



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT NAIROBI
ELC PETITION NO. 12 OF 2020

JOHN OKELLO.....1ST PETITIONER
NANCY WANGARI.....2ND PETITIONER
JOHN GIKURU MBURU.....3RD PETITIONER
ISAAC NJOROGE.....4TH PETITIONER
ALI OKELLO.....5TH PETITIONER
PAUL MUTUGI.....6TH PETITIONER
AHMED MOHAMED.....7TH PETITIONER
LUCY MUTHONI.....8TH PETITIONER
JOSEPH GATHU.....9TH PETITIONER
GEORGE OTIENO.....10TH PETITIONER
GEORGE OPIYO.....11TH PETITIONER
PETER AKUMA.....12TH PETITIONER
KENNEDY AYUKA.....13TH PETITIONER
JULIUS OWUOR.....14TH PETITIONER
DAVID OTIENO.....15TH PETITIONER
FREDRICK OMWOMO.....16TH PETITIONER
PETER ODERA.....17TH PETITIONER
ZABLON ANYOKA.....18TH PETITIONER
KENNEDY OUMA.....19TH PETITIONER
MISSION OF DIVINE FELLOWSHIP
C/O PETER IDAKI.....20TH PETITIONER

VERSUS

INSPECTOR GENERAL OF POLICE.....1ST RESPONDENT

CABINET SECRETARY, WATER AND

SANITATION.....2ND RESPONDENT

DIRECTOR GENERAL,

NAIROBI METROPOLITAN SERVICES.....3RD RESPONDENT

NAIROBI WATER AND SEWERAGE

COMPANY LIMITED.....4TH RESPONDENT

ATTORNEY GENERAL.....5TH RESPONDENT

JUDGEMENT

1. The Petitioners claimed that they were the officials of the Residents' Committee for Nyayo Estate, in Ruaraka within Nairobi County. The 1st Respondent was sued in his capacity as the head of the National Police Service. The 2nd Respondent served under the National Government Executive as a member of the Cabinet established under Article 152 of the Constitution. The 3rd Respondent served under the National Government while the 4th Respondent was a State parastatal mandated to run and operate water and sewerage services in Nairobi City County.

2. The Petitioners claimed that they brought this petition in their representative capacity on behalf of more than 10,000 residents of Nyayo Estate, in Ruaraka within Nairobi County where they claimed to have resided for the last 30 years. They averred that what was outstanding regarding their ownership of the land that they occupy was the issuance of title documents to those residents, which exercise was to have been undertaken in March 2020 but was prevented by the Covid-19 pandemic which caused the closure of the Lands Registry in Nairobi. The Petitioners averred that the residents of Nyayo Estate were aware that the government of Kenya was carrying out a slum upgrading project for the benefit of the Petitioners.

3. The Petitioners claimed that on 5/5/2020, the 4th Respondent instructed its servants or agents to dig a huge trench at the boundaries of the Petitioner's estate thereby blocking access to the estate and threatened to demolish the entire estate claiming that it was sitting on a sewer easement. The Petitioners contended that if the 4th Respondent proceeded to illegally evict them from their place of residence and to demolish their houses, it would infringe on their Constitutional rights. They contended that the actions of the 4th Respondent were unlawful and meant to target them during the Covid-19 pandemic and would also expose them to personal and health risks. They contended that the Respondents' action in evicting them from their homes violated their Constitutional rights to property, fair administrative action and protection against adverse action without notice to their detriment and prejudice.

4. In the petition dated 7/5/2020, the Petitioners sought a declaration that their intended eviction and that of the residents of Nyayo Estate was illegal and an abuse of the powers bestowed upon the Respondents. They also sought a declaration that their right and those of the residents of Nyayo Estate to own property had been violated by the Respondents. They sought a permanent injunction to bar the Respondents or their agents or servants from evicting them and demolishing the Petitioners' properties situated at Nyayo Estate within Ruaraka Constituency. In addition, they sought general damages, costs of the petition and any other orders that the court may deem fit to grant.

5. John Okello swore the affidavit on 6/5/2020 in support of the petition. He deponed that he had been authorised to swear the affidavit on the Petitioners' behalf. He deponed that the petition was brought on behalf of the residents of Nyayo Estate in Ruaraka Constituency in Nairobi County to seek judicial redress against the Respondents' actions to evict the Petitioners and the residents of Nyayo Estate from their homes where they claim they have been living for the past 30 years. He explained that Nyayo Estate was a large sprawling estate of more than 10,000 families and that it was established in 1997 by the late President Daniel Arap Moi.

6. He averred that the Respondents were alleging without any legal basis or information or documentation that the Petitioners and the residents of Nyayo Estate were living upon a sewer easement and sought to evict them from the suit land. Mr. Okello averred that in recognition of the rights of the Petitioners and that of the residents of Nyayo Estate, the suit land had been adjudicated, surveyed and a part development plan issued. According to him what was outstanding was the issuance of title deeds which should have been done in March 2020 were it not for the covid-19 pandemic that resulted in the closure of the land registry at Ardhi House, Nairobi.

7. He averred that on 5/5/2020 agents of the Respondents working through the 4th Respondent descended upon the Petitioners' estate and dug a huge trench at its boundaries thereby blocking access to the estate, and were threatening to demolish the entire estate based on the allegation that it was sitting on a sewer easement a fact which the Petitioners claimed the Respondents were aware was not true. He contended that the Petitioners would be greatly prejudiced if the unlawful acts of the Respondents were allowed to go on because they were the rightful owners of the properties where they lived and were awaiting issuance of title documents over the land. He added that the demolition exercise was being taken unlawfully without notice or public participation as enshrined in the Constitution. He produced a copy of a map entitled Nyayo Village Working Diagram, F/R No. 443/6 for Nairobi Block 217 plot numbers 625 to 718. He also produced the architectural design for Makao School on plot number KNY176 Nyayo Village, Korogocho Market Road.

8. He averred that the government of Kenya was carrying out a slum upgrading project where the Petitioners were beneficiaries. He produced a copy of the National Slum Upgrading and Prevention Policy, Sessional Paper Number 2 of March 2016 together with the letters written by the Member of Parliament for Ruaraka Constituency, Honourable Tom Kajwang' dated 5/5/2020.

9. The Honourable Attorney General (AG) filed grounds of opposition on 26/5/2020 in which he contended that the Petitioners were asserting proprietary rights over the suit land without any document that could support their claim. Further, that the public right to a clean environment overrode all individual rights. The AG contended that the Petitioners' assertion that they were awaiting issuance of title deeds was untrue and was only meant to mislead the court since the suit land was allocated to the City Council of Nairobi in 1958 and was registered as land reference number (L.R. No.) 8285/161. He maintained that the Petitioners had not adduced any documentation to support their claim to the suit land. Further, that the suit land having been set aside for a public purpose, registered and a title deed issued to the City Council of Nairobi, it was not available for allocation to any other person claiming individual rights.

10. The AG urged that it would be unconstitutional for the government to be compelled to issue title deeds to encroachers on its land which had been set aside for public utilities of sanitation and sewerage. The AG contended that the petition did not raise any Constitutional issues for determination by this court and maintained that the government had no responsibility to protect trespassers or those who encroached on public or private land. The AG maintained that the Petitioners were not entitled to any of the reliefs they sought because they did not have any legally identifiable right of title to the suit land. The AG contended that the issue here was a dispute over proprietary of the suit land which fell within the province of private law rather than public law. The AG emphasised that sanitation and sewerage management were public services which should not be interfered with by encroachers on public land set aside for sewerage and sanitation projects. The AG urged the court to dismiss the petition with costs.

11. Enosh Momanyi Onyango swore the replying affidavit on behalf of the 3rd Respondent in opposition to the petition. He stated that he was the Deputy Director General and Accounting Officer of the 3rd Respondent and that he was authorised to swear the affidavit. He deponed that on 25/2/2020 the National Government and the County Government of Nairobi signed a deed of transfer of functions pursuant to Article 87 of the Constitution read with Section 26 of the Intergovernmental Relations Act. Pursuant to that deed of transfer of functions relating to county health services; transport services; planning, development services and public works; utilities and auxiliary services were transferred to the National Government by the County Government of Nairobi.

12. He averred that the Kariobangi Sewerage Treatment Plant was located in Kariobangi North Ward off Kamunde Road and that it occupied L.R. No. 8285/161 measuring approximately 75 acres as indicated on F/R No. 91/27 dated 5/2/1960, a copy of which he produced. He averred that the land was allocated to the City Council of Nairobi for sewerage disposal work and housing of the staff charged with the maintenance of the sewerage facility. He claimed that a grant was issued to the City Council of Nairobi for 99 years with effect from 1/7/1958 and that it was registered on 27/7/1960. He produced aerial map showing the position of the sewage plant and a copy of the grant number IR 17670 for L.R No. 8285/161.

13. The grant to the City Council of Nairobi had special conditions attached to it, the first of which indicated that the land would be used only for the purposes of sewerage works and housing of staff necessary to maintain it. The grant prohibits the Council from subdividing, selling, transferring or subletting any part of the land without the consent of the Governor and Commander in Chief of the Colony and Protectorate of Kenya on behalf of Her Most Gracious Majesty Queen Elizabeth the Second. He also produced a copy of the letter dated 9/7/1971 from the City Council of Nairobi to the Commissioner of Lands regarding the extension of the boundary of the sewerage disposal works in Kariobangi.

14. Stanley Kimani swore the affidavit filed by the 4th Respondent in opposition to the petition. He stated that he was engaged as a Survey Coordinator of the 4th Respondent which is mandated to provide clean water and sewerage services to the residents of Nairobi County in a sustainable manner. He explained that the 4th Respondent fell within the jurisdiction of the Athi Water Works Development Agencies which is tasked with overseeing the development, maintenance and management of the public waterworks. The 4th Respondent is critical in ensuring that the highest level of sanitation is achieved and maintained for the benefit of the residents of Nairobi.

15. He observed that in the recent past land set aside for sewerage treatment works had been encroached onto and grabbed by people. He averred that Athi Water Works Development Agencies successfully reclaimed its land in Ruai with the help of the National Government and they dug a trench around it to keep away encroachers. Athi Water Agencies were called upon to mark the boundary at the Kariobangi sewerage treatment plant and it emerged from that exercise that several permanent and semi-permanent dwellings had been constructed on the suit land being L.R. No. 8285/161 measuring approximately 75 acres registered in the name of the City Council of Nairobi.

16. He maintained that the sewerage treatment facilities had been on the land since the plant was commissioned in 1961. Over the years people who claimed to have legally bought the plots they were occupying encroached on the land. He explained that due to the ever increasing population of Nairobi, there is always a need to expand the sewerage facilities to satisfy the needs of the residents of Nairobi. He added that presently there is an urgent need to expand the rehabilitation of sewage treatment and that this exercise was being implemented by the Ministry of Water, Sanitation and Irrigation through the Athi Water Works Development Agency.

17. He averred that the expansion of the rehabilitation of sewage treatment could not be commissioned because the area had been encroached onto with illegal structures constructed on the land. He explained that the 4th Respondent's efforts to put up a masonry wall around the perimeter of the sewerage facility were stopped by the Petitioners despite the contractor having undertaken 40% of the work. He stated that once the expansion is completed and the works commissioned, the facility will treat sewage at a capacity of 32,000 m³/per day which will undoubtedly improve the hygiene of Nairobi County.

18. He reiterated that the Petitioners were asserting proprietary rights over the suit land without any legal documents to support their claim. He maintained that the suit land was lawfully alienated to the City Council of Nairobi and emphasized that public right to a clean environment overrides the individual rights sought by the Petitioners. He urged that it was impossible for the court to entertain the petition because it does not mention any land reference number and that the suit land was not available for alienation to individuals to hold for private purposes. He denied that the 4th Respondent had infringed any rights of the Petitioners. He produced a copy of the survey plan for the sewerage plant and photographs showing the encroachment on the land.

19. John Okello swore a supplementary affidavit on 28/5/2020 and attached photographs taken of the suit land on 28/5/2020. He conceded

that there had been no demolitions save for the trench dug by the 4th Respondent's agents that he claimed cuts across the suit land. On the photographs that were produced by the Respondents, he was emphatic that they related to Kariobangi area and did not form part of the suit land.

20. Mr. Okello swore a further affidavit on 19/6/2020 in which he responded that L.R. No. 8285/161 which Enosh Momanyi Onyango referred to in the 3rd Respondent's replying affidavit fell way without the location of the Petitioners' village. He denied that they had encroached onto that land. He maintained that the trench excavated by the 3rd and 4th Respondents cut across parcel numbers 635 to 718 of Nyayo Village within Korogocho area. He was emphatic that the land they claim had no relation to L.R. No. 8285/161 which was earmarked for development of Kariobangi Sewerage Treatment Plant.

21. He deponed that the geographical and spatial location and extent of Nyayo Village was within the knowledge of the 3rd Respondent and the Petitioners should not be called upon to demonstrate that there was no sewer easement on their land. He contended that if there was need for expansion of the sewerage plant as the 3rd Respondents averred, it could only be done after consultation with and the participation of the residents in the spirit of the Constitution especially where it amounts to infringement on property rights and shelter over a significant population as was the case here. He maintained that the developments on the Suit land were erected under the watchful eye of the defunct City Council of Nairobi.

22. He produced a copy of the contract dated 13/1/2015 between the Ministry of Lands, Housing and Urban Developments and Geodev (K), Land and Engineering Surveyors, Planning and Environmental Consultants relating to the consultancy services for cadastral survey of the Korogocho informal settlement. He also annexed letters from the Ministry of Transport, Infrastructure, Housing and Urban Development dated 29/7/2019 on the request for waiver of survey fees for the Korogocho Slum Upgrading Program. He produced a copy of the letter dated 6/8/2019 from the Ministry of Transport, Infrastructure, Housing and Urban Development and Public Works dated 6/8/2019 addressed to the Ministry of Works and Physical Planning regarding the waiver for survey fees. He also produced a copy of the letter dated 4/10/2019 from the Director of Surveys to the Director of Land Administration forwarding a registry index map covering Nairobi Block 217 sheet numbers 1 to 4 for parcel numbers 1 to 2205 (Korogocho).

23. Parties filed submissions which the court considered. The Petitioners submitted that they were the legal owners and occupiers of parcel numbers 635 to 718 of Nyayo Village within Korogocho area. They claimed to have been in occupation of that land for over 30 years and faulted the 4th Respondent for going to demolish their properties on 5/5/2020 without any prior notice. The Petitioners maintained that they had been cleared for issuance of title documents based on the documents they produced in court. They relied on the letter dated 4/10/2019 from the Director of Surveyors to the Director of Land Administration to show that there was correspondence between Government Departments regarding the preparation of titles for Nairobi Block 2217/1 – 2205 (Korogocho) part of which was Nyayo Village. The Petitioners contended that Nyayo Village fell within registry index map sheet number 4. They contended that the Respondents could not be ignorant of the slum upgrading program and the fact that preparation of leases had commenced. The Petitioners contended that it was only the 4th Respondent who filed an answer to the petition. They challenged the averments in the affidavit of Enosh Momanyi Onyango claiming that it contained untruths. They maintained that they had no claim over L.R. No. 8285/161 and added that the 4th Respondent had failed to justify its encroachment onto Nyayo Village which fell outside L.R. No. 8285/161.

24. The Petitioners relied on Article 40 of the Constitution which affords every person the right to acquire and own property in any part of Kenya and forbids the State from depriving any person of property of any description without compensation. The Petitioners contended that the Respondents had admitted that the Petitioners had been in occupation and had developed the suit land substantially including residential, commercial, social and educational facilities which they contended were undertaken under the watchful eye of the 3rd Respondent and other relevant State departments. They urged that this demonstrated that they had an interest in the suit land within the meaning and spirit of Article 40 (3) of the Constitution.

25. They urged that their fundamental right to accessible and adequate housing and reasonable standards of sanitation enshrined in Article 43 (1) (b) of the Constitution had been violated by the 4th Respondent and continued to be so violated by the Respondents including the right to fair administrative action guaranteed by Article 47 of the Constitution. The Petitioners urged that they were seeking intervention of the court under Article 258 (2) to not only protect the individual and collective rights as residents of Nyayo Estate but also to defend the sanctity of the Constitution. They urged that the reliefs they seek were enforceable in *rem* and not in *personam* which fell within the realm of public law.

26. The Petitioners contended that it was incumbent upon the Respondents to demonstrate that an easement existed on the land which the Petitioners had encroached on and furnish an instrument creating that easement in accordance with Section 98 (3) of the Land Registration Act. The Petitioners contended that all along the Respondents were aware of the Petitioners' occupation of the suit land and had participated in the slum upgrading and prevention program hence they could not invoke the Petitioners' lack of titles to impeach their right of occupation on the suit land on allegations of trespass and encroachment. They contended that they had acquired rights over parcel numbers 635 to 718 within Korogocho area. They urged the court to grant the orders they sought claiming that they had sufficient interest in the suit land affording them a sustainable cause of action. They relied on the decision in **Commissioner of Lands v Kunste Hotels Limited, Civil Appeal No. 234 of 1995**. They relied on **Chase International Investment Cooperation and another v Laxman Keshra and Others [1976-80] eKLR 891** on the point that the Respondents were estopped from impugning the Petitioners' rights of ownership over the suit land.

27. The 4th Respondent submitted that the Petitioners had not identified any legally recognizable parcel of land to which they laid claim and elected to refer to the land as Nyayo Estate. The 4th Respondent relied on Section 6 of the Land Registration Act on the manner on which land ought to be registered. It contended that Section 26 of the Land Registration Act provided that the title of a registered proprietor was prima facie evidence that that proprietor was the absolute and indefeasible owner of the land subject to any encumbrances and other conditions endorsed on the certificate. It urged that the Petitioners had not adduced evidence to show that they were the absolute and indefeasible owners of the land they referred to as Nyayo Estate. It relied on the decision in **Kitui Ole Yamboi and another v Agricultural Finance Corporation and 102 others [2016] eKLR** on the point that to establish a breach to the right to property one had to demonstrate entitlement to the property.

28. The 4th Respondent submitted that the Petitioners had neither provided evidence of legal ownership over the parcel of land they claim to own nor had they demonstrated any beneficial ownership in the land through letters of allotment. It argued that the petition lacked specificity by failing to identify with precision the particular property they lay claim to which made it impossible for the Respondents to know the specific claim they were making and how the Respondents had infringed their rights. Further, that the Petitioners had not specified the manner in which the violation occurred yet on its part the Respondents had provided evidence that the 3rd Respondent was the owner of L.R. No. 8285/161 measuring approximately 75 acres based on the grant issued to it in 1958. The 3rd Respondent clarified that its interest in the suit land was whole and not in the form of an easement. It relied on the special condition in the grant over the suit land which stipulated that it was for sewerage disposal works. It submitted that the 3rd Respondent had demonstrated that its land had been illegally encroached on which is why it embarked on securing the property known as L.R. No. 8285/161 by marking its boundaries so that the land could be used for its intended purpose.

29. On the Petitioners reference to the rights protected by Article 43 of the Constitution, the 4th Respondent relied on **Kenya Airports Authority v Mitu-bell Welfare Society and 2 other [2016] eKLR** in which the Court of Appeal held that even though social economic rights were recognized and were justiciable, the enforcement and implementation of social economic rights could not confer proprietary rights in the land of another and that the courts could have no role to reengineer, take away and re-distribute property rights.

30. The 4th Respondent concluded that there had been no constitutional violation of the Petitioners' rights deserving protection by this court. It urged the court to uphold public interest in the suit land and to take into account the public service that the 4th Respondent provides. It reiterated that the Petitioners had not shown that they had any legitimate claim to the suit land to enable the court intervene for its protection.

31. The Honourable AG submitted that the petition went against the public interest right to a clean and habitable environment since the suit land was public land which was allocated to the defunct City Council of Nairobi in 1958. It maintained that the Petitioners did not have any proprietary interest in L.R. No. 8285/161. The AG added that the court could not grant the orders sought because it is not known which property they would relate to. The AG urged the court to identify and uphold public interest and to remain alive to the fact that its decisions ought to ensure the attainment of that which is for the advancement of public good. (See the case of **Kenya Medical Supplies Agency (KEMSA) V Mavgi Kanji Irani and 8 others [2018] eKLR.**)

32. The AG argued that a right must be in existence as a ground for one to claim any violation of that right and added that this petition did not meet the threshold of a constitutional petition. Further, the AG maintained that the assertions by the Petitioners that they were awaiting issuance of title documents over the suit land were untrue and baseless. On the correspondence relied on by the Petitioners as having been exchanged by the Government Ministries, the AG submitted that the administration or use of public land was the preserve of the National Land Commission under Section 36 of the Land Act. The AG cited Article 62(4) of the Constitution which prohibits the disposal of public land except in terms of an Act of Parliament specifying the nature and terms of that disposal or use.

33. The AG dismissed the documents produced by the Petitioners titled "Nyayo Working Diagram" as an unknown and factious document which did not originate from Survey of Kenya and was not a survey map. The AG maintained that being public land, the land was not available for allocation to anyone and added that there were procedures laid down in law for the adjudication of such land. Further, that physical planning procedures had to have been complied with if the land were to be lawfully allocated. The AG submitted that the Petitioners were misdirected and directionless and added that they had refused to state the property they had encroached on but were seeking blanket orders from the court yet they did not have any identifiable proprietary interest in the suit land.

34. Further, the AG submitted that while the government had a responsibility to protect legal land rights of registered proprietors, it did not have any responsibility to protect trespassers or encroachers on government or private land. The AG submitted that the Petitioners were not entitled to any of the reliefs they seek since they do not have any legally identifiable right of title and reiterated that this being a dispute on proprietorship it fell within the province of private law. The AG urged the court to dismiss the petition.

35. The issue for determination is whether the court should grant the orders sought in the petition. The Petitioners' main contention was that they owned the suit land and that the Respondents should be barred from evicting them from the land and demolishing their properties on the land. The court has to first determine whether the Petitioners have a legal right in the suit land capable of enforcement by the court. The 1st Petitioner produced a copy of a map entitled Nyayo Village Working Diagram and what appears as F/R No. 443/6 for Nairobi Block 217 plot numbers 625 to 718. The copy produced in court was shrunk considerably during the photocopying making it illegible. The Petitioners did not lead evidence to show the location of the land the Petitioners' claim comprises Nyayo Estate. Despite the Petitioners' strong contention that the land they occupy was distinct and separate from L.R. No. 8285/161 earmarked for the development of Kariobangi Sewerage Treatment Plant, what emerges from the rival contentions is that the land the Petitioners lay claim to forms part of L.R. No. 8285/161 which the Respondents maintain was earmarked for the development of the sewerage treatment plant. The Respondents produced a copy of the grant issued to the City Council of Nairobi for 99 years with effect from 1/7/1958. On the basis of that grant, the court is satisfied that the suit land is owned by the City Council of Nairobi. According to Article 62 of the Constitution the suit land constitutes public land and is vested in the Nairobi City County in trust for the residents of Nairobi County.

36. The letter dated 30/1/2020 which Mr. Okello produced emanated from the State Department for Housing and Urban Development and was addressed to the Principal Secretary for the State Department for Lands forwarded the final beneficiary list for preparation of property titles. That letter mentioned that the final Korogocho beneficiary list had been broken down into eight villages of Kisumu Ndogo, Korogocho A, Korogocho B, Gitathuru, Highridge, Grogon A, Grogon B and Nyayo. The letter requested the Principal Secretary to assist in bequeathing the beneficiaries their property titles in compliance with the main objective of the Korogocho Slum Upgrading Program.

37. The court notes that the list of the beneficiaries that the Petitioners attached to the petition gave Bernard Odera as the Chairperson for Nyayo Village but his identity card number, telephone number and signature are missing from that list. The Petitioners also attached a single page containing a list of names for plot numbers 625 to 628 bearing names of the beneficiaries. Those names are different from the names given by the Petitioners yet they claim to occupy the suit land as they await issuance of titles for plot numbers Nairobi Block 217 plot numbers 625 to 718. None of the persons who signed the consent on 6/5/2020 allowing the 1st Petitioner to swear the supporting affidavit on their behalf appear on the Nyayo Village final beneficiary list dated 20/1/2020 which the Petitioners produced in court, and which the court

presumes is the list of those who stand to benefit from the Government's Slum Upgrading Project. The Petitioners failed to prove ownership of the suit land.

38. It is clear from the evidence adduced by the Petitioners that there is a slum upgrading project being undertaken in Korogocho. That exercise could only have been undertaken after the Government had ascertained and surveyed the specific land which is to be allocated to deserving residents of Nyayo Village. In the court's view, the true and deserving persons who are expected to benefit from the slum upgrading project must have been ascertained by the Government for issuance of the titles being processed and the court need not interfere with that process. If indeed the Petitioners deserve to be allocated the land they claim to occupy during the upgrade, then they should await the completion of the exercise which is still in progress.

39. The court declines to grant the orders sought by the Petitioners. Each party will bear its own costs for the petition.

DELIVERED VIRTUALLY AT NAIROBI THIS 22ND DAY OF MARCH 2021.

K. BOR

JUDGE

In the presence of: -

Ms. C. Olende holding brief for Mr. F. Oregoo for the Petitioners

Mr. Allan Kamau for the 1st, 2nd, 3rd and 5th for the Respondents

Mr. Bamba Ouma for the 4th Respondent

Mr. V. Owuor- Court Assistant