



**REPUBLIC OF KENYA**

**IN THE ENVIRONMENT AND LAND COURT**

**AT NAROK**

**CONSTITUTIONAL PETITION NO. 05 OF 2019**

**IN THE MATTER OF ARTICLES 10, 20, 21 (1), 40 (1), 40 (3), 40 (4), 47, 50, 60, 64, 67, 232 (1), 232 (2), OF THE CONSTITUTION OF THE REPUBLIC OF KENYA**

**-AND-**

**IN THE MATTER OF SECTION 14 AND 15 (2) (d) & (3) (e) OF THE NATIONAL LAND COMMISSION ACT, 2012**

**-AND-**

**IN THE MATTER OF SECTIONS 27 (a) AND 28 (a) OF THE REGISTERED LAND ACT**

**-AND-**

**IN THE MATTER OF SECTION 4 OF THE FAIR ADMINISTRATIVE ACTION ACT, 2015**

**BETWEEN**

**OLOOLOLO GAME RANCH LTD.....PETITIONER**

**-VERSUS-**

**THE NATIONAL LAND COMMISSION.....1<sup>ST</sup> RESPONDENT**

**IKAREKESHE GROUP TRUST.....2<sup>ND</sup> RESPONDENT**

**THE ATTORNEY GENERAL OF KENYA...3<sup>RD</sup> RESPONDENT**

**-AND-**

**THE CHIEF LAND REGISTRAR.....1<sup>ST</sup> INTERESTED PARTY**

**THE MINISTRY OF LANDS.....2<sup>ND</sup> INTERESTED PARTY**

**THE DIRECTOR OF LAND ADJUDICATION AND**

**SETTLEMENT.....3<sup>RD</sup> INTERESTED PARTY**

**RULING**

The Applicant had by a Notice of Motion dated 22<sup>nd</sup> July, 2020 sought for the following orders: -

1. Spent
2. Spent

3. That there be an order of stay of proceedings including writing and/or delivery of any rulings or judgement in relation to the subject petition pending the hearing and determination of the application.

1. That this matter be placed before any other court of competent jurisdiction, for its just and conclusive determination.

The Application is based on the grounds that the court had on 1<sup>st</sup> July, 2020 delivered a ruling in respect of the petitioner's application without notice and directions were given without their output and the readiness of the parties not ascertained which in essence meant that the petitioners right to a fair hearing was flouted as enshrined under Article 50 of the constitution of Kenya 2010.

The application was supported by the affidavit of one Francis Leshilla Ole Ramet in which he deponed that the court had directed the parties to file and serve submissions without notice to all the parties in the matter and consequently seeks to set aside and vary the said orders.

The application was opposed by the respondents by way of a replying affidavit sworn by one Kuya Kijabe who deponed that contrary to the allegations by the applicant that they were not aware of the ruling delivered on 1/7/2020 the applicants and all other parties were informed about the date of the ruling on 30/6/2020 and the allegation that the ruling was delivered.

From the record it is quite clear that on 30<sup>th</sup> June, 2020 when the ruling was due to be delivered and adjourned to the following day the parties had notice of the said ruling and consequently upon the delivery of the same on 1<sup>st</sup> July, 2020 I gave directions on the manner in which the substantive petition had to be disposed.

The substantive petition from the pleadings is based on challenging the decision of the 1<sup>st</sup> Respondent's Notice to cancel its title and even though the interested party avers to the fact that there will be various documents that they will introduce that will require oral testimony of witness I find that this is a matter that can easily be disposed off by way of affidavit evidence more so which during the current covid pandemic is tandem with the practice directions that were issued by the Honourable Chief Justice and in the circumstances I find that the notice of motion dated 22<sup>nd</sup> July, 2020 lacks merit and I dismiss the same and order that all parties do comply with the directions issued by the court on 1<sup>st</sup> July, 2020.

Orders accordingly.

**DATED, SIGNED and DELIVERED** in open court at **NAROK** on this **2<sup>nd</sup>** day of **February, 2021**.

**Mohammed N. Kullow**

**Judge**

**2/2/2021**

In the presence of: -

CA:Chuma

Mr Kibet for the 2<sup>nd</sup> Respondent

Mr Kere holding brief for Kemboy for the petitioners

**Mohammed N. Kullow**

**Judge**

**2/2/2021**