

REPUBLIC OF KENYA

High Court at Nairobi (Nairobi Law Courts)

Petition 167 of 2012

KOBIAN (KENYA) LIMITED PETITIONER

AND

THE HONOURABLE ATTORNEY GENERAL OF THE REPUBLIC OF KENYA,

BEING SUED FOR AND ON BEHALF OF

THE SENIOR REGISTRAR OF TITLES, NAIROBI

AND ON BEHALF OF

THE COMMISSIONER OF LANDS RESPONDENT

JUDGMENT

1. The petitioner is the registered proprietor of LR No. 209/11801/11. The petitioner has instituted these proceedings because the Registrar of Titles has revoked the title vide **Gazette Notice No. 9230** dated 29th July 2011.
2. The petition is not opposed and this Court has had an occasion to pronounce of the validity of the revocation of title by the Registrar. The thread running through the cases is that the Registrar of Tiles has no authority under the **Registration of Titles Act (Chapter 281 of the Laws of Kenya)** to revoke title to land. Secondly, such revocation is a breach of **Article 40** of the Constitution that protects a person from the arbitrary taking of property. Thirdly, the revocation of the title to land by Gazette Notice is contrary to **Article 47** which protects the petitioner from unfair administrative action. (See **Republic v Kisumu District lands Officer and Another HC Misc. Appl. No. 80 of 2010 (Unreported)**, **Kenya Breweries Limited v Municipal Council of Mombasa & Others HC Misc. Application No. 244 of 2001 (Unreported)** **Kuria Greens Limited v Registrar of Titles and Commissioner of Lands Nairobi HC Petition No. 107 of 2010 (Unreported)**, **Sound Equipment Limited v Registrar of Titles and Commissioner of Lands Nairobi Petition No. 106 of 2010 (Unreported)** and **Power Technic Ltd v Attorney General & Others, Nairobi Petition No. 178 of 2011 (Unreported)**).
3. In **Power Technic Ltd v Attorney General (Supra)**, the Court did declare **Gazette Notice No. 9230** published in the Special Issue dated 29th July 2011 null and void. In the circumstances of this case and for the avoidance of doubt I hereby declare **Gazette Notice No. 9230** dated 29th July 2011 and **Gazette Notice No. 3231** in so far as it relates to **LR No. 209/11801/1 (IR No. 71150/1)** null and void.
4. The petitioner shall have the costs of the petition.

DATED and **DELIVERED** at **NAIROBI** this 26th day of October 2012.

D.S. MAJANJA
JUDGE

Mr Naeku instructed by Bowry and Company Advocates for the petitioners.