REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT MACHAKOS

MISCELLANEOUS CIVIL APPLICATION NO.222 OF 2008

REPUBLIC..... APPLICANT

VERSUS

MUNICIPAL COUNCIL OF MAVOKO ..... 2ND RESPONDENT

EX-PARTE.....ROSSLYN TWO RIVERS LIMITED

CONSOLIDATED

MACHAKOS HIGH COURT CIVIL CASE NO.368 OF 2009

PREVIOUSLY NAIROBI HIGH COURT MISCELLANEOUS

CIVIL CASE NUMBER 161 OF 2008

REPUBLIC..... APPLICANT

VERSUS

MUNICIPAL COUNCIL OF MAVOKO ..... 2ND RESPONDENT

EX-PARTE..... MOHAN MEAKIN (K) LIMITED

RULING

These two applications on the file and which were consolidated, were heard by **Kihara Kariuki J**. (as he then was), up to the point when he made an order directing parties to file their respective written submissions. Those submissions were subsequently filed and exchanged. However before he could craft and deliver the ruling it was indicated to him on 30th June, 2011 that parties were negotiating the matter with a view to recording a settlement. Accordingly, parties requested that the application be stood over generally. It would appear that the anticipated settlement never came to pass. On 11th January, 2012, the matter was fixed for mention on 20th January, 2012. By then **Kihara Kariuki J.** had already left the station on transfer and subsequently promoted to the Court of Appeal. The matter therefore, fell on me to decide on the way forward.

On 20th January, 2012 the matter was mentioned before me whereat, parties agreed that since they

had filed and exchanged their respective written submissions, I should act on the same, craft and deliver the ruling. I agreed and endorsed the position.

However, when I sat down and read through the pleadings in preparation of crafting the ruling, it transpired that the application dated 8th May, 2008 was filed by **Mr. Sharad Rao Esq**. on behalf of Rosslyn Two Rivers Ltd. It is in the public domain that **Mr. Sharad Rao** is the Chairperson of the Judges and Magistrates Vetting Board. This board will be vetting judges and magistrates who were serving in office as at 27th August, 2010 as to their suitability to continue serving in the Judiciary. I am one of those judges who will be subjected to that process.

In the premises I do not think that it will be fair and just on my part to preside over this matter any further. It is more likely that there may be a conflict of interest. It is for this reason that I disqualify myself from presiding over this case any further. Since **Professor Joel Ngugi J.** is the only Judge in this station who will not be subjected to vetting, I propose that this matter be handled by him henceforth, subject of course to agreement by the parties.

Ruling dated and **signed** at **Machakos** this **31st** day of **January**, 2012.

ASIKE-MAKHANDIA
JUDGE