



**IN THE HIGH COURT OF KENYA T MERU**

**PETITION NO. 9 OF 2014**

IN THE MATTER OF ARTICLES 22, 70 AND 258 OF THE CONSTITUTION OF KENYA 1020

IN THE MATTER OF THE CONTRAVENTION OF FUNDAMENTAL RIGHTS AND FREEDOMS UNDER ARTICLES 19, 20, 27, 32, 35, 42, 44 OF THE CONSTITUTION OF KENYA 2010

AND IN THE MATTER OF THE CONTRAVENTION OF ARTICLES 2(5) & (6), 10, 60, 62, 63, 67, 69, 70, 71, 73 AND 174 OF THE CONSTITUTION OF KENYA 2010

BETWEEN

LAW & SOCIAL DEELOPMENT TRUST (LASODET).....1ST PETITIONER

ATIRIRI BURURI MA CHUKA TRUST.....2ND PETITIONER

WENDY W. MUTEKI AND OTHERS 3000 PETITIONERS

as named in the schedule attached in the schedule annexed.....3RD PETITIONER

AND

THE HONOURABLE ATTORNEY GENERAL.....1ST RESPONDENT

THE CABINET SECRETARY

MINISTRY FOR ENERGY AND NATURAL RESOURCES.....2ND RESPONDENT

THE CABINET SECRETARY MINISTRY OF LANDS.....3RD RESPONDENT

THE NATIONAL LAND COMMISSION.....4TH RESPONDENT

THE KENYA FOREST.....5TH RESPONDENT

KENYA WILDLIFE SERVICE.....6TH RESPONDENT

THE CABINET SECRETARY

MINISTRY OF INFORMATIONAND COMMUNICATION.....7TH RESPONDENT

THARAKA NITHI COUNTY GOVERNMENT.....8TH RESPONDENT

RHINO ARK.....9TH RESPONDENT

NATIONAL ENVIRONMENTAL MANAGEMENT

**DIRECTIONS**

This is an environment case. What was slated for today was the hearing of 2 applications. The first one is by Wendy Mutegi on behalf of other petitioners dated 22.4.2014. The second one is by the 1st petitioner dated 13.6.2014.

Gleaning from the expressions of the parties in Court, the two applications spawn weighty and convoluted issues. There have even been allegations that the petitioners and even one of their advocates feel insecure. Some of the respondents do not oppose one of the applications. The issue of who represents who has also been raised. The rationale for bringing some of the respondents on board has been questioned.

The Constitution of Kenya requires that the principle of sound conservation and protection of ecologically sensitive areas be embraced when the Court deals with environmental matters. The Court should also consider the principle that resources should be managed in a sustainable and productive manner.

There have been claims that the saw millers have paid millions of shillings to be allowed to harvest trees in the disputed forest. It has also been claimed that the oversight agency, NEMA, and the lead agency, Kenya Forestry Service, have approved the harvest of the trees being challenged. There has even been a claim that the petitioners are not altruistic in their applications but are only piqued as they have not been allowed to partake in the financial benefits arising out of the millers harvesting of the trees.

To demystify these issues, I give the following directions/orders:

1. ***This application be heard very urgently.***
2. ***The application should be heard by way of written submissions with all petitioners filing and exchanging their submissions within 14 days.***
3. ***Respondents to file their submissions within 14 days after service by the petitioners.***
4. ***All respondents allowed to file their responses within 10 days and all parties are allowed liberal leave to respond, if and as necessary.***
5. ***In their submissions, parties should raise all pertinent issues including representation and clear any grey areas.***
6. ***In accordance with the precautionary principle, I grant prayer c of the application dated 22.4.2014. Prayer e of the application is granted STRICTLY pending interpartes hearing of this application.***
7. ***Regarding the application dated 13th June, 2014, prayer e is granted STRICTLY pending interpartes hearing of this application. Prayer c is granted.***
8. ***Regarding apprehension by the Petitioners and one of the advocates regarding threats to their security, I direct that they present themselves before the County Commander of Police, Tharaka, Nithi so that concerned OCPD'(s) and OCS'(s) can investigate this matter***
9. ***All parties to properly serve all parties they have not served.***
10. ***Directions on 30.7.2014 regarding a date for ruling.***
11. ***The directions herein be typed immediately and be availed to parties at their own costs.***

**Dated and delivered at Meru this 23rd day of June, 2014.**

**P. M. NJOROGE**

**JUDGE**

