



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT THIKA

JUDICIAL REVIEW CASE NO. 9 OF 2017

IN THE MATTER OF AN APPLICATION FOR JUDICIAL REVIEW ORDERS FOR PROHIBITION AND CERTIORARI

AND

IN THE MATTER OF THE CONSTITUTION OF KENYA, ARTICLE 10(2),

ARTICLE 67 & ARTICLE 249

AND

IN THE MATTER OF CONTRAVENTION OF ARTICLE 28,29 (d),(f),31(b),40(3) ,47 , & 60(1)(a) OF THE CONSTITUTION OF KENYA

AND

IN THE MATTER OF THE LAND REGISTRATION ACT 2012

AND

IN THE MATTER OF THE NATIONAL LAND COMMISSION ACT

AND

IN THE MATTER OF AN APPLICATION BY

CHANIA TRAVELLERS CO-OPERATIVE SAVINGS

AND CREDITS SOCIETY LIMITED.....APPLICANT

VERSUS

THE HON. ATTORNEY GENERAL.....1ST RESPONDENT

THE NATIONAL LAND COMMISSION.....2ND RESPONDENT

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

THIKA SUB-COUNTY LAND REGISTRAR.....4TH RESPONDENT

AND

DANIEL TIMOTHY MURIUKI.....1ST INTERESTED PARTY

PATRICK KARANJA NGUGI.....2ND INTERESTED PARTY

COOPERATIVE BANK OF KENYA.....3RD INTERESTED PARTY

JUDGMENT

By a **Notice of Motion** dated 1st September 2017, the Ex parte Applicants brought these Judicial Review proceedings as against the Respondents for orders that;

1. **THAT by way of Judicial Review , that an order of prohibition do issue prohibiting the 3rd and 4th Respondents or any of the Respondents herein and any person acting under their behest or direction in purported enforcement of the 2nd Respondent's decision as contained in the Kenya Gazette Notice dated July 17th 2017 Vol.CXIX-97, Gazette Notice No. 6865. Table 1, S/No21 in relation to the Ex parte Applicant's L.R THIKA MUNICIPALITY BLOCK 8/184 from acting upon, or enforcing or complying with the said decision.**
2. **THAT by way of Judicial Review that an order of prohibition do issue prohibiting the 4th Respondent or any of the Respondents herein and any person acting under their behest or direction , from processing or issuing any lease in respect of the Ex parte Applicant's L.R THIKA MUNICIPALITY BLOCK 8/184 in favour of the 4th interested party PETER MWANGI GACHERU in purported enforcement of the 2nd Respondents decision as contained in the 2nd Respondents Kenya Gazette Notice dated July 17th 2017 Vol.CXIX-97, Gazette Notice No. 6865. Table 1, S/No21**
3. **THAT by way of Judicial Review , that an order of certiorari do issue to bring to this Honourable Court and to be quashed , the 2nd Respondent's decision as contained in the Kenya Gazette Notice dated July 17th 2017 Vol.CXIX-97, Gazette Notice No. 6865. Table 1, S/No21**
4. **The Court do issue with compliance directions pursuant to its inherent power to ensure that the judicial process has been complied with by the Respondents as herein ordered.**
5. **THAT the costs of the application be to the Ex parte Applicant in any event.**

The Application is based on the grounds that in violation of **Article 67** of the **Constitution**, the 2nd Respondent purported to alienate private land already registered in the name of the Exparte Applicant and charged to the 3rd Interested Party and unlawfully conferred the suit property to the 4th Interested Party one **Peter Mwangi Gacheru**. Further that the 2nd Respondent has no power to vest registration of leases affecting and involving private land as it has no jurisdiction over private leases or private land as its mandate is with regards to public land only and therefore the said Gazette Notice constitutes an illegal directive amenable to a Judicial Review Order of Certiorari.

It was its contention that the National Land Commission is established to manage public land on behalf of the National and County Government by the Constitution and managing land does not extend to alienating or re-assigning as happened in the instant suit.

It was its further contention that even if the said power was to be inferred from the Cabinet Secretary for lands and settlement internal Memo dated **9th June 2016**, the 2nd Respondent has no power of processing land development applications, subdivision in respect of private land or extension of lease, or change of user of private land and issuance of consents in transactions over private land, which would be in express violation of **Article 67(2)(a)** of the Constitution.

The Ex parte Applicant further averred that the act complained of is *ultra vires* to **Section 6A** of the **Land Registration Act 2012** and by publishing an alienation and vestment of its private land in the Gazette Notice regarding the suit land, the 2nd Respondent has acted in violation of the principle of public participation as espoused in **Article 10(2) (b) of the Constitution**. It was further contended that the 2nd Respondent did not give a hearing to the Exparte Applicant prior to its impugned decision and that the 2nd Respondent can only monitor the registration of the rights and not effect the registration itself and this was dealt with by the Supreme Court in its Advisory **Opinion No.2 of 2014 In the matter of the Natonal Land Commission (2015)eKLR**, and even if it had the said authority, it ought not to have reverted the land to the 4th interested party but to the Kiambu County Government.

The Exparte Applicant further contended that the Respondent did not Follow the procedure to compulsory acquire its land and thereby failed to accord it due process and a fair hearing. It further averred that **Section 107(7)** of the **Land Act** states that a person directly affected by the compulsory acquisition should be notified by the Kenya Gazette of such acquisition and that no such publication has ever been made to notify all and sundry of the consequential compulsory acquisition and that although the memoranda was received from the parties, at no time was there any hearing to object to the 2nd Respondent's jurisdiction over the suit land and that the 4th Interested Party stands to get the suit land without any consideration as no premium charges were collected.

It was further contended that there is breach of legitimate expectation as every Kenyan land user and property owner is nettled to know the scope of the applicable powers of the 2nd Respondent in a manner that derives from the law and the Constitution and affords them the legitimate expectation of the law and the Applicant is entitled to defend the Principle of rule of law to protect the suit property. However the same is not possible with the manner in which the 2nd Respondent is executing alienation of private land.

Further the Exparte Applicant averred that the 2nd Respondent has no capacity to execute changes in the proprietorship of the suit property and that further it cannot be in furtherance of public policy that the 4th Interested Party becomes a beneficiary of land that he pays no consideration for. It was further contended that the 2nd Respondent has acted in bad faith and in a manner against the public interest when they failed to ensure that the 4th Interested Party proved his claim to entitlement over the suit property.

Further the Exparte Applicant contended that it is entitled to due process of the law and that the entire process was constructive compulsory acquisition of its land and it stands to have its right infringed. Further that the 2nd Respondent abused its power as they had no mandate to expand its powers over what is provided for in law and further when it failed to accord the proper place of a charge in law. Further that the 2nd Respondent failed to appreciate and consider that being a leasehold, the suit land could not be vested in the 4th interested party without the involvement of the **Kiambu County Government**.

In its verifying Affidavit signed by its Chairman, the Exparte Applicant reiterated the contents of the statement of facts and averred that its the registered owner of the suit land the same is a leasehold from Thika Municipality. He averred that he participated in the purchase and the conveyance was duly executed and a transfer was then executed for registration with the 4th Interested Party. That a resolution was made and upon due diligence, it was established that the suit Property belonged to one **Cecilia Wamaiitha Mwangi**, and upon verification that the acquisition of the suit land was above board, they charged the said property.

Further that he was shocked to learn that the 2nd Respondent had made the suit property a subject of its purported inquiry and during the convened gathering of a mass of people alleged to be public land. Further that he learnt that the 4th Interested Party had written to the 2nd Respondent seeking transfer of the suit to himself. However they had not been supplied with the copy of the alleged complaint as registered owners and they instructed their Advocates refuting the said claims who in turn wrote to the 4th Interested Party.

He further averred that he was present at the 2nd Respondent's meeting in Thika Town seeking a way forward and due to the large gathering, the Commissioners directed the parties to visit their headquarters for submission and a full hearing. That in the month of **May 2017**, they went there but no hearing took place as they were told that further communication would come later. However the 4th Interested Party's Advocates wrote a letter dated **2nd August 2017** to the 4th Respondents citing the 2nd Respondents decision contained in **Kenya Gazette Vo. CXIX-No. 97 on the 17th of July 2017**. Seeking to have the suit land transferred to the 4th Interested Party. They then instructed their Advocates to oppose the decision by the 2nd Respondent to which they wrote a letter of complaint but they never received any reply and hence the 4th Interested Party has been unlawfully equipped with their land and the same stands in violation of the Constitution.

The Application is opposed and the 4th Interested Party filed **Replying Affidavit** and averred that the Exparte Applicant as per the title issued is indicated as the present registered proprietor of the suit property for a term of 99 years though he is not privy to the sale of or disposition of the suit land in the Applicants name. He further averred that he is not privy to the deliberations leading to the purchase and or sale of the suit property and that at no instance did the Applicant produce the documents marked **JKG10** before the 2nd Respondents.

It was his contention that he had just learnt of the leasing and tenancy over the suit property as it was never brought up during the hearing of his complaint and that the lease has no effect on these proceedings. He further averred that at the time of the proceedings before the 2nd Respondent, the suit property was vacant and the 1st Interested Party only took possession upon commencement of this instant proceedings. He denied any knowledge of any memo and averred that he only lodged a complaint and that the 2nd Respondent out of its own volition upon re-evaluation and taking into account the operational mandate independently reviewed complaints lodged by various organizations and consequently published an advertisement on **18th January 2017**, that the hearing shall be on **31st January 2017**, and responses were to be served. He further averred that having filed his submissions, he was notified through the dailies.

He averred the notices issued related to the suit property and that the Exparte Applicant also filed a response through their Advocate **Ms. Muturi Njoroge & Company Advocates**, who sought for time at the Commission hearing to trace documents and when the time was spent, the **Kiambu County Coordinator** confirmed having received his complaint, he was handed over the ex parte applicants response, and their Counsel confirmed that he was unable to trace the documents and therefore the matter was deferred to **2nd February 2017** with the Applicant's Counsel concurring.

It was his contention that during the hearing, the Exparte Applicant never raised the issue of jurisdiction and was not even present when a date for determination was reserved and the matter proceeded for hearing and determination. That the 2nd Respondent acted legally as it has powers to review dispositions of land.

He denied that the 2nd Respondent violated any right as it had informed all parties affected to file their responses and the Exparte Applicants allegations that there was duress is misguided. He denied being a beneficiary of any private land and that he has only complained of an illegal and irregular disposition of and. He further denied that there was an abuse of the right to be heard and contended that the due process was adhered to. That at the Commissions hearings there was a representative of the **Kiambu County Government** as the **Kiambu County Coordinator** was present.

He averred that the orders of Judicial Review sought by the ex parte Applicant are unavailable to it as the lease available to him has not expired to invoke the reversionary interest. He averred that the 2nd Respondent is by law allowed to make recommendations upon carrying out inquiry on public land consequently this jurisdiction has not been ousted as deponed by the Ex parte Applicant.

The 1st, 2nd and 3rd Respondents filed grounds of opposition and averred that the Application as filed intends to curtail the statutory obligations and duties of the 3rd and 4th Respondents and that a Gazette Notice is not a decision capable of being quashed. Further that the suit property was initially public land before it was leased out and the 2nd Respondent could therefore deal with it as it has mandate to review all grants and dispositions of public land. It was further contended that the Petitioner ought to have filed a Civil claim in order to allow the Court interrogate the process of acquisition of its title as compared to the 4th interested party's allotment and therefore the Applicant has not given any reasons to justify issuance of the orders sought.

The 2nd respondent also through **Brian Ikol**, its Director - Legal filed a **Replying Affidavit** and averred that the 2nd Respondent has its fundamental functions in the management of public land on behalf of County and National Government. He further averred that the

commission is mandated to review all grants and disposition of public land and the same entails analysing the process under which public land was converted to private land and making findings on the legality of the same.

That the 2nd Respondent received a complaint from the 4th Interested Party dated **13th September 2016**, alleging unlawful acquisition of the suit land. In line with its mandate, it published a Notice of indeed review of grants and disposition to land in the dailies on **18th January 2017**, notifying the public and all Interested Parties to the suit land to attend a hearing to be conducted on the **31st of January 2017**. He contended that the parties were **further** advised to file written submissions and avail documentary evidence on how they acquired the suit land before the hearing.

That on the said date, the Exparte Applicant attended the said hearing and they were represented by **M/S Muturi Njoroge Advocate** and the said Counsel sought for some two hours to serve other counsel and also put his documents in order. That the said Counsel filed the documents and sought for adjournment and upon that request the matter was adjourned to the **2nd of February 2017** when **Mr. Kinyanjui Advocate** appeared and held brief for **Mr. Muturi Njoroge** and once again sought for an adjournment. Further that on the **15th of March 2017**, **Mr. Njoroge** put in additional documents and the adjournment was allowed and the matter fixed for hearing on the **6th of April 2017**.

He averred that despite the date being taken at their behest and in their presence, the Exparte Applicant did not appear and the 2nd Respondent set down the matter for determination. It was his contention that despite being given an opportunity to ventilate on how they acquired the suit property, the Exparte Applicant neglected to do so and consequently the 2nd Respondent rendered a decision to revoke the title and in the course of rendering the said decision, it took into considerations the written and oral arguments by the parties.

He further averred that there was evidence from the official records of an earlier allocation to the 4th Interested party and the same was valid at the time of the purported subsequent allocation and transfer to the Exparte Applicant and thus the transfer to the Applicant was **null** and **void ab initio**. He averred that the decision was communicated to the General public vide **Kenya Gazette Vo. CXIX-No.97** on the **17th of July 2017**.

He alleged that a Gazette Notice by itself is not a decision capable of being quashed by this Court since it only communicates the decision and that there is no decision before this Court capable of being quashed. He further averred that immediately the 2nd Respondent rendered a determination and a finding of unlawfulness, of the title held by the Exparte Applicant, stood revoked by operation of the law and there is nothing to prohibit by way of the instant motion. Further that the role of the Chief Land Registrar in effecting the determination of the 2nd Respondent is largely clerical since the Registrar only registers the determination and allowing the Application will be tantamount to restoring a title which has already been found to be illegal by a competent body and the only remedy is in the Civil Court.

The Judicial Review Application was canvassed by way of written submissions, which the Court has now carefully read and considered.

The Court has also carefully considered the Exparte Applicant's Judicial Review and the annexures thereto. The Court has also considered the **Grounds of Opposition** by the 1st, 2nd and 3rd Respondents, the **Replying Affidavit** by the 2nd Respondent the written submissions, cited authorities and the relevant provisions of law and the Court renders itself as follows:-

The Court finds that the issues for determination are;

- a) Whether the Applicants have met the grounds for granting of **Judicial Review Order of Certiorari and Prohibition**.*
- b) If so, whether the application dated **1st September 2017** is **merited**.*
- c) Who is entitled to costs of these proceedings.*

From the outset, it is important to set out the purpose of Judicial Review. In the case of **Municipal Council of Mombasa...Vs...Republic Umoja Consultants Ltd, Nairobi Civil Appeal No.185 of 2007(2002) eKLR**, the Court of Appeal held that:-

“The Court would only be concerned with the process leading to the making of the decision. How was the decision arrived at. Did those who make the decision have the power i.e the jurisdiction to make it. Were the persons affected by the decision heard before it was made. In making the decision, did the decision maker take into account relevant matters or did they take into account irrelevant matters. These are the kind of questions a court hearing a matter by way of judicial review is concerned with and such court is not entitled to act as a Court of Appeal over the decider. Acting as an appeal court over the decider would involve going into the merits of the decision itself - such as whether this was or there was no sufficient evidence to support the decision and that as we have said, is not the province of Judicial Review”.

Further circumstances under which orders of Judicial Review can be issued were elaborated by **Justice Kasule in the Uganda case of Pastoli ...Vs..Kabale District Local Government Canal & Others (2008) 2EA**

300 at pages 300-304.

“In order to succeed in an application for Judicial Review, the Applicant has to show that the decision or act complained of is tainted with illegality, irrationality and procedural impropriety.

Illegality, is when the decision making authority commits an error of law in the process of taking the decision or making the act, the subject of the complaint. Acting without jurisdiction or ***ultra vires*** or contrary to the provision of a law or its principles are instances of illegality----

Irrationality, is when there is such gross unreasonableness in the decision taken or act done that no reasonable authority, addressing itself to the facts and the law before it would have made such a decision. Such a decision is usually in defiance of logic and acceptable moral standards.

Procedural impropriety, is when there is failure to act fairly on the part of the decision making authority in the process of taking a decision. The unfairness may be in non-observance of the Rules of Natural Justice to act or to act with procedural fairness towards one to be affected by the decision – it may also involve failure to adhere and observe procedural rules expressly laid down in a statute or legislature instrument by which such authority exercises jurisdiction to make a decision. (*Al-Mehidswi... Vs...Secretary of State for the Housing Department (1990) AC 876*”.

So what does the Judicial Review orders entails? This was elaborated in the case of ***Kenya National Examination Council...Vs...Republic Exparte Geoffrey Gathenji & 9 Others, Nairobi Civil Appeal No.266 of 1996***, where the Court held that:-

“That now bring us to the question we started with, namely the efficacy and scope of mandamus, prohibition and certiorari. These remedies are only available against public bodies such as the council in this case. What does an Order of Prohibition do and when will it issue? It is an order from the High Court directed to an inferior tribunal or body which forbids that tribunal or body to continue proceedings therein in excess of its jurisdiction or in contravention of the laws of the land. It lies, not only for excess of jurisdiction or absence of it but also for a departure from the rules or natural justice. It does not, however, lie to correct the course, practice or procedure of an inferior tribunal, or a wrong decision on the merits of the proceedings – See Halsbury’s Law of England, 4th Edition vol.1 at Pg.37 paragraph 128.”

From the foregoing cases, the applicable law in cases of Judicial review have already been established and this Court will now consider the above applicable law and then juxtapose with the available facts to determine whether the ***Exparte Applicant*** is deserving of the orders sought.

a) Whether the applicants have met the grounds or threshold for granting of Judicial Review Order of Certiorari and Prohibition.

As was stated in the case of ***Kenya National Examination Council...Vs...Republic (Exparty Geofrey Gahenji & Another (Supra)***, the Order of *Certiorari* can quash a decision already made as an Order of *Certiorari* will issue if the decision is made without or in excess of jurisdiction or where the rules of natural justice are not complied with or so such like reasons. So have the ***Exparte Applicant*** established existence of the above condition to warrant this Court quash the decision of National Land Commission issued in the ***Kenya Gazette Vo. CXIX-No. 97 on the 17th of July 2017***.

The Exparte has alleged that the Land Commission arrived at a decision without first having jurisdiction to deal with what the Exparte Applicant has alleged was private land and further the National Land Commission did not accord them a fair hearing as it did not follow the Rules of Natural Justice when it made its decision.

*This Court will then first determine whether the decision that was made was within the jurisdiction of the National Land Commission. This Court has indeed considered the provisions of Section 14(1) of the National Land Commission Act and the 2nd Respondent is granted powers to review all grants or disposition of public land to establish their propriety or legality. Further Section 14 of the National Land Commission Act gives the 2nd Respondent power to deal with review of public land but not privately owned freehold titles. However the suit land is a leasehold which this Court finds and holds is within the purview of the land Commission as the same was public land before it was allotted. See the case of ***Republic ...Vs... National Land Commission & Another Exparte Muktar Saman Olow [2015] eKLR*** where the Court held that;*

“Under Section 14 of the National Land Commission Act, 2012 the Respondent is given jurisdiction to enforce Article 68(c)(v) of the Constitution and review all grants or dispositions of public land to establish their propriety or legality. In my view, the Respondent can only fulfil this mandate by probing the process under which public land was converted to private land. It would defeat the purpose of the Constitution to imagine that unlawfully and irregularly acquired land once registered as private property is no longer within the reach of the Respondent.”

Article 67 (2) of the Constitution provides for the functions of the National Land Commission and further Section 5(2) of the National Land Commission Act also assigns other tasks to the National Land Commission, in the following terms:

- “(a) on behalf of, and with the consent of the National and County Governments, alienate public land;**
- (b) monitor the registration of all rights and interests in land;**
- (c) develop and maintain an effective land information management system at National and County levels; and**
- (d) manage and administer all unregistered trust land and unregistered community land on behalf of the County Government.”**

The Supreme Court in the Advisory Opinion ***In the Matter of the National Land Commission [2015] eKLR*** stated that;

“The Land Act defines “alienation” as the sale or other disposal of rights to land, while the NLC Act confers the power of alienation of public land upon the NLC. Thus, the disposal of such land can only be done by the Commission, with the consent of the National or County Government. The NLC, in effect, has been granted the power to sell or dispose of public land, on behalf of the National and County Governments. The National or County Government has to give consent, for such disposal”

With the definition of alienation of land in mind and taking into account that out of the functions of the 2nd Respondent that is to allow it to alienate and given that alienation includes disposal of rights and as per **Section 15** of the **National Land Commission Act** which was the Commission within its mandate herein? **Section 15** of the **National Land Commission Act** provides;

“Pursuant to Article 67 (3) of the constitution, the commission shall receive, admit and investigate all historical land injustice complaints and recommend appropriate redress.”

The court finds that the Commission was within its mandate to make the recommendations and therefore had jurisdiction is dealing with the said issue as it is clear that a Representative of the **Kiambu County Government** was present and no evidence that the County has objected to the decision. This Court therefore finds and holds that the 2nd Respondent did not act *ultra vires*.

Further **Section 14(3)** enjoins the 2nd Respondent in giving the persons affected an opportunity to appear and to inspect any relevant documents. Further the 2nd Respondent is only to make a determination after hearing the parties. The Exparte Applicant has alleged that they were not accorded a chance to be heard before the 2nd Respondent made its decision. These allegations have been refuted by the Respondents and the 4th Interested Party who averred that indeed a hearing was conducted and the Exparte Applicant had been given several chances to be heard, but failed to avail the documents. As earlier noted Judicial Review is only concerned with the process so that then what this Court asks itself is whether the Exparte Applicant was given a chance to be heard.

This Court has gone through the pleadings and notes that the Exparte Applicant in its Affidavit conceded that a Notice was indeed put up by the Commission notifying the general public of the Commissions hearing and indeed the Chairman confirmed that he attended the said meeting, although he denied that any hearing took place. This Court has also seen the proceedings before the Commission for various dates in which the Exparte Applicant was represented by an Advocate who sought several adjournments. In the said proceedings, the Exparte Applicant were represented by **Mr. Njoroge Advocate** and also **Mr. Kinyanjui Advocate**. The Respondents having filed documentary evidence exhibiting the sequence and steps taken to invite the parties for hearing and also accord the Exparte Applicant a chance to be heard, this Court finds and holds that the Exparte Applicant was given an opportunity to be heard. In the case of ***Republic...Vs...The Honourable The Chief Justice of Kenya & Others ...Vs...exparte Moijo Mataiya Ole Keiuwa, Nairobi HCM CA No.1298 of 2004***, the Court held that:-

“The rules of Natural justice are minimum standard of fair decision making imposed by the common law on persons, or bodies that are under a duty to act judicially”.

Therefore, if the **Exparte Applicant** was given an opportunity to be heard, then the 2nd Respondent did not go against the rule of natural justice and the provisions of **Section 14(3)** of the **National Land Commission Act**.

Having found that the **Exparte Applicant** was accorded an opportunity to be heard and was not condemned unheard, as envisaged in the doctrine of Natural justice, this Court also having made a finding that the 2nd Respondent did not act *ultra vires*, the Court further finds that the **Exparte Applicant** has not established the **threshold for granting of Judicial Review Orders**.

b) Is the application dated 1st September 2017 merited?

The Exparte Applicants herein are seeking an Order of Judicial Review of *Certiorari* to quash the decision of the 2nd Respondent and an Order of Prohibition

The Court has found that the 2nd Respondent acted within the law and gave the **Exparte Applicant** an opportunity to be heard, thus acting within the doctrine of natural justice. These are enough grounds to warrant the Court not to issue an Order of *Certiorari* to quash the decision of the 2nd Respondent. In the case of ***Republic ...Vs...Kenya Revenue Authority Exparte Yaya Towers Ltd (2008) eKLR***, the Court held that:-

“The remedy of judicial review is concerned with reviewing not the merits of the decision of which the application for judicial review is made, but the decision making process itself. It is important to remember in every case that the purpose of the remedy of judicial review is to ensure that the individual is given fair treatment by the authority to which he has been subjected.....”

Having now carefully considered the facts of this case and the available provisions of law, the **Court finds that the Exparte Applicants are not deserving of the orders sought**.

c) Who is to bear costs of these proceedings?

Ordinarily, costs do follow the event. **Section 27** of the **Civil Procedure Act** provides that ‘**costs are granted at the discretion of the Court.**’ Therefore **the Exparte Applicant should bear costs of these proceedings**.

The upshot of the foregoing is that the Court finds and holds that the **Exparte Applicant** is not **deserving of the orders sought in the Notice of Motion** dated **1st September 2017**, and **proceed to dismiss the said Notice of Motion application with costs to the Respondents and the**

4th Interested Party.

It is so ordered.

Dated, Signed and Delivered at Thika this 1st day of November, 2019.

L. GACHERU

JUDGE

1/11/2019

In the presence of

No appearance for Exparte Applicant(However members of the Exparte Applicant are present in person.

No appearance for 1st Respondent

No appearance for 2nd Respondent

No appearance for 3rd Respondent

No appearance for 4th Respondent

No appearance for 1st Interested Party

No appearance for 2nd Interested Party

No appearance for 3rd Interested Party

No appearance for 4th Interested Party

Jackline- Court Assistant.

L. GACHERU

JUDGE

1/11/2019