



SINGLE BUSINESS PERMITS

The case precedent and Order issued by the High Court Sitting in Nairobi on 7th December, 1999 restricted the Nairobi City Council and in extension all other Counties from collecting Single Business Permit fees from members of the Institute of Certified Public Accountants of Kenya who are in practice. (*HCCC No. 1624 of 1999*) and the Court Ruling in the *High Court Miscellaneous Application No. 782 Of 2000, Republic – Vs – Municipal Council of Thika and Another EX-PARTE Kenya Medical Association and 5 others.*) The order operated as a stay of proceedings and decision of the City Council of Nairobi concerning any demand for applications from the members of ICPAK and LSK for single business permits and fees therefore.

The Kenya Pharmaceutical Association and Pharmaceutical Society of Kenya sought the Court's intervention to prohibit County Governments from demanding, seeking or receiving applications for Single Business Permits or fees for such application or permit or license or otherwise from its members. John Mativo J in his ruling in Constitutional Petition No 97 Of 2016 stated in a contrary opinion that J.R. No. 135 of 2007 was determined prior to the promulgation of the 2010 constitution under the provisions of the Repealed Local Government Act which in his view, was not good law.

He further explained the crucial difference between trade license fees and practicing license fees stating that the County Government is only prohibited from issuance of Regulatory Licenses. The trade licensing fee is paid for trading in the County.

The learned Judge went further to define double tax as the taxing of the same income twice. His opinion was that payment of trade license to the Respondents and professional license fees to the professional bodies does not amount to double taxation.

Consequently, the ruling issued by John Mativo J in Constitutional Petition No 97 Of 2016 renders the earlier decision (*HCCC No. 1624 of 1999* and *Miscellaneous Application No. 782 Of 2000*) irrelevant. The Institute, therefore, advises its members to respect the directive and order issued by the Court in Constitutional Petition No 97 Of 2016 to acquire Single business permits. We are in the meantime exploring way and means of challenging these decisions.

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