



REPUBLIC OF KENYA
IN THE HIGH OF KENYA AT NAIROBI
MILIMANI LAW COURTS

Petition 308 of 2012

PETER MUREITHI NGATIA.....1ST PETITIONER

AGNES WAKURAYA NGATIA.....2ND PETITIONER

AND

REGISTRAR OF TITLES.....1ST RESPONDENT

COMMISSIONER OF LANDS.....2ND RESPONDENT

THE ATTORNEY GENERAL.....3RD RESPONDENT

JUDGMENT

This case concerns the petitioners' property **LR No. 209/13539/143** whose title was revoked by **Gazette Notice No. 15580**. The State has properly conceded that this course cannot be sustained as the Registrar has no power to revoke a title by way of Gazette Notice. Such action is contrary to **Article 47(1)** and **40** of the Constitution which protect the right to fair administrative action and right to property respectively.

In the circumstances, the appropriate relief in this matter is as follows;

- (1) Gazette Notice No. 15580 is declared null and void and of no consequence as it is a breach of the petitioner's rights under Article 40 and 47(1) of the Constitution.**
- (2) The Registrar of Titles is directed to cancel, delete and or remove all or any entries made pursuant to Gazette Notice No. 15580 in relation to LR No. 209/13539/143.**
- (3) The registrar of Titles or any other person is restrained from giving effect to Gazette Notice No. 15580 in so far as it relates to LR No. 209/13539/143.**
- (4) Each party shall bear its own costs.**

DATED and DELIVERED at NAIROBI this 31st day of July 2012

D.S. MAJANJA

JUDGE

Mr Masinde instructed by Boniface Masinde and Company Advocates for the petitioner.

Ms Makori, Litigation Counsel, instructed by the State Law Office for the respondent.