



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT AT NAIROBI**  
**MILIMANI LAW COURTS**  
**JUDICIAL REVIEW AND CONSTITUTIONAL DIVISION**  
**MISCELLANEOUS APPLICATION NO. 183 OF 2014**

**IN THE MATTER OF SECTION 8 & 9 OF THE LAW REFORM ACT CAP 26**

**AND**

**IN THE MATTER OF ORDER 53 OF THE CIVIL PROCEDURE RULES, 2010**

**AND**

**IN THE MATTER OF THE TRAFFIC ACT, CAP 403 OF THE LAW OF KENYA**

**AND**

**IN THE MATTER OF THE TRAFFIC RULES, 1953**

**BETWEEN**

**AKITCH OKOLA.....APPLICANT**

**AND**

**THE INSPECT GENERAL OF POLICE FRANCIS KIMAIYO.....RESPONDENT**

**RULING**

1. I have listened to learned counsel for the Applicant and I have perused the application dated 16<sup>th</sup> May 2014.
2. The Applicant alleges that the decision by the Respondent to bar private vehicles from having tinted windows is not supported by the law and hence amounts to an amendment of the Traffic Rules, a power which the Respondent does not have.
3. That issue in my view establishes a *prima facie* case which warrants the grant of leave sought.
4. Accordingly, I grant leave in terms of prayers 2(a) and 2(b) of the Chambers Summons dated 16<sup>th</sup> May 2014 and direct that the substantive Motion be filed and served within 3 days.

5. The applicant also seeks a direction that the grant of leave, do operate as a stay of the said directive. Whereas the Respondent may well show at the hearing that the said directive is well intended the fact that his powers to issue the same are under challenge ought to be investigated. Since it is contended that so far the said directive is only being used to harass motorists, I am satisfied that the same ought to be stayed for the limited period of hearing and determining the Notice of Motion.
6. Accordingly I direct that the grant of leave shall operate as a stay of the said directive pending the hearing and determination of the substantive Motion or until further orders of the Court.
7. However as it is admitted that the said directive is only unlawful in so far as it relates to private vehicles, this order will not apply to public service vehicles.
8. Directions on 29<sup>th</sup> May, 2014. Costs in the cause.

**Dated at Nairobi this 20<sup>th</sup> day of May 2014**

**G V ODUNGA**

**JUDGE**

***Delivered in the presence of:***

***Mr Change for the Applicant***

***Cc Kevin***