



REPUBLIC OF KENYA

IN THE HIGH COURT AT NAIROBI

CONSTITUTIONAL PETITION NO. 530 OF 2014

IN THE MATTER OF ARTICLE 2,10,21,23,40,47 AND 67 OF THE REPUBLIC OF KENYA

AND

**IN THE MATTER OF THE KENYA GAZETTE NOTICE NO.15325 VOL. CXV-NO. 172
PUBLISHED ON 6TH, DECEMBER 2013 AND SUBSEQUENTLY CORRIGENDA**

AND

IN THE MATTER OF THE LAND REGISTRATION ACT 2012

AND

IN THE MATTER OF THE NATIONAL LAND COMMISSION ACT 2012

AND

IN THE MATTER OF THE PURPORTED REVOCATION OF THE TITLE L.R. NO. 209/13238

BETWEEN

INTER COUNTRIES IMPORTERS AND EXPORTERS LIMITED.....PETITIONER

VERSUS

THE NATIONAL LAND COMMISSION.....1ST RESPONDENT

CHIEF LAND REGISTRAR.....2ND RESPONDENT

THE ATTORNEY GENERAL..... 3RD RESPONDENT

TELE POSTA PENSION SCHEME REGISTERED TRUSTEES..... 4TH RESPONDENT

AND

PARK AVENUE INVESTMENTS LIMITED1ST INTERESTED PARTY

JUBILEE INSURANCE COMPANY LIMITED 2ND INTERESTED PARTY

TRUST BANK LIMITED (IN LIQUIDATION)3RD INTERESTED

PARTY

COMMISSIONER OF LANDS.....4TH INTERESTED PARTY

RULING

1. The issue before this Court is who should pay costs? The applicable law is found in section 27 (1) of the Civil Procedure Act which provides that; -“(1) *Subject to such conditions and limitations as may be prescribed, and to the provisions of any law for the time being in force, the costs of and incidental to all suits shall be in the discretion of the court or judge, and the court or judge shall have full power to determine by whom and out of what property and to what extent such costs are to be paid, and to give all necessary directions for the purposes aforesaid; and the fact that the court or judge has no jurisdiction to try the suit shall be no bar to the exercise of those powers: Provided that the costs of any action, cause or other matter or issue shall follow the event unless the court or judge shall for good reason otherwise order.*”

2. I have considered the oral submissions made. Costs largely follow the event, however the Court has discretion to determine which party will meet the costs and to what extent. The 4th respondent moved to National Land Commission and filed a complaint at the time it did so it did not inform the petitioner and the interested parties. Its action of filing the complaint led the 1st respondent to publish the Gazette Notice **No. 15325** issued on 6th December 2013 the subject of this petition. The 2nd and 3rd respondents did nothing to prevent the actions taken by the 1st Respondent. The 4th respondent is the one who filed the complaint that caused the National Land Commission to take up the matter. Costs is a matter of discretion of the Court therefore in my view and considering the circumstances of this case that the 1st , 2nd , 3rd and 4th respondents should jointly share costs to be paid to the petitioner and interested parties who responded to the petition.

It is so ordered.

Dated, signed and delivered this **6th of March**, 2015.

R. E. OUGO

JUDGE

In the presence of

.....**Petitioner**

.....**1st Respondent**

.....**2nd & 3rd Respondent**

.....**4th Respondent**

.....**1st Interested Party**

.....**2nd Interested Party**

.....**3rd Interested Party**

.....**4th Interested Party**

Mr. Makori Court Clerk.