



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT NAIROBI**  
**MILIMANI LAW COURTS**  
**JUDICIAL REVIEW AND CONSTITUTIONAL DIVISION**  
**MISC. APPLICATION NO. 37 OF 2016**

**IN THE MATTER OF SECTIONS 8 AND 9 OF THE LAW REFORM ACT CAP 26 OF THE LAWS OF KENYA**

**AND**

**IN THE MATTER OF ORDER 53 OF THE CIVIL PROCEDURE RULES, 2010**

**AND**

**IN THE MATTER OF SECTION 14 OF THE NATIONAL LAND COMMISSION ACT CAP 5D OF THE LAWS OF KENYA**

**AND**

**IN THE MATTER OF REVIEW OF TITLES LR NUMBERS 13427, 25565, 10755, 25725 AND 24939**

**AND**

**IN THE MATTER OF APPLICATION FOR LEAVE TO APPLY FOR ORDERS OF CERTIORARI AND PROHIBITION**

**BETWEEN**

**KRYSTALLINE SALT LIMITED .....APPLICANT**

**AND**

**THE NATIONAL LAND COMMISSION.....RESPONDENT**

**JUDGEMENT**

**Introduction**

1. By a Notice of Motion dated 8<sup>th</sup> February, 2016, the *ex parte* applicant herein, **Krystalline Salt Limited**, seeks the following orders:

**1. An order of certiorari to remove into this honourable court for the purposes of quashing the decision of the Respondent as published in the Daily Nation and Standard Newspapers of Friday 22<sup>nd</sup> January, 2016 and elsewhere to review the Applicant's Parcels of Land known as LR NOs 13427, 25565, 10755, 25725 and 24939 and requiring documents and representations from the Applicant in relation to the said land.**

**2. An order of prohibition restraining the Respondent by itself, its agents or persons acting on its behalf from requiring or compelling the Applicant to, for the purposes of review or any other related purposes, produce documents or make representations relating to its Parcels of Land known as LR NOs 13427, 25565, 10755, 25725 and 24939 and an order of prohibition restraining the Respondent by itself, its agents or persons acting on its behalf from conducting a review or holding hearings or implementing any decision or resolution from a review relating to the Applicant's Parcels of Land being LR NOs 13427, 25565, 10755, 25725 and 24939.**

**3. An order of prohibition restraining the Respondent by itself, its agents or persons acting on its behalf from acting in a manner that violates the Applicant's right to the occupation and use its Parcels of Land known as LR NOs 13427, 25565, 10755, 25725 and 24939, or in a manner that violates the Applicant's rights to property guaranteed under Article 40 of the Constitution of Kenya and an order of prohibition restraining the Respondent by itself, its agents or persons acting on its behalf from acting in relation to the Applicant's parcels of land known as LR NOs 13427, 25565, 10755, 25725 and 24939 in a manner that contravenes the Constitution of Kenya and the National Land Commission Act.**

**4. That the costs of this application be provided for.**

#### **Ex Parte Applicant's Case**

2. According to the applicant, it is the registered proprietor of Private Land LR No 13427, as well as the beneficial owner of LR Nos 10755, 25565, 25725 and 24939 all located in Kilifi County. It was averred that the applicant was allotted LR 13427 by the Commissioner of Lands and subsequently registered as the lawful proprietor thereof. With regard to the rest of the properties, the Applicant acquired them from third party and as such, has no knowledge, information or any documentation on how such previous third Party had acquired the property. Particularly and with regard to LR Nos 10755, 25725, 24939 and LR No. 25565, the applicant acquired title to the property when it purchased all the shares in Mombasa Salt Work Limited together with all its assets including these parcels of land.

3. It was however averred that the Respondent has made a decision to review the Applicant's parcels of land known as LR Nos 13427, 25565, 10755, 25725 and 24939, with the view of determining ownership thereto and in a notice published in the *Daily Nation* and the *Standard Newspaper* of Friday 22<sup>nd</sup> January, 2016 the Respondent called upon the Applicant to submit five copies of representations and documents relating to the said parcels of land on or before the 28<sup>th</sup> January 2016, shortly after which, the review would take place on 1<sup>st</sup> February 2016.

4. To the applicant, the said review is impending notwithstanding the fact that there is no complainant. Indeed, it was contended that it is the Respondent which is the complainant, the prosecutor as well as the Judge hence the applicant was apprehensive that it will not have a fair hearing if the review is allowed to proceed. It was the applicant's case that any purported proceedings before the Respondent are a nullity.

5. In addition it was contended that it is unreasonable for the Respondent to demand that the applicant attends hearings at the location of these parcels of land and also insist that the applicant produces additional documents and written representations yet it has already provided title documents proving ownership to these Parcels of Lands. Having such allegations in mind, it is obvious that the Respondent cannot be said to be Independent and Impartial. The applicant added that having acquired some of these properties from third parties, it is equally unreasonable to demand that the applicant submits documents relating to previous ownerships as the applicant cannot defend such initial acquisition but rather, it can

only defend its title as from the time it was lawfully issued with it.

6. It was disclosed that the Respondent has openly made adverse comments regarding the ownership of the above Parcels of Land including allegations that the Applicant stole these Parcels of Land hence by attempting to conduct this review, the National Land Commission is usurping the powers of the Environment and Land Court established under Article 162(2)b of the Constitution, with functions to hear and determine disputes relating to the Environment and the use and occupation of, and title to Land.

7. The applicant asserted that the Parcels of Land are all private land purchased by the Applicant from 3<sup>rd</sup> parties in good faith and for value, which 3<sup>rd</sup> parties might have also acquired the same from other parties hence the Applicant has no knowledge of the transactions or processes involved in the initial grants of the property by the State, and further while acquiring the said parcels of land the Applicant had no knowledge of any irregularity or grievance whatsoever relating to the parcels of land. The applicant therefore claimed that as a bona fide purchaser for value, its rights in and interests over the said parcels of land are guaranteed by the government of Kenya hence is entitled to the quiet occupation and use of the land as well as the benefit of the doctrine of sanctity and indefeasibility of title which is entrenched in the Land Act, 2012 and the **Land Registration Act, 2012** and therefore entitled to enjoy the right to property which is guaranteed under Article 40 of the Constitution of Kenya.

8. It was disclosed that some of the aforesaid parcels of land are charged to financial institutions and accordingly 3<sup>rd</sup> parties have already acquired interests over the land.

9. The Respondent's powers, it was contended, is strictly mandated under Article 67 of the Constitution and the **National Land Commission Act** (hereinafter referred to as "the Act") to administration and management of public land. According to section 14 of the Act the Respondent can only review grants or dispositions of public land in order to establish their propriety or legality. The Respondent however has no powers to review the legality and propriety of grants or dispositions of private land such as the Applicant's parcels of land, and the attempt to do so is a contravention of the Constitution of Kenya and the Act. While appreciating that the Commission can on its own initiative conduct investigations under Article 252(1)a, such general powers of investigations cannot take the form of a hearing like the one it purports to do in particular where there is no complaint or grievance with respect to the Applicant's said parcels of land and it is ambiguous as to what the objective of the intended review is. That notwithstanding, even if there was a complaint or grievance relating to the propriety or legality of the Applicant's parcels of land, the only proper place to address the same would be before the Environment and Land Court.

10. To the applicant, the Respondent's intended review of the Applicant's said parcels of land is an attempt at and if successful will have the effect of usurping the exclusive powers and mandate of the Environment and Land Court which are given to it by the Constitution of Kenya. It was asserted that the Respondent's intended review is an exercise in futility and there is no reasonable objective that is intended or is capable of being achieved through it but is merely intended and has the only effect of frustrating and violating the Applicant's and 3<sup>rd</sup> Parties' rights to property as well as the Applicant's quiet possession of its land.

11. In the applicant's view, if the Respondent is allowed to proceed with the review, the Applicants' Fundamental Rights and Freedoms shall be infringed particularly the right to Property as guaranteed under Article 40 of the Constitution, and having in mind that the respondent has no powers to review grants or dispositions of private property. It was its view that in requiring the Applicant to make representations or give explanations for grant of land which it has acquired through purchasing in good faith and for value from 3<sup>rd</sup> parties, who might have also purchased from 3<sup>rd</sup> parties, the Respondent is acting unreasonably, irrationally and in bad faith. It was added that the attempt by the Respondent to conduct the said review on the Applicant's aforesaid parcels of land is not only a violation of the Applicant's entitlement to quiet occupation and enjoyment of the land but also a violation of the doctrine of sanctity and indefeasibility of title and the Applicant's right to property. Further the Respondent's decision to review the said parcels of land and requiring representations from the Applicant in relation to

the same is an illegality.

12. It was reiterated that since some of the aforesaid parcels of land are charged to financial institutions and accordingly 3<sup>rd</sup> parties have already acquired interests over the land, if the Respondent moves to conduct the review or to implement any decision or resolution made in the review it will interfere with these interests and it will violate the 3<sup>rd</sup> parties' rights to property.

### **Respondent's Case**

13. The application was opposed by the respondents.

14. According to the Respondent, it is an independent commission established under Article 67(1) of the Constitution and is operationalized by the Act, and has as its fundamental functions, the management of public land on behalf of the National and County Government. In addition to the functions denoted to it under the Constitution, the respondent is also mandated under section 14 of the Act to review all grants and dispositions of public land, either on its own motion or upon receipt of a complaint with a view to establish their legality or propriety. In the exercise of this mandate the respondent operates as a quasi-judicial body within the full meaning of Article 169 (1) of the constitution and the procedure for carrying out this mandate is clearly set out under section 14 of the Act.

15. To the respondents, review of grants and dispositions of public and simply entails the respondent analysing the process under which public land was converted to private land and making findings of the legality of the grants in question and once the Commission has determined on its own motion that a particular grant warrants review or a complaint is determined to warrant review of a particular grant, the respondent will publish a notice of intended review in the dailies notifying all interested parties the dates and venue of the scheduled review, as well as the period within which interested parties are required to submit their documents. After expiry of the notice of a particular grant commences at the scheduled date and venue prescribed in earnest, wherein all interested parties are first established after which parties are directed to disclose and exchange all documents.

16. It was averred that the commission invoked its jurisdiction in line with section 14(1) of the Act and on its motion review of grants and dispositions proceedings to determine the legality of ownership for LR Nos. 13427, 25565, 10755, 25725 and 24939. To the Respondent, under section 14(3) of the Act, it is required to give every person who appears to have an interest in the grant or disposition that is under review, notice of such review and an opportunity to appear before it and to inspect any relevant documents and this is done by way of placing the advertisements in the dailies which advertisements to not serve as decisions but merely as notice of intention to conduct review of grants and dispositions proceedings. They simply serve to inform mentioned proceedings by the respondent either because the commission has informed itself on the same by its motion or there exists a complaint regarding it.

17. In this case it was contended that the respondent invited, through a public notice first appearing on 22<sup>nd</sup> January, 2016 in the *Daily Nation* and *Standard Newspapers*, all interested parties for a hearing on 1<sup>st</sup> February 2016 at the respondent's office with a view of establishing the legality of the title documents over the parcels of land published in the said gazette which included the above suit parcels. It is customary that the respondent publishes hearing dates in the dailies whenever any matter is scheduled for hearing. In the Respondent's view, from the above notice, it is clear that it has complied with both the provisions of Article 50 of the Constitution and section 14(3) of the Act since the right to protection of property conferred under Article 40(1) of the Constitution is not an absolute right in itself as this protection does not extend to property that is found to have been unlawfully acquired. Indeed, Article 68(c)(v) of the constitution mandated parliament to enable the review of all grants or dispositions of public land to establish their propriety of legality. It was contended that the said provision together with section 14 provide that the Respondent can only review grants of public land as defined under Article 62 of the constitution and not private land as defined under Article 64 of the constitution. Despite this, the Commission has a responsibility to review all grants and dispositions of public land to ascertain their legality. This can only be done by querying the process through which they were converted from public land to private land. The fact that they are registered as private does not put them out of the jurisdiction

of the National Land Commission as the applicant claims it does under paragraphs 17 and 18 of the notice of motion application.

18. It was averred that contrary to the position taken by the Applicant that it is unreasonable to require the applicant to attend the review hearings and produce additional documents proving their ownership of the said parcels, it is actually quite reasonable and would in the long run benefit them because they are being presented with a platform where they can once and for all clear any doubt regarding the validity of their ownership of the said parcels.

19. The Respondent dismissed that the applicant's claim that the Commission is usurping the authority of the Environment and Land Court on the basis that the Commission is authorised by the Constitution of the Republic of Kenya under Article 68(3) to perform any functions prescribed by national legislation; the **National Land Commission Act** being the enabling legislation provides under section 14 that Commission may, acting on its own motion or upon a complaint by the national or county government, a community or an individual review all grants or dispositions of public land to establish their legality hence the assertion that the respondent does not have the authority to review titles is clearly false. To the Respondent, the assertions made in the application that the applicant acquired the parcels of land as a third party in good faith for value from other parties who also acquired the same from other parties does not preclude the respondent from carrying out its constitutional and statutory mandate to review the process through which the said parcels were converted from public land to private land to determine if it was done legally and if all the subsequent owners from that point had a clean and legal title to the parcels of land.

20. It was averred that section 6(3) of the **National Land Commission Act** also provides that in the exercise of its powers and discharge of its functions, the Commission may inform itself in any manner that it considers to be necessary and is not bound by the strict rules of evidence. Furthermore, the **National Land Commission Act** also provides under section 14 that the Commission can initiate proceedings for review of grants and dispositions of public land on its own motion too hence a complaint does not have to exist regarding a parcel of land for the commission to exercise its mandate. It was contended that the **National Land Commission Act** provides under section 14(3) that any party that has an interest in any parcels of land that are subject to review of grants and dispositions proceedings may appear and present any legal documents that they may have regarding the land. Accordingly, the presence of interested parties or potential interested parties does not prevent the commission from carrying out its constitutional and statutory mandate. Thus, the financial institutions that have charges over the parcels are welcome to present themselves an interested party and state that nature of their interest with supporting legal documentation.

21. It was therefore the Respondent's case that this application is an abuse of the court process and does not warrant issuance of the orders sought.

### **Determinations**

22. I have considered the issues raised in this application.

23. According to Article 67(2)(e) of the Constitution one of the functions of the National Land Commission, the Respondent herein (hereinafter referred to as "the Commission") is:

***to initiate investigations, on its own initiative or on a complaint, into present or historical land injustices, and recommend appropriate redress.***

24. It therefore follows that the Commission has power either on its own motion or pursuant to a complaint to initiate investigations into present or historical land injustices and to recommend appropriate redress. To therefore contend that there is a conflict of interest when the Commission on its own motion initiates investigations cannot be correct. If such conflict exists, it is a conflict sanctioned by the Constitution itself and under Article 2(3) of the Constitution, whose validity or legality of is not subject to challenge by or before any court or other State organ. Accordingly, this Court is barred from investigating

the legality or validity of the investigatory powers of the Commission.

25. Article 67(3) also empowers the Commission to perform any other functions prescribed by national legislation. Article 68(c)(v) of the Constitution empowers Parliament to enact legislation to enable the review of all grants or dispositions of public land to establish their propriety or legality. Section 3(b) of the **National Land Commission Act** provides that one of the objects of the Act is to provide for the operations, powers, responsibilities and additional functions of the Commission pursuant to Article 67(3) of the Constitution. No doubt therefore that the **National Land Commission Act** is the legislation contemplated under Article 67(3) of the Constitution.

26. Section 14 of the **National Land Commission Act**, on the other hand provides that:

***(1) 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.***

***(3) In the exercise of the powers under subsection (1), the Commission shall give every person who appears to the Commission to have an interest in the grant or disposition concerned, a notice of such review and an opportunity to appear before it and to inspect any relevant documents.***

***(4) After hearing the parties in accordance with subsection (3), the Commission shall make a determination.***

***(5) Where the Commission finds that the title was acquired in an unlawful manner, the Commission shall, direct the Registrar to revoke the title.***

***(6) Where the Commission finds that the title was irregularly acquired, the Commission shall take appropriate steps to correct the irregularity and may also make consequential orders.***

***(7) No revocation of title shall be effected against a bona fide purchaser for value without notice of a defect in the title.***

***(8) In the exercise of its power under this section, the Commission shall be guided by the principles set out under Article 47 of the Constitution.***

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

27. It is therefore clear that the Commission is empowered, 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, of course subject to Article 68(c)(v) of the Constitution which restricts its powers of review of all grants or dispositions to public land. In my view, land which for example was registered as a result of land adjudication system cannot be the subject of review by the Commission.

28. 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.**

29. Private land on the other hand is defined by Article 64 as consisting of:

**(a) registered land held by any person under any freehold tenure;**

**(b) land held by any person under leasehold tenure; and**

**(c) any other land declared private land under an Act of Parliament.**

30. It is therefore clear that any land classified as private land cannot, unless an Act of Parliament defines it so, be public land. The Constitution itself does not include in its definition of public land, those lands which were formerly public lands but have since been alienated and have acquired the status of private land.

31. In this case it is not disputed that the subject parcels of land fall squarely under the definition of private land and the only basis for claiming jurisdiction is that the Commission intends to investigate the circumstances under which the said parcels of land were acquired and transformed into a private land. The jurisdiction of the Commission is, as far as relevant to these proceedings, not defined by the process of acquisition of the land but the status of the land at the time of the investigation and that status must be that of public land as defined hereinabove. Apart from the Constitution it has not been pointed out to me that there is another definition of public land that would bring private land as defined under the Constitution within the ambit of public land in order for the Commission to have jurisdiction to review its disposition in order to establish the propriety or legality thereof.

32. Whereas it is correct that under Article 40(6) of the Constitution, land which is found to have been unlawfully acquired is not protected under Article 40, it is my view that there must be a finding that the land was unlawfully acquired. In other words the due process must be adhered to in the process of making a determination whether or not the particular property was unlawfully acquired.

33. In my view it is only after a determination is made as to the process of the acquisition that the Commission may then be clothed with the jurisdiction to review the grant or dispositions thereof in order to establish their propriety or legality assuming a determination is made whose effect is that the land in question is public land.

34. It is however my view that such a determination is not within the jurisdiction of the Commission and the same can only be made by the Environment and Land Court when properly moved.

35. It is trite that a judicial or quasi-judicial tribunal, such as the Commission herein has no inherent powers. In **Choitram vs. Mystery Model Hair Salon [1972] EA 525**, Madan, J (as he then was) was of the view that powers must be expressly conferred; they cannot be a matter of implication. Similarly, in **Gullamhussein Sunderji Virji vs. Punja Lila and Another HCMCA No. 9 of 1959 [1959] EA 734**, it was held that Rent Restriction Board is the creation of statute and neither the Board nor its chairman has any inherent powers but only those expressly conferred on them.

36. It was in appreciation of the foregoing position that the Court in **Ex Parte Mayfair Bakeries Limited vs. Rent Restriction Tribunal and Kirit R (Kirti) Raval Nairobi HCMCC No. 246 of 1981** held that in testing whether a statute has conferred jurisdiction on an inferior court or a tribunal such as Rent Control Board, the wording must be strictly construed: it must in fact be an express conferment and not a matter of implication and that a Tribunal is a creature of statute and has only such jurisdiction as has been specifically conferred upon it by the statute. Therefore where the language of an Act is clear and explicit the court must give effect to it whatever may be the consequences for in that case the words of the statute speak the intention of the legislature. Further, each statute has to be interpreted on the basis of its own language for words derive their colour and content from their context and secondly, the object of the legislation is a paramount consideration. See **Chogley vs. The East African Bakery [1953] 26 KLR 31 at 33 and 34**; **Re: Hebtulla Properties Ltd. [1979] KLR 96; [1976-80] 1 KLR 1195**; **Choitram vs. Mystery Model Hair Salon** (supra); **Warburton vs. Loveland [1831] 2 DOW & CL. (HL) at 489**; **Lall vs. Jeypee Investments Ltd [1972] EA 512 at 516**; **Attorney General vs. Prince Augustus of Hanover [1957] AC 436 AT 461**.

37. It is therefore clear that a Tribunal's power must be conferred by the Statute establishing it which statute must necessarily set out its powers expressly since such Tribunals have no inherent powers. Unless its powers are expressly donated by the parent statute, it cannot purport to exercise any powers not conferred on it expressly. As has been held time without a number, where a statute donates powers to an authority, the authority ought to ensure that the powers that it exercises are within the four corners of the statute and ought not to extend its powers outside the statute under which it purports to exercise its authority. In **Republic vs. Kenya Revenue Authority Ex Parte Aberdare Freight Services Ltd & 2 Others [2004] 2 KLR 530** it was held that the general principle remains however, that a public authority may not vary the scope of its statutory powers and duties as a result of its own errors or the conduct of others.

38. Therefore where the law exhaustively provides for the jurisdiction of an executive body or authority, the body or authority must operate within those limits and ought not to expand its jurisdiction through administrative craft or innovation. The courts would be no rubber stamp of the decisions of administrative bodies. Whereas, if Parliament gives great powers to them, the courts must allow them to it, the Courts must nevertheless be vigilant to see that the said bodies exercise those powers in accordance with the law. The administrative bodies and tribunals or boards must act within their lawful authority and an act, whether it be of a judicial, quasi-judicial or administrative nature, is subject to the review of the courts on certain grounds. The tribunals or boards must act in good faith; extraneous considerations ought not to influence its actions; and it must not misdirect itself in fact or law. Most importantly it must operate within the law and exercise only those powers which are donated to it by the law or the legal instrument creating it. See **Re Hardial Singh and Others [1979] KLR 18; [1976-80] 1 KLR 1090**.

39. Having considered this application, it is my view that the Respondent Commission has no powers to proceed in the manner it intends to proceed. The scope of the judicial review remedy of Prohibition was the subject of the Court of Appeal decision in **Kenya National Examinations Council vs. Republic Ex**

parte Geoffrey Gathenji Njoroge & Others Civil Appeal No. 266 of 1996 (CAK) [1997] eKLR in which the said Court held *inter alia* as follows:

**“Prohibition looks to the future so that if a tribunal were to announce in advance that it would consider itself not bound by the rules of natural justice the High Court would be obliged to prohibit it from acting contrary to the rules of natural justice. However, where a decision has been made, whether in excess or lack of jurisdiction or whether in violation of the rules of natural justice, an order of prohibition would not be efficacious against the decision so made. Prohibition cannot quash a decision which has already been made; it can only prevent the making of a contemplated decision...Prohibition 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 of 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...” [Emphasis added].**

40. In the circumstances of this case, this Court is entitled to prohibit the Respondent from proceedings in excess of its jurisdiction.

### **Order**

41. Consequently, I grant the following orders:

- a) **An order of certiorari to removing into this Court for the purposes of quashing the decision of the Respondent as published in the Daily Nation and Standard Newspapers of Friday 22<sup>nd</sup> January, 2016 and elsewhere to review the Applicant’s Parcels of Land known as LR NOs 13427, 25565, 10755, 25725 and 24939 and requiring documents and representations from the Applicant in relation to the said land which decision is hereby quashed.**
- b) **An order of prohibition restraining the Respondent by itself, its agents or persons acting on its behalf from requiring or compelling the Applicant to, for the purposes of review or any other related purposes, produce documents or make representations relating to its Parcels of Land known as LR NOs 13427, 25565, 10755, 25725 and 24939 and an order of prohibition restraining the Respondent by itself, its agents or persons acting on its behalf from conducting a review or holding hearings or implementing any decision or resolution from a review relating to the Applicant’s Parcels of Land being LR NOs 13427, 25565, 10755, 25725 and 24939 unless and until a contrary decision is made with respect to the status of the said parcels of lands by a competent Court of law.**
- c) **The costs of these proceedings are awarded to the applicant to be borne by the Respondent.**

42. Orders accordingly.

**Dated at Nairobi this 4<sup>th</sup> day of October, 2016**

**G V ODUNGA**

**JUDGE**

**Delivered in the presence of:**

***Miss Fundi for the Applicant***

