



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT

AT NAIROBI

ELC PETITION E027 OF 2020

EMIRATES GROUP LIMITED.....PETITIONER/APPLICANT

=VERSUS=

THE NAIROBI CITY COUNTY.....1ST RESPONDENT

THE NAIROBI METROPOLITAN SERVICES.....2ND RESPONDENT

THE CHIEF LAND REGISTRAR.....3RD RESPONDENT

THE NATIONAL LAND COMMISSION.....4TH RESPONDENT

RULING

1. This is the Notice of Motion dated 9th December 2020 brought under Articles 19, 20, 22, 23, 35, 40, 47, 50, 64 and 159 of the Constitution of Kenya, 2010, rules 20 and 21 of the Constitution of Kenya (supervisor jurisdiction and protection of fundamental rights and freedoms of the individual) High Court Practice and Procedure Rules, 2006, the Inherent Jurisdiction of the Court, the Land Act No 6 of 2012 and the Land Registration Act No 3 of 2012, and all enabling provisions of law as set out in support of the Petition) .

2. It seeks orders:-

1. Spent.

2. Spent.

3. That pending the hearing and determination of this petition, an order do issue restraining the 1st and 2nd respondents by themselves, agents, petitioner's applicant's parcel of land known as Title Lr No 209/12223, IR No. 67132, situated along Haile Selassie Avenue at the Nairobi City in the Nairobi Area, and/or interfering with the Petitioner's/Applicant's possession and usage of the said parcel of land by demolishing structures, forcible entry and/or evicting the petitioner/applicant from occupation of the said parcel of land.

4. That costs be in the cause.

3. The grounds are on the face of the application and are set out in paragraph (1) to (14).

4. The application is supported by the affidavit of Anish Doshi, a director of the Petitioner/Applicant sworn on the 9th December 2020.

5. The petition and the application were served on the respondents herein. There is an affidavit sworn by Kelvin Roy Omondi, Process Server on the 15th December 2020 and filed in court on the 16th December 2020.

6. The 1st respondent filed grounds of opposition dated 16th December 2020. There is also a replying affidavit sworn by Eric Odhiambo Abwao, Assistant Director Legal Department of the 1st Respondent undated but filed in court on 21st December 2020.

7. The 2nd, 3rd and 4th respondents did not file any responses despite being served.

8. I have considered the notice of motion, the affidavit in support and the annexures. I have also considered the grounds of opposition and the replying affidavit filed on behalf of the 1st respondent. The issue for determination is whether this application is merited.

9. It is not in dispute that the petitioner/applicant is the registered proprietor of suit property. It is the Petitioner's/applicants claim that the 1st and 2nd respondents have illegally and unlawfully demolished the perimeter wall to the suit land.

10. In paragraph 6 of his replying affidavit the assistant director, legal department of the 1st defendant states that the said perimeter wall did not fulfil the conditions issued on the development permission. There are no further particulars. The 2nd respondent did not file any response to this application.

11. Interlocutory orders were granted on 28th January 2021. Having found no serious opposition to this application, I hereby grant prayer (3) of the Notice of Motion dated 9th December 2020. The costs do abide, the outcome of the Petition.

It is so ordered.

DATED, SIGNED AND DELIVERED IN NAIROBI ON THIS 22ND DAY OF APRIL 2021.

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L. KOMINGOI

JUDGE

In the presence of:-

.....Advocate for the Petitioner

.....Advocate for the Respondents

.....Court Assistant