



Case Number:	Judicial Review Case 3 of 2019
Date Delivered:	21 Apr 2022
Case Class:	Civil
Court:	High Court at Kabarnet
Case Action:	Ruling
Judge:	Justus Momanyi Bwonwong'a
Citation:	Republic v Town Administrator, Eldama Ravine Sub-County, Baringo County Government & 8 others Ex parte Molly Cheptube Harry [2022] eKLR
Advocates:	Ms Jelagat holding brief for Mr. Arusei for the ex parte applicant Mr. Kiptoon for the 1st, 2nd, 3rd, 4th, 5th and the 6th respondents.
Case Summary:	-
Court Division:	Judicial Review
History Magistrates:	-
County:	Baringo
Docket Number:	-
History Docket Number:	-
Case Outcome:	-
History County:	-
Representation By Advocates:	Both Parties Represented
Advocates For:	-
Advocates Against:	-
Sum Awarded:	-
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**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT KABARNET**

**JUDICIAL REVIEW CASE NO. 3 OF 2019**

**IN THE MATTER OF AN APPLICATION BY MOLLY**

**CHEPTUBE HARRY FOR THE JUDICIAL REVIEW ORDERS OF CERTIORARI,**

**PROHIBITION AND MANDAMUS**

**AND**

**IN THE MATTER OF BARINGO COUNTY GOVERNMENT SINGLE BUSINESS PERMIT BY-LAWS**

**AND**

**IN THE MATTER OF ALCOHOLIC DRINKS CONTROL ACT 2010**

**AND**

**IN THE MATTER OF BARINGO COUNTY GOVERNMENT,**

**ELDAMA RAVINE ALCOHOLIC DRINKS LICENSING ACT, 2014**

**AND BARINGO COUNTY ALCOHOLIC DRINKS CONTROL ACT, 2014**

**AND**

**IN THE MATTER OF FOOD, DRUGS AND CHEMICAL SUBSTANCES**

**(FOOD HYGEINE) REGULATIONS CAP 254 OF THE LAWS OF KENYA**

**AND**

**IN THE MATTER OF THE LIQUOR LICENSING OR ALCOHOLIC**

**DRINKS LICENSE FOR 2020 FOR KIPSAFARI PUB, ELDAMA RAVINE**

**AND**

**IN THE MATTER OF THE CONSTITUTION OF KENYA, 2010**

**BETWEEN**

REPUBLIC.....APPLICANT

VERSUS

TOWN ADMINISTRATOR, ELDAMA RAVINE SUB-COUNTY,

BARINGO COUNTY GOVERNMENT.....1<sup>ST</sup> RESPONDENT

THE CHAIRMAN ELDAMA RAVINE

ALCOHOLIC DRINKS REGULATION COMMITTEE.....2<sup>ND</sup> RESPONDENT

THE COMMITTEE SECRETARY ELDAMA RAVINE

ALCOHOLIC DRINKS REGULATION COMMITTEE.....3<sup>RD</sup> RESPONDENT

BARINGO COUNTY ALCOHOLIC DRINKS REGULATION

ADMINISTRATIVE REVIEW.....4<sup>TH</sup> RESPONDENT

THE COUNTY SECRETARY,

BARINGO COUNTY GOVERNMENT.....5<sup>TH</sup> RESPONDENT

THE CEC HEALTH, BARINGO COUNTY GOVERNMENT

DEPUTY COUNTY COMMISSIONER.....6<sup>TH</sup> RESPONDENT

ELDAMA RAVINE SUB-COUNTY.....7<sup>TH</sup> RESPONDENT

OCPD ELDAMA RAVINE POLICE DIVISION.....8<sup>TH</sup> RESPONDENT

AC, ELDAMA RAVINE SUB COUNTY.....9<sup>TH</sup> RESPONDENT

EX-PARTE, MOLLY CHEPTUBE HARRY

### RULING

In the course of preparing the instant ruling in respect of the preliminary objection which was raised by the 1<sup>st</sup> to the 6<sup>th</sup> respondents it came to light that there was a pending application dated 19<sup>th</sup> March 2021 for the enlargement of time within which to file the substantive notice of motion in respect of the ex parte applicant's judicial review application.

The preliminary objection is in the following terms. “

1. *That the ex-parte applicant's notice of motion application and the entire judicial review application is defective, frivolous and incompetent as the court has no jurisdiction to entertain the matter.*

2. *That the notice of motion application and judicial review offends the provisions of section 9(2) and (3) of the Fair Administrative*

*Action Act No. 4 of 2015.*

*3. Such other points/reasons to be adduced at the hearing.”*

Interestingly counsel for the 1<sup>st</sup> to the 6<sup>th</sup> respondents raised the issue that the ex parte applicant did not file his notice of motion within the 21 days that is allowed by Order 53 Rule 3 of the Civil Procedure Rules 2010.

In the circumstances, I find that it is only prudent and fair that the pending application be disposed of first before considering the issue of the preliminary objection.

It is so ordered.

**RULING SIGNED, DATED AND DELIVERED IN OPEN COURT AT NAIROBI THROUGH VIDEO CONFERENCE  
THIS 21<sup>ST</sup> DAY OF APRIL 2022.**

**J M BWONWONG’A**

**JUDGE**

In the presence of: -

Kinyua: Court Assistant

Ms Jelagat holding brief for Mr. Arusei for the ex parte applicant

Mr. Kiptoon for the 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup>, 4<sup>th</sup>, 5<sup>th</sup> and the 6<sup>th</sup> respondents.

The 7<sup>th</sup>, 8<sup>th</sup> and 9<sup>th</sup> respondents did not participate in these proceedings.



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