



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
CONSTITUTIONAL AND HUMAN RIGHTS DIVISION

PETITION NO.447 OF 2013

BETWEEN

JOHN MBUGUA (REV).....1ST PETITIONER

WILSON NG'ANG'A KABIRIA.....2ND PETITIONER

AND

THE HON. PROF. GITHU MUIGAI.....1ST RESPONDENT

**THE HON. DR. WILLY MUTUNGA CHIEF JUSTICE & PRESIDENT
OF THE SUPREME COURT OF KENYA.....2ND RESPONDENT**

**MR. KERIAKO TOBIKO DIRECTOR OF PUBLIC
PROSECUTION.....3RD RESPONDENT**

**MR. DAVID KAMAIYO INSPECTOR
GENERAL OF POLICE.....4TH RESPONDENT**

DR. EVANS KIDERO GOVERNOR NAIROBI.....5TH RESPONDENT

NAIROBI CITY COUNTY.....6TH RESPONDENT

NATIONAL CONSTRUCTION AUTHORITY.....7TH RESPONDENT

DIRECTIONS

1. This file has had a chequered history. It has moved from the Environment and Land Division to this Division then to the High Court in Nakuru and back to this Division. The reasons for the said movements include the fact that the pleadings are wobbly and raise cross-cutting issues in terms of place, incident and time.
2. Nonetheless, on 22nd January 2014, Parties agreed to file Submissions on the issue of liability of the Respondents, if at all, and directions were to be given later on whether evidence as to compensation should be tendered. Parties indeed made submissions on 27th March 2014 and I retired to consider that issue.

3. Upon carefully reading the file, I noted that the Petitioners raised a plethora of issues that required further interrogation and which in all fairness cannot be addressed through Affidavits and Submissions. To do so and noting that the Petitioners are acting in person and noting the issues raised, may well cause injustice to all parties.
4. In the event, I will recall the orders issued earlier and instead direct as follows;
5. Let this matter be heard by way of oral evidence and a wholesome judgment on all issues arising can thereafter be given.
6. Further, parties may consider whether this is a matter to be heard by one Judge or whether it raises substantial issues of law under **Article 165(4)** of the **Constitution** and therefore whether more than one Judge is required.
7. Orders accordingly.

DATED, DELIVERED AND SIGNED AT NAIROBI THIS 4TH DAY OF JULY, 2014

ISAAC LENAOLA

JUDGE

In the presence of:

Kariuki – Court clerk

Petitioners present

Miss Cherono for 7th Respondent

Mr. Ojwang for 1st Respondent

Miss Nyamrega for 3rd & 4th Respondent

Order

Directions given.

ISAAC LENAOLA

JUDGE

Further Order

Oral evidence to be taken on 10/10/2014.

ISAAC LENAOLA

JUDGE