



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT NAIVASHA**

**PETITION NO. 12 OF 2016**

**(Formerly Nairobi High Court Petition No. 455 of 2016)**

**IN THE MATTER OF ARTICLES 19, 20, 22, 23, 27, 28, 29, 31, 32, 40 AND 47 OF THE CONSTITUTION AND VIOLATIONS OF THE RIGHTS AND FREEDOMS OF THE PETITIONER**

**PAULINE TIDI OTIENO.....1<sup>ST</sup>  
 PETITIONER**

**HELENA GICUKU KIVUTI.....2<sup>ND</sup>  
 PETITIONER**

**-VERSUS-**

**THE INSPECTOR GENERAL OF POLICE.....1<sup>ST</sup> RESPONDENT**

**CHEPKWONY – CID NAIVASHA.....2<sup>ND</sup> RESPONDENT**

**THE DIRECTOR OF PUBLIC PROSECUTIONS.....3<sup>RD</sup> RESPONDENT**

**ANTHONY MINDU NJUE.....1<sup>ST</sup> INTERESTED  
 PARTY**

**PHILIS WANGUI MINDU.....2<sup>ND</sup> INTERESTED PARTY**

**DIRECTIONS IN LIEU OF RULING**

1. The events preceding the filing of this Petition and the Chamber Summons on 2<sup>nd</sup> November 2016 are not in dispute. The Petitioners as **Vendors** had entered into a sale agreement on the 4<sup>th</sup> December 2015 with the Interested Parties, being **Purchasers**, in respect of a parcel of land measuring 1 acre. The said land parcel was to be excised from and created through the agreed future subdivision of the Petitioners’ **Land Parcel No. KIJABE/KIJABE BLOCK 1/291**.

2. The purchase price was agreed at Shs 1.2 Million of which a deposit of Shs 800,000/= was received by the Petitioners at the time of signing the agreement. Pursuant to the agreement, the subdivision would be completed by 30<sup>th</sup> April, 2016. It would appear after the said date had passed, that the Interested Parties became restless and instructed their advocates to write a demand letter to the Petitioners. Whereupon, the advocates of the Petitioners wrote back explaining *inter alia*, the delay and reiterating the “**intention of completing the sale and transfer**” of the land parcel in question to the Interested Parties.

3. Further, they disclaimed any intention to defraud the Interested Parties. Apparently, no resolution came out of the exchange of the correspondence and the Interested Parties made a report to the police (1<sup>st</sup> and 2<sup>nd</sup> Respondents). It is the subsequent actions by the police that prompted the filing of the Petition.

4. The Chamber Summons was heard before me on 23/3/2017. This court has now carefully reviewed the affidavit and other material canvassed in respect of the Chamber Summons during the arguments. The material includes search certificates proffered by the counsel for the Interested Parties at the hearing which, although irregularly tendered indicate that the Petitioners had indeed completed the subdivision process by end of July, 2016. I have also reviewed the Petition upon which the Chamber Summons is premised.

5. It is my considered view that, despite the nature of the proceedings, the dispute between the Petitioners and the Interested Parties appears to be one that is eminently suitable for a reconciliation attempt in the first instance.

6. Therefore, invoking this court's authority under Article 159 (2) (c) of the Constitution, and Rules 29 and 31 of the Constitution of Kenya, (The Protection of Rights and Fundamental Freedoms), Practice and Procedure Rules (commonly known as the Mutunga Rules), I would direct that the core parties herein, namely the Petitioners and Interested Parties together with their respective advocates, do commence an out of court discussion with the aim of reconciliation, failing which appropriate directions will be given by the court.

7. For this purpose, the matter will be stood over to the 27<sup>th</sup> July, 2017 when the parties will appear in court and make representations regarding the outcome of their discussions. Further directions will be made by the court based on representations received.

Delivered and signed at Naivasha this **30<sup>th</sup>** day of **June, 2017**.

In presence of:-

N/A for the Petitioners

Miss Kavindu for the Respondents

N/A for the Interested Parties :

C/C – Barasa

**C. MEOLI**

**JUDGE**