

REPUBLIC OF KENYA

High Court at Nairobi (Nairobi Law Courts)

Petition 547 of 2012

JOHN KIGURU KARUME PETITIONER

AND

REGISTRAR OF TITLES 1ST RESPONDENT

COMMISSIONER OF LANDS 2ND RESPONDENT

RULING

1. This suit cannot be permitted to proceed as it is a parallel proceeding in respect of the suit properties being **LR No. 11514, 11513 and 11512** which are the subject of litigation in ***HCCC No. 80 of 2009 John Kiguru Karume v Kenya Institute of Administration***. As the suit concerns the same property which is to issue it is proper that all the issues concerning the title be determined in one suit.

2. In am aware that this is a case for the enforcement of fundamental rights and freedoms but I must point out that the High Court in all it manifest jurisdictions is entitled to hear and determine matters of fundamental rights and freedoms. This is part of the jurisdiction of the High Court under **Article 165 (3)** and an application of **Articles 19 and 20** which are part of the Bill of Rights.

3. According to Ms Ajiambo, the Gazette Notice revoking the title was issued during the pendency of the suit. It is therefore proper that the High Court determining the matter have regard to action by the State made to undermine the petitioner's cause of action. This may be achieved by a proper amendment of the plaint and joinder of the necessary party rather than filing another suit.

4. In the result the petition filed herewith is struck out with no order as to costs.

DATED and DELIVERED at NAIROBI this 3rd December 2012.

D. S. MAJANJA

JUDGE

Ms Ajiambo instructed by Kimamo Kuria Advocates for the petitioner *ex-parte*.