



**Kongo v China Henan International Corporation Group Company Limited (Environment & Land Petition E001 of 2023) [2023] KEELC 21100 (KLR) (26 October 2023) (Ruling)**

Neutral citation: [2023] KEELC 21100 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT HOMA BAY  
ENVIRONMENT & LAND PETITION E001 OF 2023**

**GMA ONGONDO, J**

**OCTOBER 26, 2023**

**IN THE MATTER OF THE CONTRAVENTION, TOTAL VIOLATION  
AND THREATENED CONTRAVENTION OF FUNDAMENTAL RIGHTS  
AND FREEDOMS UNDER ARTICLES 26,28,40,42 (A & B) 43 (1) (B AND  
C), 69 (2), AND 70 (C), OF THE CONSTITUTION OF KENYA, 2010:**

**AND**

**IN THE MATTER OF ENFORCEMENT OF ARTICLES 20 (1), 22 (1), 23 (3), 42(A & B); 43 (1) (B & C); 69 (2) AND 70 (C), OF THE CONSTITUTION OF KENYA, 2010,**

**BETWEEN**

**SAMWEL YOGO KONGO ..... PETITIONER**

**AND**

**CHINA HENAN INTERNATIONAL CORPORATION GROUP COMPANY  
LIMITED ..... RESPONDENT**

**RULING**

1. The present Petition dated 1<sup>st</sup> October 2023 and lodged on 3<sup>rd</sup> August 2023 by the Petitioner, Samwel Yogo Kongo through Quinter Adoyo and Company Advocates, was wrongly brought as Environment and Planning civil case as filed herein. The same relates to alleged isolation of the Petitioner's rights under, inter alia, Articles 69(2) and 70(c) of *Constitution of Kenya, 2010*.
2. I have noted a reply to the Petition dated 11<sup>th</sup> September 2023 by the respondent through Ms. Nyamurongi and company advocates duly filed herein on 12<sup>th</sup> September 2023.
3. I bear on mind the destruction between a matter struck out and dismissed one; see *Ngoni Matengo Cooperative Marketing Union Limited versus Ali Mohammed Osman* (1959) EA 577.
4. In the foregone, this petition which is wrongly filed is hereby struck out with no orders as to costs.



5. It is so ordered.

**DELIVERED, DATED AND SIGNED AT HOMABAY THIS 26<sup>TH</sup> DAY OF OCTOBER 2023.**

**G.M.A ONG'ONDO**

**JUDGE**

