

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

JUDICIAL REVIEW DIVISION

JR ELC CASE NO. 65 OF 2010

RWAIKAMBA & RWATHIA

TRADING CO. LIMITEDAPPLICANT

VERSUS

TOWN CLERK

CITY COUNCIL OF NAIROBI.....RESPONDENT

RULING

All along I have proceeded on the understanding that leave was granted to the ex-parte applicant to commence judicial review proceedings. Earlier on I had taken this file into my custody with a view to writing a judgement but it came to my attention that there was no notice of motion in the court file. I returned the file to the registry and directed the advocates to avail all the missing documents in the court file. On 10th April, 2013 Ms Otaba holding brief for Mr. Wahome for the applicant and Ms Kerubo for the respondent indicated to me that they had availed all the documents. I have once again noted that there is no notice of motion. After perusing the court record, it has emerged that leave to commence these proceedings has never been granted. The applicant could not have therefore filed the substantive notice of motion. In the circumstances, I once again return this file to the registry so that the advocates can do what is required of them.

Dated, signed and delivered at Nairobi This 28th day of May , 2013

W. K. KORIR,

JUDGE