

Application No 2 of 2021 (Arising from Reference No. of 2021) Issa Muzamil Sebit & Anor v The Hon. Minister of Justice of the Republic of South Sudan.

Coming up for hearing: on 6th June 2022

Application filed: on 1st April 2021

Articles: 5(3)(A), (c)& (3),6(d), 7(1)(a), (d)& (2),8(1)(c) & (4),23,27(1).30,39 of the Treaty for the Establishment of the East African Community.

Rule: 4, 25(1), (2), (3), (4), 53(1) and 84(1) of the East African Court of Justice Rules of Procedure, 2019.

Subject matter: Interim and /or Temporary Injunction.

The Applicants Issa Muzamil Sebit and the South Sudan Bar Association seek for among other things interim and /or temporary injunction pending the determination of the main reference of the suit restraining the Respondent, their employees or agents from holding new elections until the main reference is heard and disposed of by the Court.

The Applicants additionally seek an order maintaining their status quo as the legitimate persons running the Bar Association until the final determination of the reference, a further order against the Respondent to stop its agents from occupying the premises of the second applicant and any other order or directive the Court deems necessary.

The grounds of the Applicant's application are based on the fact that they hold valid as raised in the main reference that in contravention of procedure of hearing judicial reviews under the Laws of South Sudan, the Court of Appeal nullified the elections of the 1st Applicant to head the 2nd Applicant held around 19th -20th February, 2020.

That an execution of the decree setting aside the administrative decision is prohibited by the Laws of South Sudan until the order becomes final after the exhaustion of all remedies as the Applicants have filed an appeal on 15th March, 2021 which is yet to be determined therefore, the move to commence execution of this decisions by the Court of Appeal is a defiance of the law and amounts to violations of the rule of law and such continuous violations should be restrained by the Court.

That the decision of the Court of Appeal of Sudan to seize the Premises of the 2nd Applicant and hand over the individuals appointed by the Court is an abuse of authority and will weaken and crumble down the Bar Association as an Institution.

That allowing third parties or nominees of the Court of Appeal to run and manage the Bar Association instead of the elected officials pending the determination of the main reference amounts to interference of the independence of the institution of the Bar Association and violates Article 136 of the Transitional Constitution of South Sudan and will cause confusion among the Advocates and members of the public.

Among other reasons, the Applicant contends that it will be in the interest of justice, the status quo should be maintained by the Court of allowing the Applicants and the executives of the 2nd Applicants together with other elected members of the central committee to continue running daily normal functions of the Bar Association until final disposal of the reference which would be achieved by the grant of the temporary injunction (interim order).

On the other hand, the Respondents contend that the second Applicant has been unnecessarily involved in the application by the 1st Applicant as it is a separate entity.

In relation to the seeking of an injunction, the Respondent contends that the Applicants have not established a prima facie case with the probability of success to warrant grant of an injection and interim orders as required by law, and that they have not shown any irreparable damage that would befall them if the orders sought are not granted with the balance of convenience acting against the applicants.

It is on this basis that the respondents ask that the application be dismissed.

This is a document produced by the Registry to assist in understanding forthcoming matters before the Court. It does not bind the Court. For authoritative Decisions, Judgments and general information about the Court please visit <https://www.eacj.org>