

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MURANG'A

PETITION NO 8 OF 2013

(FORMERLY NAIROBI H C PETITION NO 423 OF 2014)

KAKUZI LIMITED.....PETITIONER

VERSUS

1. COUNTY GOVERNMENT OF MURANG'A.....1ST RESPONDENT

2. COUNTY COMMISSIONER, MURANGA COUNTY.....2ND RESPONDENT

3. THE INSPECTOR GENERAL OF POLICE.....3RD RESPONDENT

R U L I N G

1. The Petitioner's application by **notice of motion dated 11th January 2016** seeks review and variation of the ruling of this court dated 19th and delivered on 20th November 2015. The review and variation is sought only to the extent of two properties, L.R. No 4741 and L.R. No MAKUYU/KIRIAINI BLOCK III/124. The Petitioner also seeks an order, upon the review and variation sought, that the interim injunction that the court lifted in its aforesaid ruling, do apply in respect of L.R. No 4741 and L.R. No MAKUYU/KIRIAINI BLOCK III/124.

2. The Petitioner's contention is that there are no public roads in those two properties. The 1st Respondent's response is that there is indeed a public road or provision/easement for a road access in L.R. NO. 4741, and that in L.R. No MAKUYU/IRIAINI BLOECK III/124 there is a road acquired by the community.

3. One of the main findings of the court in the aforesaid ruling was that whether or not there are public roads in the Petitioner's lands, and if so whether the lands occupied by those public roads are vested in the 1st Respondent under the Constitution in trust for the residents of Murang'a County (as contended by the 1st Respondent) or if those lands occupied by the public roads are owned by the Petitioner is a question of ownership of land which belongs in the ***Land and Environment Court***. The Petitioner's present application in effect invites the court to delve into those issues. This court declines to do so.

4. In the event the notice of motion dated 11th January 2016 is dismissed with costs. It is so ordered.

DATED AND SIGNED AT MURANG'A THIS 2ND DAY OF MARCH 2017

H P G WAWERU

JUDGE

DELIVERED AT MURANG'A THIS 3RD DAY OF MARCH 2017