



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT OF KENYA

AT ELDORET

PETITION NO. 16 OF 2014

IN THE MATTER OF THE CONSTITUTION OF KENYA, 2010

AND

**IN THE MATTER OF UNFAIR ADMINISTRATIVE ACTION CONTRARY TO ARTICLES 27, 40, 47, 46, 50, 40 AND 70 OF
THE CONSTITUTION OF KENYA**

AND

IN THE MATTER OF THE ADMINISTRATIVE ACTION ACT, 2015

AND

IN THE MATTER OF THE ILLEGAL ESTABLISHMENT OF TREATMENT PLANT

AND

IN THE MATTER OF THE ENVIRONMENT MANAGEMENT AND CO-ORDINATION ACT, 1999

AND

**IN THE MATTER OF PUBLIC PARTICIPATION AND SOCIAL IMPACT ASSESSMENT IN LINE WITH ARTICLE 10 OF
THE NEW CONSTITUTION OF KENYA, 2010**

AND

**IN THE MATTER OF PROVISION OF A SECURE ENVIRONMENT IN LINE WITH THE NEW CONSTITUTION OF KENYA,
2010**

BETWEEN

CAROLYNE KERUBO OMWOYO.....1ST PETITIONER/RESPONDENT

YUSUFU MAHMOUD ATHMAN.....2ND PETITIONER/RESPONDENT

VERSUS

ABAO INVESTMENTS LTD.....1ST RESPONDENT/APPLICANT

UASIN GISHU COUNTY GOVERNMENT.....2ND RESPONDENT/APPLICANT

NATIONAL ENVIRONMENT AND MANAGEMENT

AUTHORITY.....INTERESTED PARTY/RESPONDENT

RULING

The 1st respondent has come to court vide application dated 1.7.2019 praying for orders that pending the release of the audit report by National Environment and Management Authority on the 1st respondent's plant, this Court be pleased to vary and/or enlarge time to allow the 1st respondent's operations to continue and that time within which the National Environment and Management Authority is to do an audit of the 1st respondent's plant in line with the decree made on 30th May, 2019 be determined and/or stated.

He further prays that the decision of this Court made on 30.5.2019 limiting time within which and/or giving a 30 days period of closure of the 1st respondent's plant be varied, reviewed and/or lifted.

The application is based on grounds that there was an order of liberty to apply. Moreover, that there is no stay of execution and that the matter can be resolved amicably.

I have considered the application, looked at the exhibits annexed and do find that there is evidence of people's participation but the same was not availed to court before judgment. I have seen the Notice of Change of User annexed in the supporting affidavit. This court should not punish the 1st respondent/applicant for mistake made by the Advocate which are abundant.

I do find that the applicant has shown sufficient cause for review of the judgment of the court.

Ultimately, I do review my judgment and do order that the National Environment Management Authority to audit the applicant and file a compliance report within 90 days. Meanwhile, the order of closure is lifted pending the filing of compliance report by the National Environment Management Authority. There be liberty to apply. No orders as to costs.

Dated and delivered at Eldoret this 12th day of July, 2019.

A. OMBWAYO

JUDGE