



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NYERI
HIGH COURT CIVIL CASE NO. 33 OF 2005

- 1. PETERSON NDAMBIRI KARAGU)**
- 2. DANIEL MURIUKI)**
- 3. JOHN KARANJA MWANGI)**
- 4. JOHN LOUIS MACHARIA)**
- 5. FRANCIS MURIUKI MUCHIRA**

Suing on behalf of other) PLAINTIFFS

VERSUS

**KERUGOYA/KUTUS MUNICIPAL COUNCIL
DEFENDANT**

R U L I N G

By a Chamber summons dated 1st April 2005, the applicants who are rate payers of the Defendant Council, Kerugoya/Kutus Municipal Council seeks to have the defendant Council restrained from levying and demanding the increased rates as per its legal Notice No. 1074 of 13th February 2004 pending the hearing of the suit filed by the applicants.

The applicants also seek to have time for filing objections to the draft valuation roll 1998 extended by a further 28 days. It is the applicants contention that they never saw or read gazette Notice No. 1074 of 13th February 2004 and that no notice was ever sent to the applicants as required under section 9(4) of the valuation for Rating Act Cap 266.

The applicants were therefore not aware of the draft valuation roll.

Section 9 of the valuation for Rating Act Cap. 266 gives the procedure required to be followed once a Draft valuation has been prepared. The section states as follows:-

(1) When a draft valuation roll or draft supplementary valuation roll has been completed, the valuer shall sign the roll and insert therein the date of completion thereof, and shall transmit the roll to the town clerk.

(2) As soon as may be after a draft valuation roll or draft supplementary valuation roll has been transmitted to him by the valuer, the town clerk shall lay the roll before a meeting of the local authority, and the roll shall thereafter be available at the office of the local authority for public inspection, and any person may, during ordinary business hours inspect it and take copies or extracts from it.

(3) The town clerk shall public notice in respect of every draft valuation roll and draft supplementary valuation roll that it has been so laid and may be inspected, and such notice shall state the manner in which and the latest date by which objections to the same may be made.

(4) Every local authority shall, within twenty-one days after the laying before a meeting of the local authority of a draft valuation or draft supplementary valuation roll, send to every rateable owner of a rateable property comprised in the roll a notice of the valuation thereof inserted in the roll, whether or not the new valuation makes any change.

It is evident that in this case the town clerk published a notice in the Kenya Gazette of 13th February 2004 and the Daily Nation of 11th February 2004 in accordance with section 9(3) giving notice of the draft valuation roll and the deadline date for any objections.

Section 9(4) of the Valuation for Rating Act required the town clerk to further send a notice to every owner of a rateable property informing him of the valuation inserted in the new roll in respect of his/her property and any changes brought about by the new valuation. The Respondent has not been able to show any evidence that any of the applicants was served with any such notice.

A notice addressed to Kenya Posts & Telecom was produced and it was contended that similar notices were forwarded to the applicants, however this cannot hold as the information to each Rateable owner was personal to them based on the value of their property. In the absence of this individual notice, it was not possible for the applicants to comply with the notice with regard to the raising of objections.

In the circumstances it is only fair and just that the Respondents should be restrained from implementing the new valuation roll until the applicants have had an opportunity to raise their objections. I do therefore order:

(1) That the Defendant/Respondent shall be restrained from levying and demanding increased rates as per legal notice No. 1074 of 13th February 2004 as against the Plaintiffs/Applicants pending further orders of this court.

(2) That the time for filing objections to the Draft valuation roll for 1998 shall be extended for the applicants by 21 days from the date of individual service of notice under section 9(4) of the Valuation for Rating Act.

(3) That costs shall be in the cause.

Orders accordingly.

Dated and delivered this 12th May 2005.

H.
JUDGE

M.

OKWENGU

Delivered in the presence of Gori for Applicant

Respondent's advocate absent