



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAIROBI

JUDICIAL REVIEW APPLICATION NO. MISC E046 OF 2021

BETWEEN

MARTIN OLUOCH OGIDHO AND 321 OTHERS.....EX-PARTE APPLICANTS

VERSUS

REGIONAL POLICE COMMANDER-NAIROBI.....1ST RESPONDENT

NAIROBI CITY COUNTY COMMISSIONER.....2ND RESPONDENT

NAIROBI METRO POLITAN SERVICES.....3RD RESPONDENT

OFFICER-IN-CHARGE POLICE DIVISION-KAYOLE.....4TH RESPONDENT

HON. AITORNEY GENERAL.....5TH RESPONDENT

AND

NJIRU AGERIA LIMITED.....INTERESTED PARTY

RULING

The Application

1. The *ex parte* Applicants herein have filed an application by way of a Chamber Summons dated 29th March 2021, seeking the following orders:

1. THAT this Court be pleased to grant the applicants leave to apply for an Order of Prohibition, prohibiting the Nairobi County Police Commander, Nairobi County Commissioner and Officer Commanding Police Division Kayole- Nairobi either by themselves their agents and/ or any other person acting under their instruction from invading, evicting, trespassing and/ or interfering with the applicant's ownership, peaceful possession, user, occupation and/ or demolishing the applicants homes and or structures constructed on the land parcel LR. N0.13468.

2. THAT this Court be pleased to grant the applicant leave to apply for an order of certiorari to remove into this Court and quash the informal order given by Nairobi County Police commander and Nairobi County Commissioner to the Officer Commanding Police Division -Kayole to demolish the applicants homes and or structures constructed on land parcel L.R. Plots Nos. L.R. N0.13468.

3. THAT the leave granted pursuant to prayers hereinabove do operate as a stay of the informal eviction order issued by Nairobi County Police Commander and Nairobi County Commissioner to the Officer Commanding Police Division -Kayole to demolish the applicants homes and or structures constructed on land parcel L.R. Plots Nos. L.R. N0.13468 until the determination of the application herein and/ or until further orders of this court.

2. It is evident that the *ex parte* Applicants are seeking orders in relation to the use and occupation of land in the said application. Any disputes and orders sought in relation to title, use and occupation of land now fall within the exclusive jurisdiction of the Environment and Land Court, pursuant to Articles 162(2) (b) and 165(5) of the Constitution, and section 13 of the Environment and Land Court Act. This

Court therefore has no jurisdiction to hear and determine the Chamber Summons dated 29th March 2021.

The Orders

3. In the premise I direct and order that this suit be and is hereby transferred to the Environment and Land Court at Nairobi for further hearing and determination. The *ex parte* Applicants' Chamber Summons dated 29th March 2021 shall accordingly be placed before the **Duty Judge** at the **Environment and Land Court at Nairobi** on **1st April 2021** for directions.

4. The Deputy Registrar of this Court shall send a copy of this ruling by electronic mail to the ex parte Applicants, and to the Deputy Registrar of the Environment and Land Court at Nairobi, by close of business on 31st March 2021.

5. Orders accordingly.

DATED AND SIGNED AT NAIROBI THIS 30TH DAY OF MARCH 2021

P. NYAMWEYA

JUDGE