



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT NAIROBI

ELC MISC. APP. NO. 44 OF 2018

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

AND

IN THE MATTER OF NATIONAL LAND COMMISSION COMPLAINT NO/NLC/HLI/138/2017 FOR REVIEW OF GRANT OR DISPOSITION OF PUBLIC LAND KNOWN AS LR NO. 2250/8/6 AND LR NO. 2250/71

AND

IN THE MATTER OF THE NATIONAL LAND COMMISSION ACT NO. 5 OF 2012, FAIR ADMINISTRATIVE ACTION ACT, NO. 4 OF 2015, THE LAW REFORM ACT, CAP 26, ORDER 53 OF THE CIVIL PROCEDURE RULES, 2010, THE CONSTITUTION OF KENYA 2010 AND ALL OTHER ENABLING PROVISIONS AND PROCEDURES OF THE LAW

BETWEEN

REPUBLIC.....APPLICANT

VS

THE NATIONAL LAND COMMISSION.....RESPONDENT

EXPARTE: GIRAFFE ESTATE LTD

THE CITY COUNTY GOVERNMENT

OF NAIROBI.....1ST INTERESTED PARTY

TAYLOR ADFORCE (E.A) LTD.....2ND INTERESTED PARTY

JONATHAN PRESTON.....3RD INTERESTED PARTY

ANGELA SCOTT.....4TH INTERESTED PARTY

JOSAM HOLDINGS LTD.....5TH INTERESTED PARTY

JANITO LTD.....6TH INTERESTED PARTY

RULING

1. By a notice of motion dated 20th October 2018 filed pursuant to leave granted on 3rd October 2018, the Exparte Applicant seeks orders that:-

1. An order of certiorari to call, remove, deliver up to the honourable court to be quashed the proceedings, directions/orders, notices by the respondent directing hearing, inquiry or review of grant, dispositions or surrender of public land known as LR No. 2250/8/6 and LR NO. 2250/71 to the 1st interested party for public purpose and welfare of the exparte applicant pursuant to the complaint no NLC/HLI/138/2017 dated and lodged on 1st and 4th December 2017 by the 2nd interested party.

2. An order of prohibition against the respondent, either by itself or through ny officer, commissioner acting through or under it from proceeding, conducting an inquiry, presiding over a hearing, inquiry for review of and or in any manner interfere with the grant, dispositions or surrender of public land known as LR No. 2250/8/6 and LR No.2250/71 to the 1st interested party for public purpose and welfare of the exparte applicant pursuant to the complaint No. NLC/HLI/138/2017 dated and lodged on 1st and 4th December 2017 by the 2nd interested party.

3. An order of prohibition against the respondent, either by itself or through any officer, commissioner acting through or under it from proceeding, conducting an inquiry, presiding over a hearing, inquiry for review of and or in any manner interfere with the grant, dispositions or surrender of public land known as LR no.2250/8/6 and LR No. 2250/71 to the 1st interested party for public purpose and welfare of the exparte applicants whether on its own motion or pursuant to the Complaint No. NLC/HLI/138/2017 dated and lodged on 1st and 4th December 2017 by the 2nd interested party except as otherwise provided by the law.

4. That the costs of this application be in the cause.

2. The grounds are on the face of the application and are set out in paragraphs 1 to 13.

3. The application is supported by a statement of facts filed in court on 6th July 2018 and filed in court on 9th July 2018. It is also supported by the verifying affidavit of Benedict Clay sworn on the 6th July 2018 and a supplementary affidavit sworn on 7th May 2019.

The Exparte Applicant's case

4. It is the exparte applicant's case that the respondent has no jurisdiction to hear Complaint No. NLC/HLI/138/2017 by the 2nd interested party to review grant and disposition of a public land known as LR No. 2250/8/6 and LR No. 2250/71 under section 14(1) of the National Land Commission Act. The director of the exparte applicant depones that the applicant is limited liability company duly registered under the companies Act with objects and purposes to manage Giraffe View Estate on behalf of its shareholders who are resultant and registered owners of various subleases on parcel known as LR NO. 2250/70 situated in Nairobi County.

5. The applicant is also the registered owner of the reversionary interest in LR No. 2250/70 (original No. 2250/8/8) Nairobi measuring 3.878 hectares and comprising of 10 plots where of the shareholders of the applicants are registered owners of the subleases and residents thereon. In 1974 the 2nd interested party who was at the time the registered owner of LR No.2250/8 measuring approximately 21 acres in Langata applied and obtained approval from the then City Council Nairobi to subdivide the property into four plots namely LR No. 2250/8/6, LR NO. 2250/69, LR NO. 2250/70 and LR NO. 2250/71, Land Parcel No. 2250/70 was subdivided into 10 plots sold by the 2nd interested party with approved subdivisions and transferred to the applicant.

6. The 2nd interested party surrendered LR No. 2250/71 and LR No. 2250/8/6 to the 1st interested party for public purpose and welfare of the residents of the subdivided plots in LR NO. 2250/8 including the applicant in consideration of receiving approvals for subdivisions of LR No. 2250/8. LR No. 2250/71 was for construction of public utility while LR No. 2250/8/6 was reserved as a 12.5 metres wide public access road reserve for the benefit of the public and residents of the sub-divisions of LR No.2250/8.

7. On 4th December 2017, the 2nd interested party lodged a complaint No. NLC/HL1/138/2017 dated 1st December 2017 before the Respondent against the applicant herein. The 2nd interested party and others are seeking a review of the grant disposition and surrender of two portions being LR No. 2250/71 and LR No. 2250/8/6 to the 1st interested party for public purposes. The applicant lodged a preliminary objection together with a statement on grounds of jurisdiction. The period for review of grants or dispositions of public land under section 14 of the National Land Commission Act which includes the subject matter of the complaint expired on 2nd May 2017 and there has been no extension of such time under section 14(9) of the National Land Commission Act. The Respondent had no jurisdiction to adjudicate the complaint or review the grant to the 1st interested party for public good or welfare of the applicant and the public. The 2nd interested party is operating illegally through unauthorized persons contrary to the law. The 2nd interested party's registered office, directors and/or shareholders' whereabouts or operations are unknown to the applicant as there is no record at the company registry.

The Respondent's case

8. The respondent entered appearance on 18th July 2018 through Joyce Brenda Machinda Advocate. Edmond Gichuru, Deputy Director Legal Affairs and Enforcement of the respondent and a member of the historical land injustices committee, swore a replying affidavit on the 17th September 2018. The respondent was acting under its mandate under article 67(2)(e) of the constitution. Section 15(1)(2) and Section 6(1), 2,3 of the National Land Commission Act to ensure compliance with Article 60(1) of the Constitution. The respondent received a complaint from the 2nd interested party after which the respondent gave notices to all the interested parties inviting them to tender their representations and documents to the commission. The applicant is misguided in claiming the respondent is exercising its mandate under section (14) of the National Land Commission Act. The application is an abuse of the court process. Edmond Gichuru swore another affidavit on the 21st November 2018 making similar averments as above.

The 1st interested party's Case

9. The 1st interested party filed a replying affidavit sworn by Aloys Matoke, a land surveyor with the 1st interested party. The affidavit is sworn on 10th July 2019. He deposes that the suit properties were voluntarily surrendered by the 2nd interested party to the 1st interested party for development of a public health facility and a public road. The voluntary surrender of the suit properties were a precondition for approval of the 2nd interested party's application to sub-divide LR 2250/8. On 12th February 2015, the 2nd interested party applied to the 1st interested party to return the suit properties to it on the grounds that they have not been developed for the intended purposes for which they

were surrendered on 19th March 2015, the 1st interested party advised the 2nd interested party that the plots are county government public utility and cannot be surrendered back for private use.

10. The 2nd interested party surrendered the plots to the 1st interested party over 30 years ago hence the Respondent does not have jurisdiction to adjudicate over the subject matter under section 14(1) of the National Land Commission Act. The 1st interested party is not aware of any allocation of the suit properties to third parties or to the 5th and 6th interested parties. The letter of allotment dated 18th January 1996 and the letter dated 2nd May 2013 by the Permanent Secretary Ministry of Lands in respect of LR No. 2250/71 are suspect and prima facie unlawful, illegal and a nullity. There is no evidence that the 5th and 6th interested party's complied with the said letter of allotment, particularly payment of the requisite amounts under condition 2 and/or development of LR No.2250/71. Though illegal, the same lapsed within 30 days of issuance. There is no evidence of application by the purported allottees of LR No.2250/71 to the 1st interested party for approval of development plans as per special condition 2 of the letter of allotment. The 1st interested party has never given consent to the Respondent or anyone to re-allocate its public utility plots nor approved the third party developments thereon. The Permanent Secretary Ministry of Lands had no capacity to confer title to anyone. There is no time limitation to develop public utility land.

The 2nd Interested Party's Case

11. Dulice L. Spencer sibling and sole surviving dependent and administrator of the late Frank Heathcote Howitt, principal shareholder of the 2nd interested party swore a replying affidavit dated 3rd September 2018. The complaint before the respondent was filed with his instructions because he and the late brother had lawful claims of ownership over the suit properties. The decision to expropriate the suit properties by the 1st interested party for public use as an access road and health facility without compensation has deprived him of possession and use of the both parcels. As a result of the 1st interested party's decision, Mr. and Mrs. Jonathan Scolt fenced off LR No. 2250/8/6 while the applicant fenced off LR No. 2250/71 which they possess with the knowledge of the 1st interested party and to the exclusion of the public. The complaint seeks no more than investigation of the 2nd interested party's complaint and recommendation of appropriate redress thereon. The 2nd interested party never signed a deed of surrender of the suit properties to the 1st interested party and that the latter still demands payment of rates in respect of LR No. 2250/71 from the 2nd interested party.

12. In the replying affidavit sworn on 24th December 2018 Dulice L. Spencer deposes that the notice of motion herein was filed outside the timelines directed by the court and therefore incompetent. The 1st interested party purported compulsory acquisition of the suit properties did not meet the constitution threshold set by provisions of Article 40(2) regarding compulsory acquisition. The same was never followed through. By a letter dated 2nd May 2013, and addressed to the 2nd interested party, the respondent confirmed its readiness to issue the title in respect of LR No. 2250/71 to the 2nd interested party. The claims by the exparte applicant that the suit properties were lawfully or compulsorily acquired are not true. The 2nd interested party is entitled to claim redress for violation of its constitutional rights. Article 67(2) (e) of the constitution and section 15(2) of the National Land Commission Act donates to the respondent the constitution and legal mandate to investigate historical land injustices defined by section 15(2) of the said Act. This mandate has not expired.

The 3rd and 4th interested party's case.

13. Jonathan Prestone Scott has sworn an affidavit on the 7th May 2019, on behalf of himself and his wife (the 4th interested party). He denies having exclusive and beneficial use of LR No. 2250/8/6 which is a road reserve. Their property borders it and they remain vigilant over it against grabbing. The road is in use by themselves and the public and is currently a foot path utilized by Nairobi County. Any allocation to private companies is illegal and a nullity as the 2nd interested party surrendered the land to the 1st interested party.

14. On the 13th May 2019, the court with the consent of parties directed that the application be canvassed by way of written submissions.

The Exparte Applicant's, 3rd and 4th interested parties submissions

15. The application is competent and properly before court. The fact that it was served out of time does not render the application fatal or prejudice the respondent and the interested parties. The delay in service was occasioned by the Exparte Applicant's previous advocates as evident on the return of service hereof who belatedly instructed and caused the late service. The same should not be visited upon the exparte applicant. The same was served before 27th November 2019 hence no prejudice was occasioned to the respondents. No objection was raised on 27th November 2019. The exparte applicant relies on Article 159(2) (e) of the Constitution and the case of **Lucy Nyokabi Kiarie vs David Wahome Gitonga & 3 Others [2013] eKLR; Kamlesh M. Damji Pattni vs Director of Public Prosecution & 3 Other [2015] eKLR**. It prays that the notice of motion be heard on merit. The respondents lack jurisdiction to adjudicate over the complaint to review the grant or surrender of LR No. 2250/71 and LR No. 2250/8/6 (suit properties) under section 14(1) and 9 of the National Land Commission Act. It is not in dispute that the time for reviewing dispositions of titles of public land lapsed on 2nd May 2017. The mandate to review grants or dispositions of public land has not been extended by Parliament to date. Neither the respondent nor the 1st interested party have pleaded or illustrated extension of the said period under section 14(1) of the National Land Commission Act.

16. The suit properties are public land surrendered to the 1st interested party. They were voluntarily surrendered by the 2nd interested party as a condition to obtain approval for subdivision of LR No. 2250/8. The suit properties are reserved for public purposes by the 1st interested party who by statute is mandated with physical planning of the relevant area and the county whereof LR No. 2250/8 and the subdivisions arising therefrom are situate. Neither the 5th nor 6th interested parties have lodged any affidavit in this court laying claim in the said land despite having been served with notice of these proceedings as per the court order. There is no evidence that the 5th and 6th interested parties owned the land as no title was issued or evidence shown that the said allottees complied with the conditions in the allotment letter. An offer lapses within 30 days thereof unless there is acceptance and payment of the sums thereof. The Permanent Secretary Ministry of Lands has no legal authority to allocate title to land hence his advise is a nullity.

17. It is evident from the 1st and 2nd interested parties as well as the Respondent's replying affidavit that the 2nd interested party and the Respondent admit the surrender and the fact that the 2nd interested party has made previous attempts and requests for reversal and return of the suit properties to it as there has been no development of the properties since surrender. The suit properties are public properties notwithstanding that the 2nd interested party never submitted instruments of surrender to the 1st interested party. They have put forward the case of **Joreth Ltd vs Victory Faith International Church & 2 Others [2017] eKLR**. The above case is *pari materia* to the instant case and hence binding on the matter in issue. They have also put forward the case of **Republic vs National Land Commission & 3 Others exparte Samuel Githegi Mbugua & 5 others [2018] eKLR**.

Jurisdiction is everything and where there is none like in the instant case the respondent purported admission of the 2nd interested party's complaint dated and filed on 3rd and 4th December 2017 to review the surrender and/or disposition of the suit properties which are public land is ultra vires. They have also put forward the case of **Wilfred James Kimani Kamau & Another vs NLC & 3 Others [2016] eKLR**.

18. The suit properties are a public land and the respondent lacks jurisdiction to entertain or adjudicate over the complaint to review grant of public land. They pray that the notice of motion dated 22nd October 2018 be allowed.

The Respondent's submissions

19. The law applicable in governing historical injustices investigations in Kenya is to be found in Article 67(2) (e) of the constitution and section 15 of the National Land Commission Act. It was in light of the above provisions that the respondent duly received, admitted and was in the process of investigating the historical land injustice claim no. NLC/HL1/138/2017 filed by the 2nd Interested party herein. It has put forward the case of **Republic vs National Land Commission & Another [2018] eKLR**.

20. Institutions that have been empowered to perform quasi judicial functions by the constitution should be allowed to carryout their respective mandates. It has put forward the case of **Alice Mweru Ngai vs Kenya Power & Lightening Co. Limited [2015] eKLR**. The exparte applicant is clearly misinformed and misguided in claiming that the respondent is seeking to undertake review proceedings with respect to the suit properties. The applicant should have allowed the respondent to undertake investigations into the claim in accordance with the law and if not satisfied with the findings therein appeal to this court as appropriate.

21. The orders sought by the exparte applicant ought not to be issued as the respondent was merely undertaking one of its constitutional functions when it admitted the claim filed by the 2nd interested party. The application herein is not merited and should be dismissed with costs.

22. It appears the 1st interested party did not file any written submissions. I will endeavour to rely on the elaborate replying affidavit sworn by Aloys Matoke, a land surveyor, on the 10th July 2019.

The 2nd Interested Party's submissions

23. The notice of motion dated 22nd October 2018 was served in the 2nd interested party after an unexplained and inexcusable delay of 35 days will outside the time ordered by the honourable court. It has put forward the case of **Republic vs Funyula land disputes tribunal and 3 others [2014] IKR Pg 586**. There is no explanation for the delay in service of the notice of motion and the same should be dismissed with costs to the 2nd interested party.

24. A writ of certiorari is not efficacious and does not lie to quash proceedings, notices or directions alleged to be made in excess or without jurisdiction or howsoever they be alleged to violate rules of natural justice. It has put forward the cases of **KNEC vs Republic Exparte Geoffrey Gathenji Njoroge [1997] eKLR**; **Republic vs KENHA exparte Amica Business Solutions Ltd [2016] eKLR**. It was incumbent on the exparte application to produce letters, notices, correspondences and any other means of documentary communication by the respondent in which the exparte applicant contends violated or threatened to violate its fundamental freedoms and constitutional rights and to prove as fact by documenting evidence its claimed rights to title or interest in the parcels of land and/or demonstrate how those rights were violated or threatened to be violated by the respondent. It has also put forward the case of **R vs Commissioner of Police Exparte Nicholas Gitau Kuria; Meme vs Republic**.

25. The prayer for certiorari offends Section 9(2) of the Land Reforms Act and order 53 rule 2 of the Civil Procedure Rules. The respondent has jurisdiction to register, investigate and process a complaint relating to historical land injustices and give redress. The exparte applicant's submissions are misconceived. The exparte applicant has failed to demonstrate its interest on the suit properties. It is not within this court's jurisdiction to review the merits of the 2nd interested parties complaint before the respondent. The exparte applicant's application for orders of certiorari and prohibition to prevent the respondent from carrying out its mandate is baseless wholly without merit and ought to be dismissed with costs to the 2nd interested party.

26. I have considered the notice of motion dated 22nd October 2018, the verifying affidavit, together with the annexures. I have also considered the affidavits in response, the annexures, the written submissions made on behalf of the respective parties and the authorities cited. The issues for determination are:-

(i) Whether the respondent has jurisdiction to adjudicate the complaint to review grant or surrender of LR No. 2250/71 and LR No. 2250/8/6 (the suit properties).

(ii) Whether the exparte applicant is entitled to the reliefs sought.

(iii) Who should bear costs?

27. It is not in doubt that the notice of motion dated 22nd October 2018 was served upon the respondent and the interested party outside the 21 days granted by this court. The ex parte applicant has given an explanation for the delay. I find that the reasons given is justifiable. It is noted that all parties were served before 27th November 2018 when the matter was due for mention. This court relies on Article 159(2) (d) of the Constitution and in declining to strike out the application for late service.

28. On the 4th December 2017, the 2nd interested party lodged a complaint NO. NLC/HL1/138/2017 before the respondent to review grant or surrender of the suit properties LR No. 2250/71 and LR NO. 2250/8/6 to the 1st interested party. The said complaint was admitted by the respondent, who started the process of review. Section 14(1) of the National Land Commission Act provides as follows:-

“Subject to Article 68 (C)(V) of the Constitution,

the Commission shall, within five years of the commencement of this Act, on its own motion or upon a complaint by the national or a county government, a community or an individual, review all grants or dispositions of public land to establish their propriety or legality.”

Section 14(9) of the Act provides as follows:-

“The Commission may, where it considers it necessary, petition Parliament to extend the period for undertaking the review specified in subsection (1).”

29. It is the ex parte applicant’s case that the respondent’s mandate to review dispositions and or grant lapsed on 2nd May 2017 and the same was not extended by Parliament. The 1st interested party’s replying affidavit confirms that the suit properties were voluntarily surrendered by the 2nd interested party as a condition to obtain approval for subdivision of LR No.2250/8. The same are reserved for public purpose by the 1st interested party who by statute is mandated with physical planning of the relevant area.

30. Article 62(1) of the Constitution defines public land as:-

(a) land which at the effective date was unalienated government land as defined by an Act of Parliament in force at the effective date;

(b) land lawfully held, used or occupied by any State organ, except any such land that is occupied by the State organ as lessee under a private lease;

(c) land transferred to the State by way of sale, reversion or surrender;

(d) land in respect of which no individual or community ownership can be established by any legal process;

(e) land in respect of which no heir can be identified by any legal process;

(f) all minerals and mineral oils as defined by law;

(g) government forests other than forests to which Article 63(2)(d)(i) applies, government game reserves, water catchment areas, national parks, government animal sanctuaries, and specially protected areas;

(h) all roads and thoroughfares provided for by an Act of Parliament;

(i) all rivers, lakes and other water bodies as defined by an Act of Parliament;

(j) the territorial sea, the exclusive economic zone and the sea bed;

(k) the continental shelf;

(l) all land between the high and low water marks;

(m) any land not classified as private or community land under this Constitution; and

(n) any other land declared to be public land by an Act of Parliament--

(i) in force at the effective date; or

(ii) enacted after the effective date.

31. I agree with the submissions of the ex parte applicant and those of the 1st, 3rd, 4th interested parties that the suit properties are public land having been surrendered to the 1st interested party by the 2nd interested party. In paragraph 6 of the replying affidavit sworn on 10th July 2019, Aloys Matoke a land surveyor of the 1st interested party deposes:-

“that by letters dated 11th May 1982 to the 2nd interested party’s surveyor and 17th August 1984 to the defunct commissioner of lands, the 1st interested party approved the 2nd interested party’s application for subdivision of the mother title on various conditions which among others included two particular marked plots and or areas on the said property on the plans presented in the said application be surrendered to the 1st interested party at no costs for development of a public access road/reserve and a public utility purpose plot (copies of letters dated 11th May 1982 and 17th August 1984 are annexed to the ex parte applicant’s chamber summons at page 92 and 97)”.

In paragraph 9 and 10 he deposes that the 2nd interested party sought the return of the suit properties by a letter dated 12th February 2015 but the 1st interested party replied through a letter dated 19th March 2015 that the suit properties were for public purpose and could not be surrendered back to the 2nd interested party for private use. The above averments have not been challenged by the respondent and the 2nd interested party in any way.

32. In his complaint to the respondent the 2nd interested party claims the suit properties were compulsorily acquired by the 1st interested party for public purpose. I find this to be misleading as the suit properties were voluntarily surrendered to the 1st interested party at no cost as a condition for the subdivision of LR 2250/8 (mother title). One of the prayers sought by the 1st interested party before the Respondent is:-

“A hearing and determination by the National Land Commission that decision and purported action by the City County Government to menacingly, compulsorily acquire the petitioners’ right to title and interest in parcel of Land No. 2250/71 and No. 2250/8/6 under the guise of alleged lawful acquisition thereof for a pretended public need and use without due process enjoined by Article 40 of the Constitution and Part VIII Section 107 to 133 of the Land Act, the consequential arbitrary acquisition of title deed for LR No. 2250/71, 2250/8/6 and LR No. 2250/8 by Jonathan Preston, Angela Scott and Giraffe View Estate Ltd as proteges or with the knowledge and or acquiescence of the City County Government of Nairobi denied, violated and infringed or threatens to deny, violate and infringe the complainant’s right to property guaranteed by Article 40 of the Constitution and infringed on the complainant’s right to fair administrative action by the City County of Nairobi that is expeditious, efficient, lawful, reasonable and procedurally fair as guaranteed by Article 47 of the constitution”.

33. Going by the above, it is clear that the complaint by the 2nd interested party is not based on a historical injustice. It is therefore not true as claimed by the respondent that the claim is brought under section 15 of the National Land Act. I agree with the submissions of the ex parte applicant, 3rd, and 4th interested parties that the respondent has no jurisdiction to review grants and or dispositions of public land as its term expired on 2nd May 2017 and has not been extended by Parliament. I also associate myself with the findings of S Okong’o J in **Republic vs National Land Commission & 3 Others Ex parte Samuel Githegi Mbugua & 5 Others [2018] eKLR**.

34. I find that the suit properties are public properties notwithstanding that the 2nd interested party did not submit the instruments of surrender to the 1st interested party. I am guided by the case of **Joreth Ltd vs Victory Faith International Church & 2 Others [2018] eKLR**.

35. In conclusion I find that the suit properties forming the subject of the complaint by the 2nd interested party before the respondent and or these proceedings is public land. The respondent at this point lacks jurisdiction to entertain or adjudicate over the complaint to review grant of public land. I find merit in this applicant and I grant the orders sought namely:-

(a) That an order of certiorari is hereby issued to remove and deliver to this Honourable court for quashing, and are hereby quashed the proceedings, directions/orders, notices by the respondent directing, hearing, inquiry or review of grant, dispositions, or surrender of public land known as LR No. 2250/8/6 and LR No. 2250/71 to the 1st interested party for public purpose and welfare of ex parte applicant pursuant to a Complaint NO. NLC/HLI/138/2017 dated and lodged on 1st and 4th December 2017 by the 2nd Interested Party.

(b) That an order of prohibition is hereby issued against the respondent, by itself, or through any officer, commissioner acting through or under it, from proceeding, conducting an inquiry, ongoing, presiding over a hearing, inquiry for review of and in any manner interfering with the grants, dispositions or surrender of public land known as LR No. 2250/8/6 and LR No. 2250/71 to the 1st interested party for public purpose and welfare of the ex parte applicant pursuant to a Complaint NO. NLC/HLI/138/2017 dated and lodged on 1st and 4th December 2017 by the 2nd Interested Party.

(c) That an order of prohibition is hereby issued against the respondent either by itself or through any officer, commissioner, acting through or under it from proceeding, conducting an inquiry, presiding over a hearing, inquiry for review of and on in any manner interfering with the grants, dispositions, or surrender of public land known as LR No. 2250/8/6 and LR No. 2250/71 to the 1st interested party for public purpose and welfare of the ex parte applicant whether on its own motion or pursuant to a Complaint No. NLC/HLI/138/2017 dated and lodged on 1st and 4th December 2017 by the 2nd Interested Party except as otherwise provided by the law.

(d) That each party do bear own costs.

It is so ordered.

Dated, signed and delivered in Nairobi on this 28TH day of MAY 2020.

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L. KOMINGOI

JUDGE

In the presence of:-

Mr. Litoro for the Exparte Applicant, 3rd and 4th Interested Parties

Mr. G. M. Wamalwa for the 2nd Interested party

Mr. Njenga for the 1st Interested Party

Kajuju – Court Assistant