



Mugwika, Liquidator of Abogeta Farmers Cooperative Society Limited v CECM Lands, Housing, Urban Areas, and Physical Planning of the County Government of Meru & 8 others; Service & 3 others (Interested Parties) (Environment and Land Case Judicial Review Application E001 of 2024) [2024] KEELC 6728 (KLR) (9 October 2024) (Judgment)

Neutral citation: [2024] KEELC 6728 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT MERU
ENVIRONMENT AND LAND CASE JUDICIAL REVIEW APPLICATION E001 OF 2024**

CK NZILI, J

OCTOBER 9, 2024

BETWEEN

CHARLES MUCHUI MUGWIKA, LIQUIDATOR OF ABOGETA FARMERS COOPERATIVE SOCIETY LIMITED EXPARTE APPLICANT

AND

CECM LANDS, HOUSING, URBAN AREAS, AND PHYSICAL PLANNING OF THE COUNTY GOVERNMENT OF MERU 1ST RESPONDENT

CECM PUBLIC SERVICE AND LEGAL AFFAIRS OF COUNTY GOVERNMENT OF MERU 2ND RESPONDENT

CHIEF OFFICER LANDS, HOUSING, URBAN AREAS AND PHYSICAL PLANNING OF COUNTY GOVERNMENT OF MERU 3RD RESPONDENT

DIRECTOR PHYSICAL PLANNING COUNTY GOVERNMENT OF MERU 4TH RESPONDENT

NATIONAL LAND COMMISSION 5TH RESPONDENT

EVANS MAWIRA KAARIA, MCA MITUNGUU WARD 6TH RESPONDENT

ROYFORD KIMATHI MITUNGUU WARD ADMINISTRATOR 7TH RESPONDENT

THE COUNTY GOVERNMENT OF MERU 8TH RESPONDENT

OFFICE OF THE MERU COUNTY ATTORNEY 9TH RESPONDENT

AND

MERU YOUTH SERVICE INTERESTED PARTY



POOR HANDMAIDS OF JESUS CHRIST CONGREGATION INTERESTED PARTY

EAST AFRICAN PENTECOSTAL CHURCH AND SCHOOL INTERESTED PARTY

MWAMBA FAMILY INTERESTED PARTY

JUDGMENT

1. What is before the court is a notice of motion dated 28.2.2024. It seeks orders of certiorari to call for and quash the minutes, proceedings and decisions by the respondents made on 10.8.2023, purporting to change reservation plans and surveys of L.R No. Nkuene/Mitunguu/190. The second prayer is to prohibit the implementation of the said minutes, proceedings, and decisions by the respondents.
2. The notice of motion is based on the statutory statement of facts dated 9.2.2024, verifying affidavit and a supplementary affidavit sworn on 9.2.2024 and 29.5.2024 by Charles Muchui Mugwika; attaching a Gazette Notice No. 5867 dated 15.10.1999, appointment of liquidator dated 1.3.2023 judgment in Petition E003 of 2020, copy of the land register, notices by the liquidator dated 11.4.2023, minutes, proceedings and decisions dated 10.8.2023, letters dated 15.8.2023 and 22.8.2023, Gazette Notice No. 2721 of 8.3.2024 as well as certificates of registration of farmers cooperative societies attached to a further affidavit by interested parties in support of the motion, all marked as CMM 01 – 09, respectively.
3. The grounds are set out in paragraphs (a – j) of the statutory statement of facts. It was averred that the respondents acted ultra vires in awarding the interested parties the whole of the ex-parte applicant's land; there was no involvement of the ex-parte applicant; the respondents acted against the law and failed to give the ex-parte applicant a fair hearing; the ex-parte applicant's role cannot be wished away; it was an illegal exercise of power; the suit property vest with the liquidator by dint of Section 65 of the Cooperatives Societies Act; the acts are null and void ab initio, and it is in the best interest of justice to grant the orders sought.
4. The ex-parte applicant avers that following the judgment of 6.7.2022, there was the implementation of the decree by the land registrar with the land reverting to the mother title as per the copy of records that following the decision of the respondents and change of reservation, subsequent subdivisions, reallocations, and transfers have been proposed and are likely to occur to its detriment and that the respondents were on the ground on 6.2.2024 to implement them and that its properties shall be appropriated or alienated contrary to the Constitution and the law.
5. From the court record, the notice of motion was also supported by a further affidavit sworn by Genshon Mbaabu Chabari, Lazaro Murithi, Mwani Ruu, Henry Mutwiri, Muthinji, and Lukas Dauti Muthamia on 29.6.2024, who described themselves as chairpersons of Gikongoro Farmers' Cooperative Society Ltd, Lower Abogeta Farmers' Cooperative Society Ltd, Kithangari Farmers' Cooperative Society Ltd, and Mt. Kenya East Co-op Society Ltd, respectively. In the said supporting affidavit, the deponents annexed their certificates of registrations as annexures GN 1-4.
6. The chairpersons denied the contents of an affidavit of Martin Gitua sworn on 30.5.2024 on behalf of the 1st-4th respondents that Abogeta Societies were the bonafide owners of the suit land and not the exparte applicant.



7. It was averred that the coffee societies alluded to were registered long after the ex-parte applicant had been established and reserved the land; hence, they had no claim whatsoever to the reserved land. They averred that Nkuene societies were not entitled to a share of the ex-parte applicants' land since they have their parcels of land. Additionally, it was averred that apart from the ex-parte applicant, the other two societies, namely, Igoji and Nkuene Farmers Societies, sold their parcels of land to third parties before their liquidation. The deponents also averred that all of them were ably represented in the liquidation committee of Abogeta Farmers' Cooperative Society Ltd and were privy to the liquidation process; hence, they had no complaints at all.
8. The deponents, therefore, swore on oath in supported the notice of motion herein and annexed copies of their certificates of registration numbers C.S/10787, C.S./10693, and C/S 9035 dated 23.5.2005, 3.2.2005, and 16.9.1999, respectively.
9. The 1st - 4th respondents opposed the notice of motion through a replying affidavit of the 3rd respondent, Martin Gitije, sworn on 28.5.2024. The 1st - 4th respondents termed the notice of motion as premature, frivolous made without merits, and contradictory. The 1st - 4th respondents averred that all the reservations, changes, and resultant subdivisions to the suit land were canceled vide the previous judgment in Pet No. E003 of 2020 and the title reverted to its original number. It was averred that the suit land was held in trust for the residents of Mitunguu by the defunct County Council of Meru and was reserved for Abogeta Societies and not any particular society that the ex-parte applicant was not one of the societies in Abogeta area.
10. Additionally, the 1st - 4th respondents averred that the ex-parte applicant had never disputed the entries in the green card, which indicates that the first entry was a registration of the suit land to the defunct Meru County Council and then the subdivision into new numbers. Further, it was averred that there was no evidence that the suit land had been leased to the ex-parte applicant, save that in the former judgment, the court used the terms "Abogeta Societies" and the exparte applicant interchangeably hence creating confusion, more so when the entry in the copy of register was for purposes of reservation for "Abogeta societies" in general not a specific entity in the name of the exparte applicant.
11. Similarly, the 1st - 4th respondents averred that the ex-parte applicant lacks locus stand to institute this suit since it has no proprietary interest in the suit land and it is not an asset for liquidation. They also averred that the ex-parte applicant was made aware of the meeting held on 10.8.2023 through a public notice of 27.7.2023 but failed to attend, where over 100 members of the local community attended.
12. The 1st - 4th respondents also averred that the 7th and 8th respondents should be allowed to deal with the suit land for the benefit of the residents. Further, the 1st - 4th respondents averred that the reliefs sought were contrary to Section 117(3) of the former Constitution, for if issued, would lock out other societies in Abogeta division from benefiting out of the trust land that is held on their behalf by and whose trusteeship rights are conferred on the 8th respondent. Additionally, the 1st - 4th respondents averred that the process of changing reservations, plans, and surveys was a process in which all issues should be ventilated at the public participation forums.
13. The 6th & 7th respondents opposed the notice of motion through a preliminary objection dated 20.5.2024 that:
 - i. The ex-parte applicant has no locus standi.
 - ii. Abogeta Farmers' Cooperative Society Ltd has no juridical character with the capacity to sue, for it does not exist in law.
 - iii. Orders sought are incapable of being granted or enforced in its favor.



- iv. The suit is filed without guidance or approval of the Commissioner for Cooperative Development, contrary to Section 68 1 (K) of the Cooperative *Societies Act*.
 - v. The court has no jurisdiction by dint of Section 76 of the Cooperative *Societies Act*.
14. Further, the 6th & 7th respondents, the notice of opposed the notice of motion through a replying affidavit of Evans Mawira Kaaria sworn on 20.5.2024. As a Member of County Assembly Mitunguu Ward, the deponent averred that the notice of motion had no justifiable grounds; the ex-parte applicant had a chance to appear in the public participation on 10.8.2023, but squandered the opportunity; the land was publicly held in trust by the County Government and the National Land Commission, who through public participation have the mandate to change their reservation of the land; that the land was for Abogeta Societies and not the ex-parte applicant, who has no proprietary interest on the land capable of protection or enforcement; that a public notice was ably issued dated 27.7.2023; that electronic and print mediums were used to publicize the event; that upon placing the exparte applicant on liquidation, it served no purpose to continue the reservation of the land for the exparte applicant, that the land was suitable for the benefit of the society, for an organization that was no longer capable of utilizing the land; that public interest supersedes private interest; that public resources have been used or expended upon allocation of 66 acres to Meru Youth Service, hence the reliefs sought if granted, shall cause significant loss to Mitunguu Ward residents; that upon delivery of the judgment by the court on 6.7.2023, a lot has happened including the cancellation of the titles and reversion of the land to the County Government of Meru, which has every right to change the reservation upon giving the ex-parte applicant an opportunity to be heard or participate; the ex-parte applicant has no locus standi after his term in office expired on 1.3.2024 and therefore the exparte applicant has no juridical character or capacity to bring the proceedings or existing the 1st instance.
15. The 2nd interested party opposed the motion through a replying affidavit by Sister Purity Kanja sworn on 31.5.2024. The deponent averred there was no dispute that the suit property belonged to the defunct Meru County Council, replaced by the County Government of Meru, previously reserved to Abogeta Societies, which are distinct entities from the ex-parte applicant; it was not for any particular society; there is a pending appeal at Nyeri Court of Appeal, Appeal No. E001 of 2024; it is public land under the hand of the National Land Commission, which has the mandate to manage it for the county government and was justified to change the reservation; the land has been openly occupied and utilized for decades by public and private entities with the ex-parte applicant taking no measures to recover it and that the ex-parte applicant cannot sustain the suit.
16. The 8th & 9th respondents opposed the notice of motion by a preliminary objection dated 29.5.2024 that:
- i. The term of the ex-parte applicant liquidator had expired and hence has no locus standi.
 - ii. The notice of motion is res judicata.
 - iii. The court lacks jurisdiction.
17. With leave, the exparte applicant filed a further affidavit sworn on 29.5.2024 in relation to the grounds of opposition, preliminary objection and the responses by the respondents as well as the interested parties. The ex-parte applicant termed the preliminary objection and the replying affidavit of the 6th & 7th respondents as a misrepresentation of the law, given that there was no public participation and that private land generally could not be alienated through public participation.



18. There is no dispute that this court, on 22.5.2024, gave clear directions and timelines for the filing of any responses and written submissions to canvass the notice of motion alongside the preliminary objection raised by the 1st-9th respondents and the 2nd interested party.
19. Through submissions dated 29.5.2024, the ex parte applicant set out four issues for determination. On jurisdiction, it was submitted that Sections 4 and 13 (1) of the Environment and Land Act confer the court with the requisite jurisdiction to hear and determine this matter since it was not a dispute regarding society members of the ex parte applicant, registration of societies and or cover a dispute between the ex parte applicant and another society or societies, for Sections 68(1) (k) and 76(1) of the Cooperative Societies Act to apply. Reliance was placed on *Adero & Another vs Ulinzi Sacco Society Limited* (2002) 1KLR 577 and *Kharisa Chengo vs Law Society of Kenya* (2014) eKLR.
20. Regarding locus standi, the ex-parte applicant submitted that the ex-parte applicant, as the gazetted liquidator, has the power to institute these proceedings in line with Sections 65 and 66 of the Cooperative Societies Act.
21. On whether the decision of 10.8.2023 was ultra vires, illegal, and ought to be quashed, it was submitted that the respondents had no jurisdiction to change the reservation of the suit land and allocate it to the interested parties. Further, the ex parte applicant submitted that the suit was not res judicata as the issues before this court have not been relitigated before by a court of competent jurisdiction on merits and with finality. Reliance was placed on Article 47 of the Constitution, Section 4 of the Fair Administrative Actions Act, Section 7 of the Civil Procedure Act, *Republic vs Kenya National Examinations Council, Ex-parte; Githenji & others Civil Appeal No. 266 of 1966*, *Municipal Council of Mombasa vs Umoja Consultants Ltd Civil Appeal No. 185 of 2001*, *Independent Electoral and Boundaries Commission vs Maina Kiai & 5 others* (2017) eKLR and the Black's Law Dictionary 10th Edition.
22. Relying on Article 50 of the Constitution, Sections 107 -109 of the Evidence Act, *Republic vs. Devon County Council Ex-parte P.Baker* (1995) 1 ALL ER and *Council of Civil Service vs Minister for Civil Service* (1984) 3 ALL ER 935, the ex-parte applicant submitted that it ought to have been given an opportunity to be heard and thus the decision violated its constitutional rights, was unreasonable and contrary to its legitimate expectation.
23. The court has carefully gone through the notice of motion, replying affidavits, the preliminary objections, grounds of opposition, written submissions and the law.
24. The issues calling for determination are;- whether the ex parte applicant can bring these proceedings if the matter is resjudicata, if the court has jurisdiction to hear and determine the matter, whether the respondents adhered to the Constitution and statutes regarding the alienation of private or public land; if the proceedings and decisions made by the respondents should be quashed and lastly if the reliefs sought should be granted.
25. It is not in dispute that by the time these proceedings were commenced, the ex parte applicant had a mandate under the law to bring the proceedings. Following the expiry of the mandate, it is not in contention that a gazette notice extending the mandate of the ex-parte applicant's mandate has been availed to this court through a further affidavit by the liquidator. Given that the proceedings therein commenced when the ex-parte applicant could sue, which mandate was enlarged by the appointing authority, the court has not been availed with contrary evidence to show that the gazette notice has been under a challenge, quashed, vacated, or withdrawn by the gazetting authority. Nothing has also been tendered by way of evidence, in view of the affidavit of the chairpersons of the alleged Abogeta Societies that they were the bonafide owners of Suitland, and therefore, the ex parte applicant cannot



- stake a claim on the land. My finding is that the ex-parte applicant is appropriately before the court with a demonstratable interest in the suit land.
26. As to the difference between “Abogeta Societies” and the ex-parte applicant, the jurisdiction to determine the status, legality, membership, authority, and the existence of societies in law, falls under the Commissioner of Cooperatives, the Registrar of Cooperatives and the Cooperatives Tribunal. The respondents have not availed any official letters, decisions, and, or findings from the said offices or institutions affirmatively confirming in law that the ex-parte applicant was a non-existent entity, an imposter, defunct, illegal, distinct from the reserved entity in the copy of records and was never the reserved owner of the suit property.
 27. The court has not been provided with any tangible and cogent evidence that the Abogeta Societies were different from the ex-parte applicant, that the said Abogeta have previously staked a claim or filed a protest before this court or any other society to dispute that they have discounted or discredited the capacity of the ex-parte applicant to stake claim on the suit land and lastly that during the public participation, the said Abogeta Societies appeared, staked and were the ones allocated the suit land by the respondents. My finding, therefore, is that the respondents have failed to avail such evidence that the ex-parte applicant was an imposter and a non-existent entity purporting to be Abogeta Societies.
 28. The preliminary objection was also based on the ground that the proceedings herein are res judicata. The parameters of the plea of resjudicata were set in Maina Kiai and others vs IEBC (supra). A cause of action is a conduct of or series of acts on the part of the defendant that give rise to a reason to complain on the part of a plaintiff. See D.T. Dobie & Company (Kenya) Limited vs Joseph Muchina & another (1980) KECA 3 (KLR). The Exparte applicant has pleaded that the cause of action herein relates to a change of reservations, plans, survey plans, and user of the Suitland undertaken by the respondents between July and August 2023. The court is asked to call for the proceedings and the decisions made on 15th, 22nd, and 25th August 2023 and establish if they were made ultra vires the Land Act and against the Constitutional parameters of fair administrative action.
 29. The former suit was a constitutional petition, while the instant one is a judicial review proceeding. The court has looked at the previous judgment, rulings, orders, and the decree a determination over the issues set out herein on whether the events of July and August 2023 complied with Sections 12 – 15 of the Land Act and Article 47 of the Constitution, were not determined in the decree issued on 9.12.2023. The respondents do admit that out of the decree in the former suit, title deeds in the dispute before the court were revoked and reversed. Similar titles as in the former suit are not before this court, where the ex-parte applicant is seeking the same orders or trying to relitigate over already concluded issues or matters. Guided by the dicta of John Florence Maritime Services Limited & Another vs Cabinet Secretary Transport & Infrastructure & 3 others (2015) eKLR on the considerations in a constitutional petition as opposed to judicial review proceedings, I find the plea of res-judicata is improperly taken in the circumstances by the respondents.
 30. As to whether the court has jurisdiction to hear and determine the notice of motion as opposed to the Cooperative Tribunal, jurisdiction is everything. The Cooperative Tribunal has no powers to grant the reliefs sought in the nature of prerogative writs under Articles 22 and 23 and Articles 47 and 50 (1) of the Constitution as read together with Sections 5, 9 & 11 of the Fair Administrative Actions Act.
 31. The next issue is whether the ex-parte applicant is entitled to writs of certiorari and prohibition. In Pastoli vs Kabale District Local Government Council and others (2008) 2 E. A 300, the court said that in order to succeed, the applicant has to show that the decision or Acts complained of are tainted with illegality, irrationality, and procedural impropriety. The court held that illegality is where the decision-



- making authority makes an error of law and acts without jurisdiction or the decision is ultra vires or contrary to any provision of the law.
32. Irrationality was defined as where there is such unreasonableness in the decision or act taken that no reasonable authority addressing the facts of the law before it could have made such a decision, deviant of logic or acceptable standards. Procedural impropriety was defined as failure to act fairly and non-observance of rules of natural justice.
 33. In *Republic vs Judicial Service Commission exparte Judith Pareno* (2004) eKLR, it was held that judicial review orders were discretionary based on whether the relief in the court was efficacious in the circumstances obtaining. In *Surman Investment Ltd vs Ministry of Heritage & Culture & others* (2016) eKLR, the court observed that Article 47 of *the Constitution*, as read together with Section 5 (2) of the *Fair Administrative Action Act*, establishes a non-exclusive approach to challenge administrative action. The court cited with approval *Martin Nyaga Wambora vs Speaker of the Senate* (2014) eKLR that Articles 47 & 50 (1) of *the Constitution* had elevated the rules of natural justice and the duty to act reasonably when making an administrative, judicial or quasi-judicial decision into constitutional rights, capable of enforcement by an aggrieved party in appropriate cases.
 34. The jurisdiction of this court is derived from Article 162 2 (b) of *the Constitution* and Section 13 of the *Environment and Land Court Act*. It includes land use planning, title, tenure and compulsory acquisition. The court has the power to grant prerogative orders such as certiorari, prohibition, and mandamus. In *Okiya Omtatah Okoiti vs Communication Authority of Kenya & others* (2018), the court said that Article 47 of *the Constitution* binds all public officers and institutions in Kenya.
 35. The respondents take the view that they lawfully alienated the suit land by way of a public participation exercise, which the exparte applicant was aware of but failed to attend. Public, community, and private land is governed by Articles 62,63 and 64 of *the Constitution*. Acquisition of land is provided for by Section 7 of the *Land Act*, while conversion of land from one regime to the other is set out in Section 9 thereof.
 36. Reversion of land and reservation of public land is governed by Sections 8(a), (c) (ii), 12,15,16,17 and 18 of the Act. The National Land Commission under Section 16(2) of the Act with the mandate through an order in a gazette to vary any conditions to which care, control, and management of reserved land is subject after notifying the third party involved or affected upon request by the county government of the said intended variation or a reservation.
 37. Sections 12 and 14 of the *Land Act* sets out the manner and the notification requirements of allocating public land, through the involvement of the National Land Commission. The known and adjoining parties must be notified. The notice must be published in the Kenya Gazette and at least once per week for a period of three weeks in a newspaper with wide circulation, specifying the terms of allocation. The Land (Allocation of Public Land) Regulations 2017 and the Land (Conversion of Land) Rules 2017 are the governing Rules on the allocation and conversion of public land. Rule 3 of the Public Land Allocation Regulations set out the methods of allocation through a public auction, public notice of tenders, public request for proposals, public land exchange of equal value, public drawing of lots, and application confined to a targeted group of persons or groups. The National Land Commission, regardless of the method used, must comply with the *Public Procurement and Asset Disposal Act* 2015. Forms LA 4-10 are the applicable forms.
 38. Rules 15-30 of the Land Regulations 2017 govern the conversion of tenure, subdivision, amalgamation, partition, and re-parcellation of freehold land, leasehold land, change and extension of the user, approval of development plans, consent to transfer leases and compulsory acquisition. See



Law Society of Kenya vs Kinyua Head of the Public Service and others Petition E029 of 2022 (2022) KEELC 3962 (KLR) (12th August 2022) (Ruling).

39. From the set law, the National Land Commission must comply with the law. It must issue, publish, or send a notice of the action of conversion and alienation of private or public land as provided by the law. The law has not listed public participation through barazas as one of them or the sole or exclusive means to be used to alienate, acquire, or alienate land. The notice must include the terms, covenants, conditions, and reservations that are to be included in the conveyance document and the method of allocation. Section 12 (2) (f) thereof provides that the National Land Commission may not allocate public land that has been reserved.
40. In Republic vs Registrar Offices Mombasa Exparte Capoterra for Africa Ltd (2012) eKLR, the court cited John Peter Mureithi & others vs Attorney General & others (2006) eKLR, that based on public interest doctrine, alienation of land that defeats public interest goes against the letter and spirit of *the Constitution*. Further, the court held that the doctrine of public trust was undoubtedly a ready enemy of alienation of natural resources and land grabbing and should serve as perpetual protection of public land.
41. In Prof. Ongeri vs Green Bay's Holdings & 7 others (2011) eKLR, the court observed that a private individual has locus standi where there is an interference of public right such as obstruction of a highway. In John Peter Mureithi (supra), the court observed that the test is whether a person has sufficient interest in the matter, including a public-spirited person out to question abuse of power, unreasonableness, and illegality. In Kephah Marebe and others vs Benson Mwangi & another (2015) eKLR, the court said that the residents had rights over the special purpose plot and other open undeveloped spaces by way of easements and hence ought to have been consulted before the change of user by the council. The court said that the acquisition of the land in issue for the specific purpose of development of a housing estate did not give the council the carte blanche to use it as it wished without recourse to the appellants.
42. The ex parte applicant seeks orders of certiorari and prohibition since the process used by the respondents was illegal, irrational, ultra vires, and tainted with procedural impropriety for non-compliance with the *Land Act*. The National Land Commission did not publish through gazette and a newspaper the public notice dated 27.7.2023. Annexure marked CMCC 07 are the minutes of public participation that took place on 10.8.2023. The attendees who were present did not apply for the land, tender for it, request for it, or sign the resolutions. The quality and quantity of and diversity of the views made or presented cannot replace the law on public and private alienation of land. The letters dated 15.8.2023 and 12.8.2023 written by the respondents did not comply with the *Land Act*.
43. The ex-parte applicant had a right to a fair administrative action that is efficient, lawful, effective and reasonable. The respondents cannot use public interest and use of public resources as a justification for the flawed proceedings and the decisions taken in total breach of the law.
44. The constitutional and statutory obligations of the National Land Commission on the alienation and acquisition of public or private land cannot be surrendered through public participation to anyone. The actions of the respondents must also muster the requirements of Article 47 of *the Constitution*, the *Survey Act*, the Physical Land Use and Planning Act 2019, and the *Land Act*.
45. The subject matter, after the implementation of the court decree, retained its status as reserved land for a specific entity. It did not revert to the County Government of Meru. If the County Government of Meru intended to withdraw the reservation from whatever entity it was initially reserved for, then the said former entity, such as the ex parte applicant, as per the *Land Act* and in line with the Fair



Administrative Actions Act 2015, had a right to a fair hearing and a fair administrative action, including being issued with a notice why the land should not revert to the head lessor for reallocation purposes.

46. From the documents sought to be quashed, it is not clear if the Abogeta Societies and or the ex-parte applicant, as the case may be, were given a specific notice as interested parties to attend any meeting seeking to withdraw the reservation and for the land to revert to the County Government of Meru, for re-planning or reallocation in the public interest.
47. In the absence of such notices, reasons for the administrative action, and non-compliance with the law and *the Constitution*, I find that the ex-parte applicant has, on a balance of probabilities, proved non-compliance with the law and *the Constitution*. The minutes, decisions, resolutions, and communication contained in annexures CMM 007 – CMM 08 (a)&(b) dated 10.8.2023, 15.8.2023, and 12.8.2023 are, as a result of this called up, quashed, invalidated and nullified, in so far as the change of reservations, plans, survey maps and re-planning of L.R No. Nkuene/Mitunguu/190 is concerned, without the involvement, concurrence, and consultation of all the interested parties in the suit land.
48. A prohibition and inhibition order shall be issued for a period of six months, during which the County Government of Meru and the liquidator shall undertake consultation in liaison with the appointing authority to hasten any pending liquidation exercise relating to the suit land. Costs to the exparte applicant.

DATED, SIGNED, AND DELIVERED VIA MICROSOFT TEAMS/OPEN COURT AT MERU ON THIS 9TH DAY OF OCTOBER, 2024

HON. C K NZILI

JUDGE

In presence of

C.A Kananu

Applicant

Mwirigi for 1st – 4th respondents

Wambui for 8th & 9th respondents

Gikunda for Arithi for applicants

