



CASE SUMMARY

APPLICATION NO 017/2015

KENNEDY GIHANA & OTHERS V. REPUBLIC OF RWANDA

A. PARTIES

1. The Applicants Kayumba Nyamwasa, Kennedy Alfred Nurudiin Gihana, Bamporiki Abdallah Seif, Frank Ntwali, Safari Stanley, Dr Ettienne Mutabazi and Epimaque Ntamushobora are Citizens of the Republic of Rwanda.
2. Their Application is against the Republic of Rwanda

B. COMPLAINTS

3. The Applicants alleges that, their passports, as well as those of other Rwandan nationals, were unilaterally and without notice declared invalid by the Government of Rwanda.
4. The Applicants alleges that, the invalidation of their passports came to light after one of the Applicants was informed, on applying for a visa to the United States of America that his name appeared on the list prepared by the Rwandan Government indicating invalidity of the passports of all those people whose names appeared on the list.
5. They also claim that, none of the people whose passport were declared invalid was given an opportunity to appeal or defend the decision and none of them were informed of the decision.

I. Jurisdiction

6. The Applicants submit that, the unilateral and arbitrary invalidation of Passports by the Rwandan Government amounts to the arbitrary deprivation of nationality and has a significant impact on the enjoyment of a number of universally accepted fundamental human rights, in particular, the right to participation in political life, the right to freedom of movement, citizenship, liberty, family and work.

II. Admissibility

7. The Applicants submit that the matter has not been submitted to the National jurisdiction of the Respondent State for exhaustion of local remedies as required by Article 56(5) of the African Charter read together with Rule 40 of the Rules of the Court. This is because;

8. All the applicants' passports were arbitrarily annulled by the Respondent State without according them the right to be heard.

9. They maintain that though they remain Rwandan Citizens, they do not have valid passports to travel to Rwanda to exhaust local remedies.

10. They allege that the Judiciary of Rwanda is not independent and cannot be expected to discharge justice as required by the law. Consequently, local remedies are not practical in Rwanda.

11. They also allege that local remedies in Rwanda are not effective. In this particular matter, the Applicants states that they cannot travel to Rwanda to exhaust local remedies precisely because of the complaint raised in the application. Their passports were arbitrarily annulled by the Respondent.

C. APPLICANTS PRAYERS

12. The Applicants pray for;

(a) The issuance of interim measures against the Respondent State ordering immediate reinstatement of the passports.

(b) An order for the Respondent State to compensate them and

(c) Any other relief they Court may so order.

D. RESPONDENT'S PLEADINGS

13. The Respondent raises several preliminary objections as follows:

14. The Respondent contends that the Applicants, Safari Stanley and Kayumba Nyamwasa are genocide convicts and threatening State Security convicts/terror suspects respectively, and should not be given *locus standi* before this Court.

15. The Application for interim measures cannot be a standalone Application without a principal one.

16. The Application for interim measures is defective in substance because if the Court granted the relief there would be no more case to argue on merits

17. The request for interim orders contained in the Application does not meet the test set up by Article 27(2) of the Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights.

18. The allegations from the claimants are not compatible with the Constitutive Act of the African Union. This is because one of the principles of the Constitutive Act is respect for the sanctity of human life, condemnation and rejection of impunity and political assassination, acts of terrorism and subversive activities.

19. The allegations by the Applicants are vague and do not constitute a *prima facie* case or disclose prejudice.

20. The Respondent contends that the Applicants use disparaging and insulting language against Rwandan Courts and Judges contrary to Rule 40(3) of the Rules of the Court.

21. Failure to exhaust local remedies as required by Article 56(5) of the African Charter on Human and Peoples' Rights and Rule 40(5) of the Court Rules

E. RESPONDENT'S PRAYERS

22. The Respondent prays the Court to;

- i. Declare that the Applicants Safari Stanley and Kayumba Nyamwasa do not have *locus standi* before this Court
- ii. Strike out the Application for being defective in form and substance
- iii. Dismiss the Application without the necessity of requiring the Respondent to appear in accordance with Rule 38 of the Rules of the Court
- iv. Award costs to the Respondent and
- v. Make such orders as it deems fit.

F. APPLICANTS REPLY TO THE RESPONDENT'S RESPONSE

23. The Applicants state that they are disappointed at the nature of Respondent's response because:

- i. The entire Response has been reduced to the cases of Safari Stanley and Kayumba Nyamwasa.
- ii. The Respondent is in fact threatening and intimidating the Court. The Applicant argues, that, for instance, in its Response to the Application, the Respondent suggests that the Respondent and its people will not accept the decision of the Court if it will be against the Respondent.

24. The Applicants maintain that the convictions of Safari Stanley and Kayumba Nyamwasa have no relevance to the Application before this Court.