



**IN THE EAST AFRICAN COURT OF JUSTICE
AT ARUSHA
FIRST INSTANCE DIVISION**



(Coram: Monica K. Mugenyi, PJ; Isaac Lenaola, DPJ; Faustin Ntezilyayo, J; Fakihi A. Jundu, J & Audace Ngiye, J)

APPLICATION NO. 08 OF 2015

(Arising from Reference No.5 of 2015)

RWENGA ETIENNE 1ST APPLICANT

MOSES M.MARUMBO 2ND APPLICANT

VERSUS

SECRETARY GENERAL, EAST AFRICAN COMMUNITY..... RESPONDENT

30TH OCTOBER, 2015

APPLICATION NO.8 OF 2015

Heck

RULING OF THE COURT

1. On 9th September 2015, the Applicants filed **Reference No. 5 of 2015 Rwenga Etienne and Moses Marumbo vs. The Secretary General, East African Community**, as well as the present Application before this Court. The Application has been brought or filed under certificate of urgency.
2. In the application, the Applicants are seeking interim orders pending the hearing of **Reference No. 5 of 2015** and specifically sought orders restraining the Respondent, his agents, assignees, servants or any other persons drawing orders from the Respondent from continuing with the process of the recruitment of the Registrar of the East African Court of Justice.
3. The Application is premised on the following grounds:
 - a) *That Article 45(1) of the Treaty provides for requirements for the appointment of the Registrar of the East African Court of Justice;*
 - b) *That a reference has been made to the East African Court of Justice challenging the act of the Secretary General to recruit the Registrar of the East African Court of Justice on the basis of requirements other than the ones set out by Article 45(1) of the Treaty;*
 - c) *That the matter presented to this Court for determination is a matter of infringement of the Treaty;*

d) *That the Respondent should not be allowed to infringe on the provisions of the Treaty but should instead be guided on how to comply with its provisions in the process of the recruitment of the Registrar and onward appointment by the Council of Ministers;*

e) *That unless the orders prayed for are herein granted, the Applicants stand to suffer irreparable injury;*

f) *That this matter ought to be dispensed within a timely manner as it is a matter of urgency, the resolution of which is important to guide the recruitment of the Registrar of the Court.*

4. The grant of interim orders before this Court is governed by Article 39 of the Treaty for the Establishment of the East African Community as read together with Rule 21 of the East African Court of Justice (EACJ) Rules of Procedure. Article 39 reads:

“The Court may, in a case referred to it, make any interim orders or issue any directions which it considers necessary or desirable. ...”

5. Rule 68(2) and (3) of the said Rules permits this Court to deliver its decision and not the reasons thereof upon the close of a hearing. It reads:

“(2) At the close of the hearing the Court may give its judgment at once or on some future date which may be appointed then or subsequently notified to the parties.

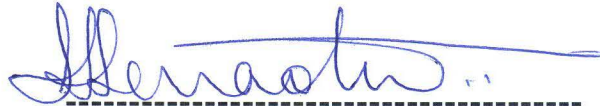
(3) The Court may, in any particular case, direct that only the decision of the Court and not the reasons for it shall be delivered in Court. The reasons for judgment shall be delivered on a date to be notified by the Registrar to the parties.'

6. Given the time constraints, the recruitment of the Registrar being at its final stage, we do hereby exercise our discretion to invoke the provisions of Rule 68(3) of the EACJ Rules and pronounce our decision in the present Application.
7. In that regard, we have carefully read and scrutinized the pleadings that were filed in this Application. We did also carefully listen and consider the Submissions from Learned Counsel for the Applicants and the Respondent herein. In our considered view, it is neither judicious, necessary nor desirable to issue the interim orders sought in this Application. We would therefore disallow the Application, and shall deliver our reasons for our decision upon notice to the parties.
8. It is our further direction that noting the urgency and nature of the matter before us, **Reference No. 5 of 2015 Rwenga Etienne and Moses Marumbo vs. The Secretary General, East African Community** shall be placed before us immediately for direction on its expeditious disposal.
9. It is so ordered.

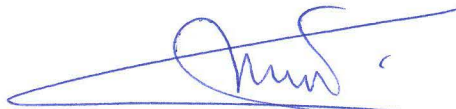
Dated and delivered at Arusha this 30th day of October, 2015.

Handwritten signature

HON. LADY JUSTICE MONICA K. MUGENYI
PRINCIPAL JUDGE



HON. JUSTICE ISAAC LENAOLA
DEPUTY PRINCIPAL JUDGE



HON. JUSTICE DR. FAUSTIN NTEZILYAYO
JUDGE



HON. JUSTICE FAKIHI A. JUNDU
JUDGE



HON. AUDACE NGIYE
JUDGE