



**REPUBLIC OF KENYA**

**IN THE ENVIRONMENT AND LAND COURT AT NAKURU**

**PETITION NO. 26 OF 2011**

**IN THE MATTER OF ARTICLE 22 AND 23 (1), (3) OF THE CONSTITUTION OF**

**KENYA**

**AND**

**IN THE MATTER OF ALLEGED CONTRAVENTION OF FUNDAMENTAL RIGHTS**

**AND FREEDOMS UNDER ARTICLE 40 (3), (4), 27 (1), (2), (3), (4), (5) OF THE**

**CONSTITUTION OF KENYA**

**BETWEEN**

**1. IRENE KANYI MWANGI.....1<sup>ST</sup>  
PETITIONER**

**2. MARY NYAMBURA MUGO.....2<sup>ND</sup>  
PETITIONER**

**3. WANGECHI MBURU.....3<sup>RD</sup>  
PETITIONER**

**4. WINNIE MUTHONI.....4<sup>TH</sup>  
PETITIONER**

**5. HELLEN NYAGATI MUREITHI.....5<sup>TH</sup>  
PETITIONER**

**6. ZIPPORAH WARINGA.....6<sup>TH</sup>  
PETITIONER**

**7. HARIET WANJIRU.....7<sup>TH</sup>  
PETITIONER**

**8. LOISE WANJIKU.....8<sup>TH</sup>  
PETITIONER**

**9. MARY WANGARI W/O OWEN NDUNGU.....9<sup>TH</sup>**

**PETITIONER**

**10. PENNINAH WANGUI NDUNGU D/OOWEN NDUNGU.....10<sup>TH</sup>  
PETITIONER**

**AND**

**ATTORNEY GENERAL.....1<sup>ST</sup>  
RESPONDENT**

**PERMANENT SECRETARY, MINISTRY OF LANDS AND SETTLEMENT...2<sup>ND</sup>  
RESPONDENT**

**PERMANENT SECRETARY, MINISTRY OF SPECIAL PROGRAMMES.....3<sup>RD</sup>  
RESPONDENT**

**RULING**

***(Directions on mode of hearing and disposal of constitutional petition)***

1. The petition herein was filed in court on 19<sup>th</sup> September 2011. The petitioners allege that their fundamental rights and freedoms have been violated with regard to the alleged sale of the property known as Ndonga Farm Subukia L.R. No.6507 to the Government of Kenya.

2. The 1<sup>st</sup> to 8<sup>th</sup> petitioners describe themselves as daughters of the late Benjamin Njoroge Wamanji while the 9<sup>th</sup> petitioner is daughter in law of the said Benjamin Njoroge Wamanji. The 10<sup>th</sup> petitioner is a granddaughter of Benjamin Njoroge Wamanji. The respondents are various government officers as specified in the petition.

3. When the petition came up for directions on 17<sup>th</sup> October 2017, the court ordered that it be heard by way of affidavit evidence followed by written submissions. Directions were given as to timeframes for filing and exchange of submissions. The matter next came up on 19<sup>th</sup> December 2017 for oral highlighting of submissions. On that date Ms. Cheruiyot, learned counsel for the respondents, told the court that she was yet to file her submissions. She also urged the court to allow oral evidence to enable her cross examine the document examiner in relation to his report on the power of attorney in issue. Mr. Biko, learned counsel for the petitioners, did not oppose the application. Though the date was taken in the presence of counsel for the 267 interested parties, there was no appearance for the interested parties on 19<sup>th</sup> December 2017.

4. Having considered the matter and in view of directions earlier given on 17<sup>th</sup> October 2017, I now give the following directions:

- a. The hearing of the petition shall be by both viva voce evidence and affidavit evidence.
- b. The petitioners shall call one witness who will give oral testimony.
- c. The respondents shall call one witness who will give oral testimony.
- d. The interested parties shall call one witness who will give oral testimony.
- e. The maker of the Forensic Document Examiner's Report in respect of the Special Power of Attorney dated 10<sup>th</sup> January 2011 shall attend court to testify and to produce the report.
- f. Any party who wishes to adduce further evidence beyond that specified above shall do so by the

affidavits already on record or by new affidavits.

5. It is so ordered.

**Dated, signed and delivered in open court at Nakuru this 30<sup>th</sup> day of January 2018.**

**D. O. OHUNGO**

**JUDGE**

In the presence of:

Mr. Opondo holding brief for Mr. Biko for the petitioners

No appearance for the respondents

No appearance No appearance for the 1<sup>st</sup> to 267<sup>th</sup> Interested Parties

Court Assistant: Gichaba