



**REPUBLIC OF KENYA**

**IN THE SUPREME COURT OF KENYA**

*(Coram: Koome, CJ & P; Ibrahim, Wanjala, Njoki & Ouko, SCJJ.)*

**MISC. APPLICATION NO. 22 OF 2020**

**BETWEEN**

**DIRECTOR OF PUBLIC PROSECUTIONS.....APPLICANT**

**AND**

**CHRYSANTHUS BARNABUS OKEMO.....1ST RESPONDENT**

**SAMUEL KIMUNCHU GICHURU.....2ND RESPONDENT**

**ATTORNEY GENERAL.....3RD RESPONDENT**

**CHIEF MAGISTRATES' COURT.....4TH RESPONDENT**

**ETHICS AND ANTI-CORRUPTION COMMISSION.....5TH RESPONDENT**

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*(From the judgment of the Court of Appeal (E.M. Githinji, Okwengu & J. Mohammed, JJA.)*

*delivered on 2nd day of March, 2018 in Civil Appeal No. 5 of 2016)*

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**DIRECTIONS OF THE COURT**

1. Intending to challenge the decision of the Court of Appeal made on 2nd March, 2018, the Director of Public Prosecutions, (the applicant) has, with the Court's leave, lodged Petition of Appeal No. 14 of 2020. It was declared by that decision that extradition proceedings instituted before the magistrate's court against Chrysanthus Barnabus Okemo and Samuel Kimunchu Gichuru (the 1st and 2nd respondents) by the applicant were without the authority of the 3rd Respondent (the Attorney General) and therefore a nullity; and that, in law, it is only the latter who is vested with the power to commence and conduct such proceedings.

2. Aggrieved by that determination and apprehensive that the decision may be executed by the Attorney General before the appeal is heard, the applicant has taken out this Notice of Motion, praying that, pending the hearing and determination of the appeal, this Court be pleased to issue an order to stay the execution of the aforesaid decision of the Court Appeal.

3. The application was listed for consideration on the basis of written submissions pursuant to **Rule 31** of the Court's Rules. However, having regard to the nature of the dispute in the pending appeal; bearing in mind that the main appeal has now been listed for hearing on **5th October, 2021**, and in order to save on judicial resources, we direct that;

i. The Notice of Motion dated 12th August, 2020 be and is hereby taken out of the hearing list;

ii. The Notice of Motion be listed for further directions during the hearing of **Petition No. 14 of 2020** on 5th October, 2021;

iii. We make no orders as to costs.

**DATED and DELIVERED at NAIROBI this 6th day of August, 2021.**

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**M.K. KOOME**

**CHIEF JUSTICE**

**& PRESIDENT OF THE SUPREME COURT**

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**M.K. IBRAHIM**

**JUSTICE OF THE SUPREME COURT**

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**S.C. WANJALA**

**JUSTICE OF THE SUPREME COURT**

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**NJOKI NDUNGU**

**JUSTICE OF THE SUPREME COURT**

.....

**W. OUKO**

**JUSTICE OF THE SUPREME COURT**

**I certify that this is a true copy of the original**

**REGISTRAR**

**SUPREME COURT OF KENYA**



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