



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT SIAYA**

**CONSTITUTIONAL PETITION NO. E004 OF 2021**

**ORIGINATING FROM**

**KISUMU CONSTITUTIONAL PETITION NO. E005 OF 2021**

JOSEPH OMONDI OCHIENG.....1<sup>ST</sup> PETITIONER

MAURICE JUMA.....2<sup>ND</sup> PETITIONER

LUKE OCHOLLA.....3<sup>RD</sup> PETITIONER

WILLIAM ODUOR.....4<sup>TH</sup> PETITIONER

SILAS OWITI.....5<sup>TH</sup> PETITIONER

VINCENT OTIENO.....6<sup>TH</sup> PETITIONER

*(Suing on their behalf and behalf of the membership of CHOPPIES ROUND*

*ABOUT BODA BODA YOUTH GROUP, TUFFOAM MALL BODA BODA RIDER*

*SELF HELP GROUP and all other affected owners of boda bodas, tuk tuks, taxis,*

*private vehicles and traders within the City Centre and more specifically Oginga Odinga*

*and Angawa Streets of KISUMU CITY Central Business District (CBD) IN KISUMU COUNTY)*

- VERSUS -

CITY MANAGER-KISUMU.....1<sup>ST</sup> RESPONDENT

KISUMU CITY BOARD.....2<sup>ND</sup> RESPONDENT

COUNTY GOVERNMENT OF KISUMU.....3<sup>RD</sup> RESPONDENT

**RULING**

1. I have considered the Petitioners/Applicants' applications for leave to be heard during the recess and the Notice of motion all dated 29/3/2021 seeking for conservatory orders staying implementation of the one day Public Notice dated 19/2/2021 and effective on 22/2/2021 pending the hearing and determination of the Main Petition.

*(1) I grant leave to the Applicant/Petitioner to be heard during the recess.*

*(2) On the motion for Conservatory orders, I observe that the impugned Notice is dated 19/2/2021 and was to take effect on 22/2/2021 which means it has already taken effect.*

2. Granting any order staying the taking effect or implementation thereof will be futile as the application has come too late in the day for

exparte orders.

3. I therefore find no urgency involved in the Main motion. I decline to certify as urgent the application for Conservatory orders.

4. I direct the Petitioner/Applicant to serve the Respondents with the Petition and the application for interpartes consideration. Mention before the Duty Judge in the new term on 12/4/2021 for further Directions.

5. These proceedings/orders to be typed and submitted to Kisumu High Court forthwith.

6. This file is closed.

**DATED, SIGNED AND DELIVERED AT SIAYA, THIS 1<sup>ST</sup> DAY OF APRIL 2021**

**R.E. ABURILI**

**JUDGE**