



**REPUBLIC OF KENYA**

**IN THE ENVIRONMENT & LAND COURT AT KITALE**

**ELC PETITION NO. 2 OF 2014**

CHRISTOPHER KURUTYON LONYALA.....1<sup>ST</sup> PETITIONER  
MUSA TINYANG.....2<sup>ND</sup> PETITIONER  
LONYANGAREN LOKORRIONKOR.....3<sup>RD</sup> PETITIONER  
ROBERT MATANDA.....4<sup>TH</sup> PETITIONER  
JOHN MATANDA.....5<sup>TH</sup> PETITIONER  
JOSEPH KANTICH.....6<sup>TH</sup> PETITIONER  
ELIZABETH CHEPSERET NDURURU.....7<sup>TH</sup> PETITIONER  
PAMELA CHEPKEMOI NGEINWA.....8<sup>TH</sup> PETITIONER  
ISAAC ATODO SIRE.....9<sup>TH</sup> PETITIONER  
TEGLA LOROUPE.....10<sup>TH</sup> PETITIONER  
MARKO CHEMASWET KAPSANDUI.....11<sup>TH</sup> PETITIONER  
MOSES KABURU.....12<sup>TH</sup> PETITIONER  
LOKALE.....13<sup>TH</sup> PETITIONER  
RAMANYANG PRECH BIWOTT.....14<sup>TH</sup> PETITIONER  
ABRAHAM MARIAH KAMAKU.....15<sup>TH</sup> PETITIONER  
KAKUTO YARANGOLE ALUKUNYANG.....16<sup>TH</sup> PETITIONER  
STEPHEN K.N. NGEIYWA.....17<sup>TH</sup> PETITIONER  
ALEXANDER M. T. SIYWET.....18<sup>TH</sup> PETITIONER  
BEN M. NGEIYWA.....19<sup>TH</sup> PETITIONER  
MNANGAR RITENYANG SEPITOI.....20<sup>TH</sup> PETITIONER  
BOAZ NAIYWA.....21<sup>ST</sup> PETITIONER  
LOWGUROPUS LOKORKOU.....22<sup>ND</sup> PETITIONER

SAMWEL K. KAPAIEL.....23<sup>RD</sup> PETITIONER  
LOTANY LOTILIMAT.....24<sup>TH</sup> PETITIONER  
JAMES KABURU.....25<sup>TH</sup> PETITIONER  
BENJAMIN URIO.....26<sup>TH</sup> PETITIONER  
LORNAL EWOL.....27<sup>TH</sup> PETITIONER

AND

EKITALE EKAL LODIO.....1<sup>ST</sup> INTERESTED PARTY  
MARGARET LONGELES.....2<sup>ND</sup> INTERESTED PARTY  
MICHAEL NGOLES.....3<sup>RD</sup> INTERESTED PARTY  
CLAY MADARA OCHIENG.....4<sup>TH</sup> INTERESTED PARTY  
WILSON OTIENO OBURE.....5<sup>TH</sup> INTERESTED PARTY  
BENJAMIN ORIA.....6<sup>TH</sup> INTERESTED PARTY  
JAMES K. KABURU.....7<sup>TH</sup> INTERESTED PARTY  
MARY SIMON LOKAMAR.....8<sup>TH</sup> INTERESTED PARTY  
KENETH ESINYEN.....9<sup>TH</sup> INTERESTED PARTY  
EPEYON NKURUKA ETABO.....10<sup>TH</sup> INTERESTED PARTY  
WILFRED OGUTU.....11<sup>TH</sup> INTERESTED PARTY  
SYLUS ODONGO WERE.....12<sup>TH</sup> INTERESTED PARTY

VERSUS

CABINET SECRETARY

MINISTRY OF LANDS AND SETTLEMENT.....1<sup>ST</sup> RESPONDENT  
DIRECTOR OF LAND ADJUDICATION.....2<sup>ND</sup> RESPONDENT  
DISTRICT LAND ADJUDICATION  
TRANS-NZOIA.....3<sup>RD</sup> RESPONDENT  
COUNTY COMMISSIONERTRANS-NZOIA.....4<sup>TH</sup> RESPONDENT  
DEPUTY COUNTY COMMISSIONER KWAN.....5<sup>TH</sup> RESPONDENT  
POLICE COUNTY COMMANDANT  
TRANS-NZOIA.....6<sup>TH</sup> RESPONDENT  
ADMINISTRATION POLICY COUNTY  
COMMANDANT-TRANS NZOIA.....7<sup>TH</sup> RESPONDENT

INSPECTOR GENERAL OF POLICE.....8<sup>TH</sup> RESPONDENT

HON. ATTORNEY GENERAL.....9<sup>TH</sup> RESPONDENT

FRANCIS KAPCHANGA.....10<sup>TH</sup> RESPONDENT

PETER CHAKALI.....11<sup>TH</sup> RESPONDENT

### JUDGMENT

1. The petition dated 15/4/2014 which was filed on 16/4/2014 the petitioners herein seek the following principal orders against the respondents:-

(1) A permanent order of INJUNCTION be issued to restrain the 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup>, 4<sup>th</sup>, 5<sup>th</sup>, 6<sup>th</sup>, 7<sup>th</sup>, 8<sup>th</sup>, 9<sup>th</sup>, 10<sup>th</sup> and 11<sup>th</sup> respondents by themselves or their agents, servants or personal assigns from encroaching, trespassing, dealing in any way and/or interfering with the petitioners/applicants' quiet possession and enjoyment to all their allotted lands in Chepchoina Settlement Scheme within Trans-Nzoia County pending hearing and determination of this petition.

(2) That pursuant to the provisions of the *Articles 22 and 23(3) of the Constitution of Kenya*, and *Orders 53(1), (2) and (3) of the Civil Procedure (Revised) Rules*, the applicants be granted LEAVE to commence Judicial Review Proceedings against all the respondents for being in breach, violation, threat, denial and infringement of the Constitution fundamental rights and freedoms particularly property rights of the applicants and the petition to be deemed to be in connection with the orders for Judicial Review herein and in particular THAT:-

(a) An order of CERTIORARI be granted to remove to the High Court and QUASH the decision of the District Land Adjudication & Settlement Officer, Trans-Nzoia County through an administrative arm known as "*the Panel of Vetting/Verification Committee*" the 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup>, 4<sup>th</sup>, 5<sup>th</sup>, 6<sup>th</sup>, 7<sup>th</sup> and 8<sup>th</sup> respondents by themselves or their agents, servants or personal assigns from encroaching, trespassing, alienating, wasting, interfering, transferring, allocating all that parcel of land situated at Chepchoina Settlement Scheme within Trans-Nzoia County to other outsiders and/or strangers and from evicting the legal allottees.

(b) An order of PROHIBITION be granted against the decision of the District Land Adjudication & Settlement Officer Trans-Nzoia County through an administration arm known as "*the Penal of Vetting/Verification Committee*" the 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup>, 4<sup>th</sup>, 5<sup>th</sup>, 6<sup>th</sup>, 7<sup>th</sup> and 8<sup>th</sup> respondents by themselves or their agents, servants or personal assigns from encroaching, trespassing, alienating, wasting, interfering, transferring, allocating all that parcel of land situated at Chepchoina Settlement Scheme within Trans-Nzoia County to other outsiders and/or strangers and from evicting the legal allottees.

(c) An order of MANDAMUS be granted directed at the 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup>, 4<sup>th</sup>, 5<sup>th</sup>, 6<sup>th</sup>, 7<sup>th</sup>, 8<sup>th</sup> and 9<sup>th</sup> respondents COMPELLING them to recognise, confirm, affirm and/or pronounce the petitioners/applicants as the duly bona fide and legally registered owners to all that parcel of land situated at Chepchoina Settlement Scheme within Trans-Nzoia County as already allocated and henceforth issue them with all the prerequisite registration documents conferring them legal title, rights and interest onto the aforesaid land.

(d) Costs of this petition to be awarded to the petitioners herein.

#### The Petitioners' Case

2. According to the petition the petitioners represent 100,000 other allottees of land within the chepchoina Settlement Scheme within Trans Nzoia District. The land subject matter of this petition initially belonged to the agricultural development corporation. Most of the allottees of land within the scheme earlier on worked for the Corporation on a permanent and pensionable basis. It is posited that they acquired an interest in the land by virtue of settlement. The scheme was, according to a presidential directive meant to benefit the Pokot, Sabaot, Maasai, Luhya and Turkana communities, some of whom were affected by the construction of the Turkwell Dam which took away 41,000 acres of grazing land and resulted in loss of vegetation. The settlement scheme was meant to also wean the settlers off pastoralism and introduce them into cultivation agriculture to achieve food security and achieve free co-existence between communities. The settlement was in two phases. Phase 1 was completed successfully without a hitch in 1994. It is alleged that during Phase 2 unidentified persons said to be government officials interfered with the settlement process and unintended persons originating from areas outside trans Nzoia County corrupted the process by bribing officers in order to benefit from the scheme at the expense of the rightfully deserving persons. It is alleged that about 150,000 Ugandan nationals were among strangers who benefited from this corrupt process. They settled on the land on the strength of forged allotment letters. However there occurred a public outcry and a verification committee was established to assist the land officers verify the genuine cases, identify the correct allottees and sensitize and trace the original allottees.

3. The petition is supported by the sworn affidavit of 1<sup>st</sup> petitioner sworn on 15/4/2014 on his own behalf and on behalf of the other petitioners/applicants. In that affidavit the 1<sup>st</sup> petitioner reiterated the matters in the petition set out herein above. He deponed that a presidential decree in 1994 orders the settlement of Pokot, Sabaot, Luhya, Maasai and Turkana communities onto land formerly held by the ADC; that another set of landless persons were settled on the land by the ADC and the Provincial Commissioner Rift Valley province Ishmael Chelanga; that in Phase 2 the strangers were illegally allocated 2 acres each; that the process in that phase was tainted by much bribery nepotism and cronyism on the part of Ministry of Lands Officials and the provincial administration, and ADC officials joined in the gravy train by processing forged letters at a fee. That these factors led to much anarchy on the ground as original allottees were threatened

with eviction and the security situation became volatile, hence the formation of the verification/vetting committee hereinbefore mentioned. The Committee identified original allotment letters and other documentation and was able to secure letters from the Ministry Of Lands. It also identified many persons improperly settled on the suit land on the strength of forged letters of allotment purported to be issued by the ADC. It is stated that the Provincial administration now wants to wrongfully regularize these allocations and in effect, evict the genuine allottees. The Provincial Administration officers are alleged to be misusing their mandate of the verification committee to sanction such illegalities to achieve this end. The deponent avers that the provincial administration has no constitutional or statutory mandate to handle land matters, and may not therefore allocate land, evict any person or settle any person in the suit land.

#### **The 1<sup>st</sup> - 9<sup>th</sup> Respondents' Reply to the Petition**

4. The 1<sup>st</sup> - 9<sup>th</sup> respondents filed replying affidavit sworn on **21/3/2016** by **F.O. Obiria**, the District Land Adjudication & Settlement Officer Trans-Nzoia. The response of the respondents according to that affidavit is that the statutes applicable to the allocation of land to the petitioners are the Agriculture Act and the Land Adjudication Act; that the Chepchoina Settlement Scheme was acquired by the Settlement Fund Trustees in the years **1998-1999** for settlement purposes and it comprises of **6 parcels** of land measuring an aggregate of **14,784 acres**; that the ADC handed over the several land parcels to the settlement Fund Trustees without setting any preconditions as to planning and allocation and confirmed its action vide a letter dated **22/8/2008** whereupon the SFT became the owners thereof and began administering the scheme in **2006**; that ; that the petitioners have not demonstrated that they were employees of ADC; that Phase 1 of the scheme is complete having been finalised in **2007** with **663** plots; that Phase 1 had its own vetting committee and allottees are now awaiting title; that Phase 2 commenced in **2009** and its survey was finalised in **2010** creating **1681** plots measuring between **2.5 -5.0** acres; the vetting committee completed its work in **2011** and handed its list of beneficiaries to the District Settler Committee for discussion and adoption; the deponent exhibits the list of allottees in his affidavit as **Exhibit "FOO-1"**. He avers that the allocation is complete and members have been issued with letters of offer by the minister for lands and they are awaiting title deeds; that beneficiaries were required appear in person and to produce their national identity cards before the vetting committee at the vetting stage; that that Phase 3 which is the final phase has not commenced and no allocation has been done; that only **13** of the petitioners were vetted and allocated land; that the claim that there are numerous foreigners who have been allocated land in the scheme is untrue. That the Pokot Indigenous Task Force is an unregistered entity which lacks *locus standi* to agitate for the rights of the petitioners and that in any event the claims of right of the petitioners to the land it must be subject to the fact that the land belongs to the government. He states that the petition does not disclose any cause of action.

5. The deponent further states that the proper procedures requisite for allocation were complied with; that the petitioners failed to lodge an objection as required in section **26** of the **Land Adjudication Act**; that the Pokot, Sabaot, Luhya, and Turkana communities benefited from the land allocations in the scheme and that settlement exercise was subject to allocation of funds by the government.

#### **The 10<sup>th</sup> and 11<sup>th</sup> Respondents' Replying Affidavit**

6. The 10<sup>th</sup> and 11<sup>th</sup> respondents filed replying affidavit sworn on **8/12/2014** by the 10<sup>th</sup> respondent on his own behalf and on behalf of 11<sup>th</sup> respondent. In their reply they dispute the existence of a presidential decree; they state that the suit land was transferred to the SFT; that the petitioners have never been employees of ADC; that the **100,000** other persons the petitioners sue on behalf of are not named; that the claim regarding **150,000** Ugandan nationals is not substantiated; that the petitioners' claim lacks logic as it is impossible to settle that great number of people on less than **15,000** acres; that the petitioners have handled the issue from an ethnic angle; that the petitioners claims have been dismissed in other for a as lacking in truth; that the process of allocation began after **1999**; that many persons of Pokot origin being the greater proportion (**98%**) benefited from the first phase and that the 1<sup>st</sup> petitioner oversaw the settler identification process then and the petitioners appear to want the same trend to continue regarding phase 2 and 3 and have laid claim to the entire scheme land as their ancestral land; that that from inception it was intended that landless former ADC employees living in camps would be considered for settlement; that no pokots were employed by ADC, that the applicants and others came from other areas of West Pokot to claim the land and they continue migrating to the scheme, putting up temporary structures and grazing on the land; that that the applicants do not deserve the settlement land; that the vetting committee was divided into subcommittees to cater for the interests of various ethnic groups and the sub committees were issued limited number of plots to allocate deserving beneficiaries; that the problems faced in Phase 2 were occasioned by the problems created by the implementation of Phase 1 which was overseen by the 1<sup>st</sup> petitioner with the result that **112** persons were transferred from Phase 1 to Phase 2; that according to minutes of the vetting committee exhibited as **Exhibit PC 10** allottees had to be above 18 years and produce an identity card, and be poor and landless; that the petitioners were alarmed at the onset of vetting, and have usurped the power of the vetting committee ; that West Pokot politicians used the land as a campaign too thus giving the electorate unreasonable expectations; that the land falls within Trans Nzoia County; that it having been a white settlers farm before, no specific ethnic group can lay claim to it; that if any grievances exist they should be raised by the persons aggrieved and that the petitioners are only intent on disrupting the peace.

#### **The interested parties;**

7. The interested parties filed their replying affidavit on **20/3/2018**. It is sworn by Wilfred Ogutu, the 11<sup>th</sup> interested party. He depones that the scheme land was made available for settlement of persons from all ethnic communities in Kenya; that 1631 allottees were vetted allocated land by ADC on behalf of the Government in Chepchoina Phase 2; that the land was completely surveyed mapped and plot numbers had been issued; that in 2012 the Government through the SFT and without notice repossessed the land and subsequently caused double allocation hence this petition; that since the ADC allottees had already occupied their portions they should have been allowed to retain them; that subsequent to the interference by SFT plot sizes for allottees reduced; that there were irregularities in Phase 2; that SFT gave allottees 90 days to pay up for the land which is against the policy of longer term settlement loans; that there has been incitement which has made persons of pokot ethnic group believe that the land in Chepchoina Phase 2 belongs to them and many persons of that ethnic group have invaded the land and put up temporary structures thereon;

#### **THE EVIDENCE OF THE PARTIES**

##### **The Petitioners' Evidence**

8. The petitioners called 5 witnesses in support of their petition and their evidence closely adopted what is in the affidavits analysed above.

## **Interested Parties' Evidence**

9. The interested parties called 3 witnesses and their evidence matched the consents of the 11<sup>th</sup> interested party's replying affidavit.

## **The Respondents' Evidence**

10. The respondents called two witnesses and their evidence also closely followed what is contained in the respondents' affidavits in the record.

11. The interested parties filed their written submissions on **21/11/2019**. The petitioners' written submissions was filed on **25/11/2019**. The 1<sup>st</sup> - 9<sup>th</sup> respondents filed their submissions on **14/1/2020**. I have considered the petition, the responses and the written submissions.

## **DETERMINATION**

### **Issues for Determination**

12. The issues that arise in this petition are as follows:

*(a) Whether the petition meets the threshold of a constitutional petition.*

*(b) Whether the jurisdiction of this court has been properly invoked.*

*(c) Who should meet the costs of the petition?*

**(a) Whether the petition meets the threshold of a constitutional petition.**

13. It was stated as follows by the Court Of Appeal in the case of **Anarita Karimi Njeru -vs- Attorney General, (1979) KLR 154:**

**“We would however again stress that if a person is seeking redress from the High Court on a matter which involves a reference to the Constitution, it is important (if only to ensure that justice is done to his case) that he should set out with reasonable degree of precision that of which he complains, the provision said to be infringed and the manner in which they are alleged to be infringed.”**

14. That dicta has provided many a petition with the criteria by which they are gauged as to whether they meet the constitutional threshold. This holding received affirmation in the case of **Mumo Matemu -vs- Trusted Society of Human Rights Alliance and others, Nairobi Civil Appeal No. 290 of 2012**

15. For this petition to pass muster it must identify constitutional issues.

16. At **section B** of their petition the petitioners state that their petition raises weighty matters of constitutional importance including breach and threatened breach of the protection of the right to property under **article 40** and **64** of the Constitution, the likelihood of discrimination and violation of right to equal protection and benefit to the law under **article 27**, breach of fair and efficient administrative action under **article 47** and breach of “rights to the present and past historical injustice perpetrated by the respondents” (sic) as provided for (sic) under **article 67(2) ( e)**. **Sections C** and **D** of the petition do not mention or state and distinguish which of the provisions above have been violated and in what manner.

17. Upon a cursory glance at the petition it is quite obvious that it lacks the requisite pleading highlighted in the **Anarita case (supra)** that could have enabled this court conclude that it meets the threshold required of a constitutional petition.

### **Whether the jurisdiction of this court has been properly invoked.**

18. After voluminous pleadings and documentation and twists and turns in this matter the petitioners humbly in their submissions summarized their claim thus:

***a. Whether the allottees by bearing letters of allotment by ADC are the validly settled persons on Chepchoina Settlement Scheme?***

***b. Whether it is the allottees with the letters of allotment by ADC or is it the ones with the letters of allotment by the SFT who are the bona fide owners of the land?***

19. The above are the questions that this court has asked by the petitioners in their submissions to determine. The court has by its own perusal of the record confirmed that this is the case and the only question that arises is whether they are constitutional issues.

20. It is possible that some of the claims by the petitioners regarding malfeasance by government officers are correct. There was an era recalled by the Court Of Appeal in **Civil Appeal No. 349 Of 2012 Chemey Investment Limited Attorney General And & 2 Others [2018] eKLR** as follows:

**“There was a time in the history of this country, not too long ago, when public officers appeared to have been bitten by a bug that infested them with a malignant and shameless craving to acquire for themselves, their friends or relatives, public property in respect of which they were trustees or custodians. This appeal is a throwback to those days.”**

21. However, sufficient evidence capable of attaining the balance of proof is what compels a court of law to rule in favour of a litigant and not a general invocation of judicial notice of general negative proclivities of officials in a generation of a bygone era.

22. Having gone through the petition this court has noted that it is admitted by all parties that land was acquired by white settlers and later transferred in one way or another to the ADC and finally transferred to the SFT. The transfer of the land to SFT was before the granting of title to any of the petitioners.

23. Though the petitioners aver that there are various categories of persons lined up to benefit from the land and that the persons who were allocated parcels on the suit land by the ADC should be given priority, it is admitted that the SFT is the body that has mandate to allocate land within settlement schemes. Once land has been acquired for settlement purposes the mandate belongs to them to exercise within the law and the constitution. They are not above the law. However it is the for petitioners, the aggrieved persons in this case to paint a clear picture of a grievance that is constitutional in nature, and with the kind of pleading they have in the instant case, it is clear that they have failed to do so. Their own framing of the issues above devoid of any reference to constitutional clauses seems to admit lack of any constitutional grievance in the matter.

24. Reliance by petitioners on the case **Arthur Kamau Kariuki v Chief Land Registrar & 5 others, Agricultural Development Corporation (Interested Party) [2019] eKLR** does not aid them for in that cited decision title under the **Registration of Titles Act (RTA)** had been issued to the claimant by the time the SFT purported to issue a parallel title under the **Registered Land Act (RLA)**. Besides, In the **Arthur Kamau case**, there was ample evidence showing that the subject land was originally owned by ADC, that part of ADC land being transferred to the SFT and that the land that was transferred to the SFT did not include the suit properties. The conclusion was that the SFT or the Government could not therefore allot the suit properties. This differs completely with the instant case where even the petitioners admit that the suit land was transferred to SFT and that the petitioners herein have no title to the land.

25. In view of the admissions as to who successively held the title and right interest in the land over the generations the absence of title in favour of the petitioners is a serious setback to their claim.

26. While the land is still under adjudication and settlement by the SFT a claim of violation of the right to own property under **Section 40**, even if it had been clearly pleaded which it was not, would be difficult to establish. Even if the supplemental claim to adverse possession by the interested parties were to be considered such a task may require presentation of tonnes of evidence in respect of each and every claimant herein, and that type of claim which is unsuitable for ventilation within a petition. It has been stated by the Court Of Appeal before in the case of **Speaker of the National Assembly v James Njenga Karume [1992] eKLR** as follows: .

**“In our view, there is considerable merit in the submission that where there is a clear procedure for the redress of any particular grievance prescribed by the Constitution or an Act of Parliament, that procedure should be strictly followed. We observe without expressing a concluded view that order 53 of the Civil Procedure Rules cannot oust clear constitutional and statutory provisions.”**

27. It would have been more appropriate for the petitioners to move the court under the normal method of plaint for the injunctions sought in this petition. Further if the petitioners were so minded, they would have articulated their claim for certiorari, prohibition and mandamus in a judicial review application within the time frames stipulated under **Order 53 (Rule 2)** of the **Civil Procedure Rules** and **Section 9 (3)** of the **Judicature Act**. Further still, if the interested party’s expression of interest regarding an adverse possession were to be ventilated, an originating summons under **order 37** of the **Civil Procedure Rules** would have presented itself as the best option. This is not to state that the claims for *mandamus*, *certiorari* and *prohibition* or indeed any other suitable relief can not be granted in a petition, but that the right manner of pleading that demonstrates a clear violation of constitutional rights has to be presented before this court for those orders to issue.

28. In the case of **Petro Oil Kenya Limited v Kenya Urban Roads Authority [2018] eKLR** the court (Okongo J) stated as follows:

**“A constitutional petition is not an ideal forum for investigating and determining contentious issues of fact as oral evidence is rarely called like in this case. Whether or not the suit property was hived from a road truncation is not an issue which I can determine on the affidavit evidence before me. If it is true that the suit property was hived from a road truncation, the title held by the Petitioner would not be valid since the property was not available for allocation to Wangs from whom the Petitioner purchased the suit property. Article 40 (6) of the Constitution provides that the protection accorded to property does not extend to the property which has been acquired unlawfully. Whether or not The Petitioner acquired the suit property lawfully is an issue that can only be determined in a civil suit and not in a Constitutional Petition. The courts have said over and again that the mere fact that constitutional rights are alleged to have been violated or are threatened does not make the dispute a constitutional one calling for the filing of a petition under Article 22 of the Constitution. The court can still uphold constitutional rights in a normal civil suit.”**

29. At the end of the hearing of the petition in the case of **Electrical Options Limited V Attorney General & Another [2012] eKLR** the respondent was allowed to commence legal proceedings to establish the legality or otherwise of the disputed land.

30. Having said as above it is clear that the jurisdiction of this court has not been properly invoked and the prayers sought can not issue.

**Conclusion:**

***(C) What orders should issue?***

**31.** The upshot of the foregoing is that the petitioners have failed to prove their claim. The petition dated **15/4/2014** is devoid of merit and the same is hereby dismissed. The costs of the petition are awarded to the respondents to be borne by the petitioners.

**32.** It is so ordered.

**Dated, signed and delivered at Nairobi via electronic mail on this 29<sup>th</sup> day of May , 2020.**

**MWANGI NJOROGI**

**JUDGE, ELC, KITALE.**