



Jamini Agency Limited v National Land Commission & 9 others (Constitutional Petition E004 of 2023) [2023] KEELC 22442 (KLR) (18 December 2023) (Ruling)

Neutral citation: [2023] KEELC 22442 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT KAJIADO
CONSTITUTIONAL PETITION E004 OF 2023
MN GICHERU, J
DECEMBER 18, 2023**

BETWEEN

JAMINI AGENCY LIMITED PETITIONER

AND

NATIONAL LAND COMMISSION 1ST RESPONDENT

LAND REGISTRAR 2ND RESPONDENT

DIRECTOR OF SURVEYS 3RD RESPONDENT

DEPARTMENT OF ENVIRONMENT 4TH RESPONDENT

MATHARI TEACHING AND REFERRAL HOSPITAL 5TH RESPONDENT

KENYA NAITONAL HIGHWAYS AUTHORITY 6TH RESPONDENT

JUDICIAL SERVICE COMMISSION 7TH RESPONDENT

STATE DEPARTMENT OF DEFENCE 8TH RESPONDENT

STATE DEPARTMENT OF LIVESTOCK 9TH RESPONDENT

THE ATTORNEY GENERAL 10TH RESPONDENT

RULING

1. This ruling is on the notice of motion dated 12/9/2023. The motion which is by the 6th respondent seeks the following orders:
2. That the name of the 6th respondent be and is hereby struck out of the petition herein dated 4/7/2023.



3. The Petition herein dated 4/7/2023 be and is hereby dismissed in so far as it relates to Kenya National Highways Authority.
4. The costs of this application and of the dismissed petition be borne by the petitioner.
2. The motion is based on seven grounds, supported by a supporting affidavit sworn by Michael Obop, a Senior Surveyor working for the 6th Respondent dated 12/9/2023 which has several annexures which include a copy of certificate of official search which shows the registered proprietor of L.R. Ngong/Ngong/100/32 as the Cabinet Secretary to the Treasury of Kenya for the Kenya Institute of Highways and Building Department.
3. The motion though served on the petitioner and other respondents is unopposed by any of the parties.
4. Having considered the motion dated 12/9/2023 in its entirety, I find that it has merit especially because L.R. No. Ngong/Ngong/100 32 is not registered in the name of the 6th respondent. The 6th respondent not being the registered owner of the said land is not a necessary party in this case. The necessary party is the one in whose name the land is registered. The motion is therefore allowed in terms of prayers 2 and 3 only. Costs in the cause.

DATED 18TH DECEMBER, 2023 AND DRAWN BY:

M. N. GICHERU

JUDGE

Delivered in the presence of:

1. Petitioners Counsel – Mr. Wanyundi
2. 2nd, 3rd, 4th, 5th, 8th, 9th and 10th Respondent’s Counsel – Miss Ali
3. 7th Respondent’s Counsel – Mr. Mungai
4. 6th Respondent’s Counsel – Mr. Havi
5. Mpo: Court Assistant

