISIONS)  
JUDICIAL REVIEW PROCEDURE AND FEES)**

**RULES, 2014]**

**AND**

**IN THE MATTER OF AN APPLICATION TO CHALLENGE THE DECISION OF  
THE MINISTER OF HOME AFFAIRS AND THE COMMISSION GENERAL OF  
IMMIGRATION DEPARTMENT TO TAKE AWAY THE APPLICANT'S  
CITIZENSHIP OF THE UNITED REPUBLIC OF TANZANIA**

**BETWEEN**

**EZEKIEL S/O KABONGE MSHINGO.....APPLICANT**

**AND**

**THE MINISTER FOR HOME AFFAIRS .....1<sup>st</sup> RESPONDENT**

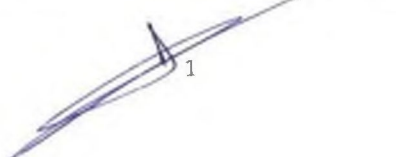
**THE COMMISSIONER GENERAL OF TANZANIA**

**IMMIGRATION SERVICE DEPARTMENT .....2<sup>nd</sup> RESPONDENT**

**THE OFFICE OF THE PRESIDENT RESPONSIBLE**

**WITH REGIONAL ADMINISTRATION AND LOCAL**

**GOVERNMENT.....3<sup>rd</sup> RESPONDENT**

  
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**RULING**

20<sup>th</sup> & 20<sup>th</sup> August, 2021

**A. MATUMA, J.**

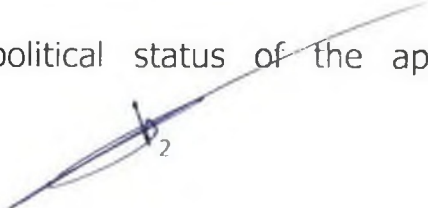
The Applicant is seeking leave to apply for prerogative writs of Certiorari, mandamus and prohibition against the Respondents' joint acts of declaring him a non-citizen and their intents to evict him from the country.

At the hearing of this application the applicant was present in person and represented by Mr. Ignatius Kagashe and Mr. Hamis Kimilomilo learned advocates.

The respondents were all absent and unrepresented however they had filed their joint Reply to the Applicant's Statement as well as Counter Affidavit. I thus decided to proceed ex parte with this application.

In the course of hearing it transpired that there is no specific document nor any formal communication from either of the Respondents to the applicant declaring him a non-citizen or prohibited immigrant or even requiring him to vacate from the country.

All attachments to the application and even annexures to the Reply and Counter affidavit are all mere correspondences between the respondents themselves discussing political status of the applicant. In such

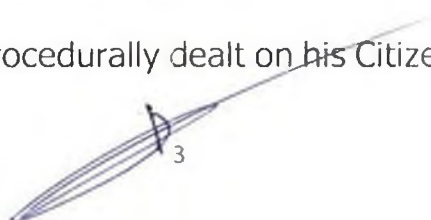
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correspondences, the applicant is said to be a non-citizen and therefore do not qualify for the political posts he was holding. Therefore, the Applicant is named in the correspondences for the purposes of political affairs and there is no any declaration that he is a Prohibited Immigrant or an order from the relevant Authority that he be deported anywhere.

In the circumstances, leave cannot be granted to bring an application for a non-existing Executive Order or Decision, and if there is any, then it has yet been carried on or communicated to him. The Applicant is thus acting on suspicious due to what has befallen him on political scrambles allegedly that he is not a citizen of Tanzania.

The learned advocates of the Applicant in the circumstances prayed to withdraw this application with leave to refile it in case the Applicant shall be formally communicated as a non-citizen or prohibited immigrant. They further prayed for an order that the Applicant be not disturbed by the Respondents anyhow unless dealt in accordance to the law of his Citizenship status.

I agree with the learned Advocates for the applicant that I allow the Applicant to withdraw his application with leave to refile when need be. This is because this application has been prematurely brought as the Applicant has not been procedurally dealt on his Citizenship status. He has



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not at any time been taken to court as the law enjoins for him to protest for his Citizenship.

I thus allow the prayer and mark this application withdrawn with leave to refile if need will arise depending on any adverse act by all or either of the Respondents against the Applicant.

In the meantime, the Respondents are hereby restrained from disturbing the Applicant in his daily life and or economic activities unless and until they appropriately deal with him in the due process of the law to have his citizenship status dealt accordingly in which case, he shall have opportunity to defend his citizenship and have a right to further remedy. The status quo be maintained until such due process and its outcome thereof. No costs to either party.

It is so ordered.



  
**A. Matuma**

**Judge**

**20/08/2021**

**Court:** Ruling delivered in the presence of the applicant and his advocates Mr. Kagashe and Hamisi Kimilomilo and in the absence of the respondents. Right of appeal is explained.

**Sgd: A. Matuma**

**Judge**

**20/08/2021**