

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT MOMBASA
JUDICIAL REVIEW NO. 88 OF 2011

REPUBLIC.....APPLICANT

=VERSUS=

THE TOWN CLERK, LAMU COUNTY COUNCIL.....RESPONDENT

AND

PETER SOLLACHER.....EX-PARTE APPLICANT

RULING

I have considered this application dated 17th August 2011. The Respondent Lamu County Council were properly served with Notice of the Hearing of the Application for Judicial Review but failed to enter appearance or to file any papers in response thereto. The dispute arose over the confiscation of the Applicant's motor bike Registration KMCG 311T over an alleged breach of council by-laws by the Applicant. If the Applicant breached any law then the council was at liberty to have him charged in the normal manner. They had no mandate or authority to confiscate his motor bike for this alleged breach. I find that the actions of the Respondent were unlawful, without authority and without any basis. However the Applicant has confirmed to the court that the motor bike has already been returned to him. Thus it would be superfluous to make any further orders at this stage save to direct that the council cease and desist from any further unlawful interference with the Applicant's possession of his motorbike registration No. KMCG 311T. It is so ordered. Costs of this application are awarded to the Applicant.

Dated and Delivered in Mombasa this 1st day of December 2011.

M. ODERO
JUDGE

In the presence of:
Applicant in person