



**Karangi Coftea Ltd v Nyachie & others (Tribunal Case  
67 of 2014) [2015] KERRT 6 (KLR) (15 October 2015) (Ruling)**

Neutral citation: [2015] KERRT 6 (KLR)

**REPUBLIC OF KENYA  
IN THE RENT RESTRICTION TRIBUNAL  
TRIBUNAL CASE 67 OF 2014  
HK KORIR, CHAIR  
OCTOBER 15, 2015**

**BETWEEN**

**KARANGI COFTEA LTD ..... PLAINTIFF**

**AND**

**BENARD OCHARI NYACHIE & OTHERS ..... DEFENDANT**

**RULING**

1. Pursuant thereto, the Tribunal Valuer with prior notification to both parties visited the premises for purposes of inspection on 22/10/2015.
2. In his Valuation Report dated 19/11/2014 Standard Rent varying from Kshs. 25, 000/= to Kshs. 50, 000/= is recommended for the various units according to their sizes.
3. Being dissatisfied with the Valuation report aforesaid, the tenants commissioned an Independent Valuer to provide a 2<sup>nd</sup> opinion on the same. Thus the report by Kahuthia Kibui & Company Valuers filed on 19/5/2015 recommends Standard Rent
4. By an application dated 27<sup>th</sup> May 2015, the applicant/tenant prayed for restraining orders barring the defendant from increasing rent and/or evicting the plaintiff from the suit premises pending inter partes hearing of the application.
5. The application was initially heard *ex parte* and interim orders granted on 29<sup>th</sup> May 2015.
6. The respondent filed its replying affidavit and notice of Preliminary Objection on 12<sup>th</sup> June 2015 which were premised on two grounds i.e. that the tribunal lacked Jurisdiction to entertain the application under sec 2 of [Cap 296](#) and Secondly that the applicant was not the legal tenant and therefore lacked locus standi to bring the application.
7. With respect to the 2<sup>nd</sup> later ground of objection it is instructive to note that [Cap 296](#) defines a tenant in broad terms to include a spouse or any other person succeeding the original tenant [if deceased].



8. On the issue of Jurisdiction, the defendant has sought to place reliance on JR No. 447/12. The tenant's Counsel in opposition to the PO brought to the attention of the Tribunal the existence of another precedent by High Court being J.R No. 191 of 2013 which had arisen out of Rent Restriction Case No. 278/2013.
9. In the later decision, the High Court maintained that Standard Rent is a special term defined under Section 2 of the *Act*. For the tribunal to make a decision as to whether it had Jurisdiction, it has to make a determination of the Standard rent, without which it cannot be said with certainty that it lacks Jurisdiction to entertain the matter. The law is not that a Court or tribunal which has no Jurisdiction at all in the matter. However, once the Court or tribunal makes a determination that it has no Jurisdiction it must down its tools at once. In the light of the High Court decision above, it is the tribunals considered position that standard rent has to be determined first for it to decide whether it has Jurisdiction or not.
10. Accordingly the PO is dismissed and the Tribunal Valuer directed to assess Standard Rent within 30 days for further directions to be issued.
11. Ruling read in open court on 15<sup>th</sup> day of October, 2015 in absence of both parties.

**ISSUED UNDER MY HAND AND THE SEAL OF THIS HONOURABLE TRIBUNAL AT NAIROBI ON THIS 15<sup>TH</sup> DAY OF OCTOBER 2015.**

**SIGNED**

**HILLARY K. KORIR**

**CHAIRMAN**

**RENT RESTRICTION TRIBUNAL**

**NAIROBI**

