



**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. 11 OF 2015

(Arising from Reference No.7 of 2015)

ALICE NIJIMBERE APPLICANT

VERSUS

**THE SECRETARY GENERAL
EAST AFRICAN COMMUNITY..... RESPONDENT**

11TH NOVEMBER, 2015

APPLICATION NO.8 OF 2015

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RULING OF THE COURT

1. On 28th October 2015, the Applicant filed **Reference No. 7 of 2015 Alice Nijimbere vs. The Secretary General, East African Community**, as well as the present Application before this Court.
2. The Applicant sought interim orders pending the hearing of **Reference No. 7 of 2015**. The orders sought are as follows:
 - a) The nullification of a decision by the East African Community (EAC) Secretariat in respect of the Applicant's request for dispensation to be interviewed at the EAC Headquarters for the position of Registrar of the East African Court of Justice.
 - b) The suspension of the recruitment process for the position of Registrar of the Court until the closure of pleadings.
 - c) The relaunch by the Court of the interview process and the organisation of a different interview panel in accordance with the East African Staff Rules and Regulations, 2006.
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 vide **Reference No. 7 of 2015** challenging the act of the Secretary General to organise the interview for the recruitment of the Registrar of the East African Court of Justice in contradiction with Articles 6(d), (e) and (f) of the Treaty for the Establishment of the East African Community and Regulations 20(8) and 21(1) of the East African Court Rules and Regulations, 2006;
- c) That the matter presented to this Honourable 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 Applicant stands to suffer irreparable injury;
- f) That this matter ought to be dispensed with in 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 and Rule 73 of the East African Court of

Justice (EACJ) Rules of Procedure, as read together with Rule 21 of the same Rules. 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 73(1) provides:

“Pursuant to the provisions of Article 39 of the Treaty, the Court may in any case before it upon application supported by affidavit issue interim orders or directions which it considers necessary and desirable upon such terms as it deems fit.”

6. On the other hand, Rule 68(2) and (3) of the same Rules permits this Court to deliver its decision and not the reasons thereof at 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.”

7. Given the time constraints, the recruitment of the Registrar being in 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, and would reserve our reasons thereof to be delivered upon Notice to the Parties.

8. In that regard, we have carefully scrutinized the pleadings that were filed in this Application. We did also carefully listen to and consider the arguments made by the Applicant in prosecution of this Application, as well as the arguments advanced by Learned Counsel for the Respondent. 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, as stated hereinabove, shall deliver our reasons therefor upon notice to the parties.
9. It is our further direction that noting the urgency and nature of the matter before us, **Reference No. 7 of 2015 Alice Nijimbere vs. The Secretary General, East African Community** shall be placed before us immediately for directions on its expeditious disposal.
10. It is so ordered.

Mugenyi

HON. LADY JUSTICE MONICA K. MUGENYI
PRINCIPAL JUDGE

Isaac Lenaola

HON. JUSTICE ISAAC LENAOLA
DEPUTY PRINCIPAL JUDGE

Dr. Faustin Ntezilyayo

HON. JUSTICE DR. FAUSTIN NTEZILYAYO
JUDGE

Fakihi A. Jundu

HON. JUSTICE FAKIHI A. JUNDU
JUDGE

Audace Ngiye

HON. JUSTICE AUDACE NGIYE
JUDGE