

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
MILIMANI LAW COURT
JUDICIAL REVIEW APPLICATION NO. 113 OF 2014

IN THE MATTER OF AN APPLICATION FOR JUDICIAL REVIEW ORDERS OF CERTIORARI,
MANDAMUS AND PROHIBITION

AND
IN THE MATTER OF THE VALUATION FOR RATING ACT CAP 266 LAWS OF KENYA

AND
IN THE MATTER OF THE RATING ACT CHAPTER 267 LAWS OF KENYA

BETWEEN

PIUS OMOLLO
NELLIE WANJIKU NJUGUNA
UMMI OMOLLO (Suing as officials of
KAPUTEI GARDENS ASSOCIATION..... APPLICANT

-VERSUS-

THE NAIROBI CITY COUNTY..... RESPONDENT

IN COURT ON THE 21ST DAY OF MARCH, 2014
BEFORE THE HON. MR. JUSTICE ODUNGA

ORDER

UPON READING the Application dated 20th March, 2014 by Counsel for the Applicants under Order 53 of the Civil Procedure 2010 and Section 8 of the Law Reform Act Order 1 Rule 8 of Civil Procedure Rules; **AND UPON READING** the Statement of Facts and Verifying Affidavit of **PIUS OMOLO** sworn on the 20th March, 2014 together with the annexures thereto; **AND UPON HEARING** Counsel for the Applicants *exparte*;

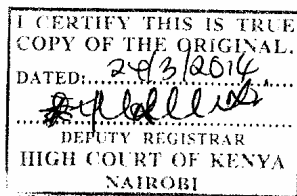
IT IS HEREBY ORDERED:

1. **THAT** leave be and is hereby granted to file the Application for Judicial Review Orders of Certiorari to bring before this Court and quash the Respondent's decision to levy land rates (site value tax) at 34% (thirty four per cent) of the unimproved site value of properties in Nairobi County.
2. **THAT** leave be and is hereby granted to the Applicant to file an Application for Judicial Review Orders of Prohibition to forbid the Respondent from executing the decision by the Respondent to charge land rates at 34% (thirty four per cent) of the unimproved site value.

3. THAT leave be and is hereby granted to the Applicant to file an Application for Judicial Review Orders of Certiorari to bring before this court for the purposes of quashing the notices/demand notes dated namely issued on behalf of the Respondent to the Applicant's members.
4. THAT leave be and is hereby granted to the Applicant to file an Application for Judicial Review Orders to quash the notification each resident of Applicant has received from the Respondent notifying that the percentage for unimproved value of tax property has raised from 17% to 34% without complying with the laws and further aver the Respondent to comply with the mandatory requirements of the existing law namely relevant provision of Chapters 266 and 267.
5. THAT the substantive motion to be filed and served within 14 days.
6. THAT the leave so granted do operate as stay of the implementation of:
 - (i) The Respondent's decision, to double the percentage of unimproved site value tax pending the hearing and determination of the application to be lodged after grant of leave.
 - (ii) The notices/demand notes dated 11.12.13 issued by the Respondent to the Applicant's members.
 - (iii) That pending the hearing and determination of the Judicial Review Application that the Applicants do pay the rates (Site Value Tax) to the Respondent at 17% of the unimproved value of land pending the hearing and determinate of the matter until further orders.
7. THAT the Applicants are obliged to pay the rates which were in existence before the impugned decision.
8. THAT leave be and is hereby granted to the applicants to advertise the notice of this application in one of the National Dailies.
9. THAT costs of this application will be in the cause.
10. THAT matter stood over to 9th May, 2014 for Directions.

GIVEN UNDER my hand and Seal of this Honourable Court this 21st of day of March, 2014.

ISSUED at Nairobi this 24th day of March 2014.




 DEPUTY REGISTRAR
 HIGH COURT OF KENYA, NAIROBI