

## High Court of Kenya

335/2013

### The Pubs, Entertainment and Restaurants Association of Kenya (PERAK) v KAMP and Others

<b>Court</b>	:	High Court
<b>Case</b>	:	Criminal
<b>Date of Judgement</b>	:	March 28, 2014
<b>Plaintiff</b>	:	PERAK
<b>Defendant</b>	:	KAMP and others
<b>Concept</b>	:	Copyright Administrative Conduct
<b>Statue</b>	:	Section 46(2), Copyright Act, Cap 130, Laws of Kenya and Section 10, Societies Act Cap 108, Laws of Kenya

#### Panel of Justices

G. V Odunga

#### Case Background

This case concerned PERAK the plaintiff copyright administrative conduct by KAMP and others. The Plaintiff's case was that the defendants was arbitrarily imposing and collecting high tariffs/license fees and other levies from the Applicant's members' business premises using a wrong tariff structure and generally harassing, intimidating and confiscating their business equipment throughout the Republic of Kenya.

#### Procedural History

The High Court of Kenya passed a judgement ruling of the case

#### Issue

- Who is competent to apply for judicial review remedies?
- Whether judicial review can issue against 1<sup>st</sup> respondent.

#### Rational

The court held that the activities of a Collective Management Society and a Music Copyright Society did not contravene the country's Constitution. The court also considered the requirements for the grant of a conservatory order which is an interim order granted to preserve the status quo pending the hearing and determination of the main petition. Requirements for the grant of the order; Applicant must demonstrate that the order sought is in the public interest, is consistent with constitutional values, is justified on the merits and should be granted as a matter of priority to avoid the Applicant from suffering prejudice. The Applicant was held to have failed to justify the petition for the conservatory order and the application was dismissed.

**Keywords** Collective Management Society, Music Copyright Society, prohibitory injunction, broadcasting, licence fees, mandamus