



**Lamba & another v Pearls Kids Academy Limited & 3 others (Environment and Planning
Petition E008 of 2024) [2025] KEELC 5944 (KLR) (14 August 2025) (Judgment)**

Neutral citation: [2025] KEELC 5944 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NAIROBI
ENVIRONMENT AND PLANNING PETITION E008 OF 2024**

**AA OMOLLO, J
AUGUST 14, 2025**

BETWEEN

DAVINDER LAMBA 1ST PETITIONER

SUNIL LALCHAND SHAH 2ND PETITIONER

AND

PEARLS KIDS ACADEMY LIMITED 1ST RESPONDENT

SAVITA VIRCHAND SHAH 2ND RESPONDENT

NAIROBI COUNTY GOVERNMENT 3RD RESPONDENT

NEMA 4TH RESPONDENT

JUDGMENT

1. The 1st and 2nd Petitioners filed this suit against the 1st, 2nd, 3rd and 4th Respondents vide Petition dated 8th April 2024 supported by an affidavit sworn on the same date by Davinder Lamba seeking for the following orders;
 - a. An order does issue restraining the 1st & 2nd, 3rd, 4th Respondents, their agents, servants, employees or any person acting under its authority by a way of an injunction from establishing, operationalizing and/or in any other way carrying on the business of a school known as Pearls Kids Academy on LR.No.1870/X/84 situated in Westlands, Sports Road.
 - b. That a declaration does issue that the 3rd and 4th Respondents irregularly, unconstitutionally issued approvals for change of use from residential to commercial/school, and the Environmental impact assessment license.
 - c. That a declaration do issue that the approvals were obtained without any public participation and/or seeking the views of the petitioners and other members of the Estates thus



contravened Articles 1(2), 10(2,a, b, c), 27, 33, 35,61,69(1), 118(1a, b), 119(1,2),174(c), 174(d), 184(1),196(1,a,b), 196(2), 201(a),232(1)(d)(f), 159 Fourth Schedule Part 2(14) of the Constitution Of Kenya.

- d. That a declaration do issue that the establishment of a school on Land Reference Number 1870/X/84 situate in Westlands Sports Road is unconstitutional and an abuse of the Petitioner's rights under articles 39(3), 42, 69(d, g), and 70.
 - e. That a declaration does issue that Petitioner's zoning and/or geographical location namely Westlands Sports road is not a commercial area by dint of the Urban areas and cities Act and regulations of Nairobi County.
 - f. An order do issue directing the 1st & 2nd Defendants to pull down, remove and clear all those advertisement posters inviting members of the public to enroll their kids into the school and/ or stop any admissions into the school.
 - g. An order do issue directing the 1st & 2nd Defendants to pull down, remove and clear all those unapproved/ illegal structure extensions on the main house making up the school premises and touching on the 2nd Petitioner's wall fence, including but not limited to classrooms, kitchen, block/ gate extension into the Petitioner's common user road and the other facilities comprising the school.
 - h. A prohibitory Order to deter the 1st and 2nd Respondents from sound polluting the property either through noise or smoke pollution.
 - i. Costs of the suit.
 - j. Damages
 - k. Any other or further relief as this Honourable Court may deem fit and just to grant.
2. The Petitioners aver that they are the legal owners of parcels of land known as LR 1870/X/21 and LR 1870/X/83 respectively and the 1st and 2nd Respondents own LR 1870/X/84 herein after referred to as "the suit property". The Petitioners allege that the Respondents unlawfully changed the use of the suit property from residential to commercial/School without following legal procedures or involving them as immediate members of the public affected.
 3. They claim that a school, Pearls Kids Academy, was established within their residential estate, causing noise pollution, traffic congestion, and obstruction at the estate's main entrance. Despite an earlier court order in ELC No. E078 of 2023 barring school operations, the 3rd and 4th Respondents later issued approvals allegedly in collusion with the 1st and 2nd Respondents, making this suit moot.
 4. The Petitioners argue that these approvals, including the one dated 19th December 2023 and an environmental impact assessment license dated 15th December 2023, were granted without public participation, thus violating their constitutional rights and prompting them to convert their suit into a constitutional petition.
 5. The Petitioners state that they act on their own behalf and that of other estate residents, opposing the establishment of a school by the 1st and 2nd Respondents on their Respondent's residential property, citing harmful noise pollution and lack of public participation. They argue that the development violates the property's original residential-use conditions and infringes on their constitutional rights and fundamental freedoms.



6. The Petitioners claim that the Respondents, particularly the 3rd and 4th Respondents, violated their constitutional duties by granting approvals for the change of land use from residential to commercial/school and issuing an Environmental Impact Assessment (EIA) license without involving them as the directly affected public. They implead that this process lacked transparency, public participation, and due process, thereby violating several provisions of *the Constitution* including Articles 1, 10, 27, 33, 35, 42, 61, 69, and 174.
7. The Petitioners emphasize that the public has a constitutional right to be involved in decisions affecting land use and environmental management, and that the relevant approvals were issued despite a pending court order that had barred the school's operation. The Petitioners further argue that the approvals and resulting development are unlawful and unconstitutional because they infringe on their right to quiet enjoyment of their homes and expose them to environmental and health hazards.
8. They highlight that the establishment of a school within a residential estate will cause excessive noise from pupils, teachers, and bells, and increase air pollution due to kitchen emissions. That these disruptions violate their rights under Articles 40, 42, 69, and 70 of *the Constitution*, and breach the statutory requirement for public participation outlined in the *County Governments Act*.
9. Additionally, the Petitioners express concern about the practical impact of the school's operation on their daily lives and wellbeing. They cite expected traffic congestion at the estate entrance due to the influx of parents and vehicles, which will interfere with their access to social amenities. They raise health concerns over the conversion of residential bedrooms into classrooms in a confined 80x90 ft space, potentially exposing children to overcrowding and airborne diseases.
10. The 1st and 2nd Respondents vehemently opposed the Petition vide replying affidavit sworn on 26th April 2024 by Trusha Shah where she affirms ownership of the suit property, through inheritance from the 2nd Respondent (her late mother) and confirms possession of all relevant ownership and development documents. They assert proper compliance with legal procedures, including obtaining a change of user from residential to commercial use in 2015 and necessary construction approvals from the Nairobi City County.
11. The deponent argues that the school established by the 1st Respondent has adhered to all regulatory requirements, including those from the County Government and NEMA, and operates independently with its own gate and infrastructure. Further, they contend that claims of noise pollution and traffic disruption are baseless due to the school's layout and significant separation from residential areas.
12. Ms Shah also made references to previous court rulings and the Petitioners' withdrawal of an earlier suit, noting that any concerns about compliance have been addressed through proper channels. The 1st and 2nd Respondents stated that the Petitioners' actions are motivated by personal grievances rather than legal grounds and emphasize that all required environmental and planning approvals were lawfully obtained.
13. The Petitioners filed further affidavit sworn by Davinder Lamba on 18th March 2025 objecting to the establishment and operation of the Respondent's school due to current and projected noise pollution, lack of proper approvals, and health concerns. They argue that the noise assessment report relied on by the Respondent is inaccurate, misleading, and based on flawed data such as off-school hours and minimal student attendance.
14. That the school, though approved for 60 children across 6 classes, currently has far fewer children thus rendering the noise data unrepresentative of future conditions. They insist that no public participation



occurred during the approval process and that the school violates estate zoning rules. That its expansion will severely impact their peace, property values, and health.

15. The 1st and 2nd Respondents also filed a further replying affidavit sworn on 6th December 2024 by Trusha Shah. She affirms that Pearls Kids Academy Limited operates legally under a valid lease and within permissible noise levels. She states that the kindergarten caters to 12 children aged 2 to 6 years and operates only on weekdays from 8:00 a.m. to 1:00 p.m.
16. She also disputes the Petitioners' assertions of long-standing peace in the estate, noting that the suit property is in a mixed residential and commercial zone with nearby establishments like a church, mall, and public service vehicles.
17. She also clarified that the Petitioners use a separate entry and are not directly affected by the school's activities. That NEMA-licensed experts conducted a noise survey on 13th November 2024 during school hours, which confirmed compliance with the environmental noise regulations.
18. That the findings of the noise survey showed that the noise levels from the kindergarten's dining area is 43.5 decibels and playground 45.7 decibels which are within NEMA's permissible limits. Significantly, higher noise levels originate from surrounding establishments like Parklands Baptist Church, Kipro Centre Mall, and the nearby matatu stage. The 1st and 2nd Respondents emphasized that noise from the kindergarten is minimal, does not involve sound amplification, and recreational activities are limited. She also criticized the Petitioners' expert report for omitting crucial data and attempting to discredit the broader context of noise in the area.

Submissions:

19. In support of their case, the Petitioners filed submissions dated 8th April 2025 while on opposition thereto, the 1st and 2nd Respondents filed submissions dated 27th May 2025. The 3rd and 4th Respondents did not file any submissions.
20. The Petitioners submitted that the development of the school on the suit property infringes upon their constitutional rights under Articles 39(3), 42, 69, and 70 of *the Constitution*, primarily due to environmental degradation, noise pollution, and the destruction of the peaceful residential character of the estate.
21. They assert that the school's operations introduce traffic congestion, dust, air and noise pollution, hence disrupting their right to a clean and healthy environment. As proof of their claim, they rely on the scientific reports submitted which indicate that the environmental and noise levels are at or near regulatory thresholds even before the school is fully operational, and will worsen, thus making their homes uninhabitable.
22. The Petitioners claim that there was a complete lack of public participation before the approvals of licenses for the school were issued by the 3rd and 4th Respondents amounting to violation of constitutional provisions including Articles 1(2), 10, 27, 33, 35, and 69, among others.
23. They argue that the change of user and EIA licenses were granted without any consultation or engagement with them, contrary to statutory obligations under the Environmental Management and Coordination Act and the *Physical and Land Use Planning Act*. The Petitioners submit that the given approvals are unconstitutional and void for lack of evidence provided by the Respondents to demonstrate that they complied with the requirements for public participation.
24. It is their further submission that the environmental impact assessment license and the change of user approval were issued irregularly and unconstitutionally because the 3rd and 4th Respondents only issued



- a license for the construction of classrooms, not for operational use and that the EIA report failed to account for operational environmental effects.
25. Further, that the licenses were granted in defiance of a court order and without considering the statutory sequence required under EMCA and urban planning laws. They stated that the approvals were obtained while a suit was pending and when the school was already in operation, raising concerns of procedural impropriety and deliberate circumvention of the law.
 26. The Petitioners assert that Westlands Sports Road is a residential area as per Nairobi County zoning regulations and the *Urban Areas and Cities Act* and that there has been no reclassification of the zone, nor any evidence of procedural compliance for such a change. Also, the establishment of a school in a private three-bedroom house without meeting Ministry of Education infrastructure and safety guidelines renders the development illegal.
 27. Bottom of Form On the other hand, the 1st and 2nd Respondents submit that the Petition fails to meet the constitutional threshold for a cause of action. That it does not invoke Article 22, which is the jurisdictional basis for asserting violations of constitutional rights and in support cited the case of *Anarita Karimi Njeru v Republic* [1979] eKLR and *Mumo Matemu v Trusted Society of Human Rights Alliance & Others* [2013] eKLR.
 28. The Respondents submitted that the Petitioners rely on speculative claims of future noise, congestion, and environmental harm without empirical evidence or demonstrated breach of any legal or constitutional limit. Further, the matter was previously litigated in ELC Petition No. E078 of 2023, which was withdrawn without explanation, only to be reintroduced in a repackaged form, amounting to forum shopping and abuse of court process.
 29. The Respondents stated that the kindergarten operated by the 1st Respondent is lawfully established on the suit property under a valid change of user approval obtained in the year 2015. That the issuance was supported by appropriate planning permissions and licenses, including an EIA license from NEMA.
 30. They stated that their operations are in compliance with land use and environmental regulations arguing that the Noise Level Survey (Exhibit TS1) conducted by a licensed expert confirms that the school's noise emissions are within the 50–55 dB daytime threshold prescribed for residential areas. That in contrast, other surrounding premises, including Parklands Baptist Church and Kipro Centre, emit higher decibel levels noting that also the area is also zoned as mixed-use.
 31. On the question of environmental rights under Articles 42, 69, and 70 of *the Constitution*, the Respondents submit that the Petitioners have not proven actual or imminent environmental harm attributable to them. They cite the principles set out in *Gidoomal & Another v NEMA & 3 Others* [2023] KEELC 19223 (KLR) requiring a petitioner to show more than hypothetical concerns.
 32. They also relied on the Court of Appeal decision in *Benson Ambuti Adegga & 2 Others v Kibos Distillers Ltd & 5 Others* (Civil Appeal 309 of 2019) and the Supreme Court in *Adegga & Others v Kibos Distillers Ltd* [2020] KESC 36 (KLR) which emphasized the need to exhaust statutory dispute mechanisms such as the NEMA Tribunal before approaching constitutional courts to argue that the Petitioners failed to utilize these mechanisms, rendering the Petition premature and procedurally defective.
 33. The Respondents also stated that the reliefs sought to wit demolition orders, revocation of approvals, and closure of the school are grossly disproportionate and unwarranted under Article 24 of *the Constitution* noting that the Petitioners have not established any ongoing constitutional harm.



34. In support, the Respondents cited the case of *Syokimau Residents Association v County Government of Machakos & Another* [2019] eKLR which held that courts must ensure that remedies granted do not unjustifiably infringe on others' rights, such as the right to education under Article 53(1)(b).
35. The Respondents stated that the school serves 12 children, operates within lawful hours, and causes no measurable environmental harm thus the Petition should be dismissed in its entirety for want of merit, jurisdictional foundation, and proportionality.

Analysis and Determination:

36. I have read the Pleadings filed by the parties, the evidence annexed thereof in support of their respective cases and also considered the submissions filed. The issues in contention brought out in suit are;
- i. challenging the approvals process for change of user license from residential to commercial/school and the EIA license issued to the 1st and 2nd Respondents on the grounds that the same were obtained without any public participation.
 - ii. Whether operation of the school violates or is likely to violate the right to a clean and healthy environment of the Petitioners.
 - iii. Whether the reliefs sought by the Petitioners should be granted?
 - iv. Who bears the costs.

Whether there was public participation while issuing the Change of user and the EIA license:

37. The Petitioners pleaded that the 3rd Respondent issued the 1st and 2nd Respondents with a change of user license for the suit property changing use from residential to commercial/School. While the 4th Respondent issued them with Environmental Impact Assessment License without involving the Petitioners as the public directly affected by the development of the school on the suit property.
38. I can see that the change of user license dated 16th February 2015 that read "proposed change of user from residential to commercial (Offices & shops)" was at first used by the 1st and 2nd Respondents in establishing the school. After a suit was filed challenging the said license and upon this court's indication that the same was specifically for offices and shops, the Respondents proceeded to obtain another one dated 19th December 2023.
39. The 1st and 2nd Respondents also obtained an EIA License dated 15th December 2023 under which the 4th Respondent acknowledged that they received Environment Impact Assessment Project report from Pearls Kids Academy Limited and which report is one of the pre-requisites to be undertaken before issuance of an EIA License.
40. The concept of public participation before undertaking a development is provided under article 10(2) of *the Constitution* and Section 58(7) and (8) of The *Physical and Land Use Planning Act* (PLUPA). Section 58 states thus;
- “7. A person applying for development permission shall also notify the public of the development project being proposed to be undertaken in a certain area in such a manner as the Cabinet Secretary shall prescribe.



8. The notification referred to under sub-section (7) shall invite the members of the public to submit any objections on the proposed development project to the relevant county executive committee member for consideration”
41. In the case of *British Tobacco PLC versus Cabinet Secretary of Health (2019) Eklr*, the Supreme Court of Kenya at paragraph 96 of the judgement set out the guiding principles of public participation in stating thus;
- “It is through public participation that the people continue to find their sovereign place in the governance they have delegated to both the National and County Governments.
- i. As a constitutional principle under Article 10(2) of *the Constitution*, public participation applies to all aspects of governance.
 - ii. The public officer and or entity charged with the performance of a particular duty bears the onus of ensuring and facilitating public participation.
 - iii. The lack of a prescribed legal framework for public participation is no excuse for not conducting public participation; the onus is on the public entity to give effect to this constitutional principle using reasonable means.”
42. In this case, the Petitioners contend that the Licenses issued by the 3rd and 4th Respondents were unconstitutional and therefore should be declared null and void. The process of obtaining an EIA license is set out in section 58 of the *Environmental Management and Co-ordination Act (EMCA) 2015* and It provides as follows:
- “ 1. Notwithstanding any approval, permit or license granted under this Act or any other law in force in Kenya, any person, being a proponent of a project, shall before financing, commencing, proceeding with, carrying out, executing or conducting or causing to be financed, commenced, proceeded with, carried out, executed or conducted by another person any undertaking specified in the Second Schedule to this Act, submit a project report to the Authority, in the prescribed form, giving the prescribed information and which shall be accompanied by the prescribed fee.
 2. The proponent of any project specified in the Second Schedule shall undertake a full environmental impact assessment study and submit an environmental impact assessment study report to the Authority prior to being issued with any license by the Authority:
43. There is no doubt that the public/stakeholder involvement is a fundamental principle of the EIA process in achieving sustainable development. Its important has been expressed globally under article 10 of the 1992 Rio Declaration (Declaration of the United Nations Conference on Environment and Development) and item 23.2 of Agenda 21.
44. The International Association of Public Participation (<http://www.iapp.org>) defines public participation as a process by which organizations consult with interested or affected parties before a decision is taken. In this instance, there is no dispute that the Petitioners neighbour the 1st and 2nd Respondents. The introduction/established of a school on an area that was predominantly residential is likely to impact on the surrounding environment including the Petitioners. Thus, the Petitioners can be classified as interested or affected persons and were entitled to be consulted/engaged for purposes of



being informed about the project and any mitigating factors before the impugned licenses were issued to the 1st and 2nd Respondents.

45. Instead, the 1st and 2nd Respondents have adduced an EIA License dated 15/12/2023 which certifies that an EIA Project Report was presented to the 4th Respondent. However, a copy of the said report was not produced from which one could tell whether or not any questionnaires were shared with the affected public or any evidence of stakeholder engagement/meeting showcasing that the public was invited to present their views on the proposed development of a school on the subject land.
46. Similarly, the Notification of Approval of Application form for change of user of the suit property from Residential to Education (Nursery/Kindergarten) dated 19/12/2023 states that the Application was submitted on 31/7/2023 but the said application has not been produced. The Physical land use and Planning Act under section 58 requires of the proponent to advertise the proposed change at the project site and in one of the daily newspapers with nationwide circulation.
47. What is in question is not if the EIA License or Change of User license were acquired but the procedure on how the same were obtained. Therefore, the burden was upon the 1st and 2nd Respondents to prove that they followed the law by conducting the required public participation and or notification to allow room for any objections before being issued with the impugned licenses. No such evidence was presented to the court and hence there is nothing to corroborate their assertion that there was adequate and qualitative public participation.
48. In the case of *Moffat Kamau & 9 Others versus Actors of Kenya Ltd* (2016) eKLR, the court held that;

“where the procedures for the protection of the environment are not followed, then an assumption may be drawn that the right to a clean and healthy environment is under threat.”
49. Although the 1st and 2nd Respondents accuse the Petitioners of witchhunt, probably the dialogue enabled through public participation would have helped them (Petitioners) gain understanding of the magnitude of the project and dissuade them for filing this suit. The Respondents cannot shift the blame ensuing from their omission to follow the laid down process of obtaining licenses.
50. Consequently, the EIA and change of user licenses displayed by the 1st and 2nd Respondent cannot stand where the law was not followed and whose effect denied the Petitioner an opportunity to interrogate whether the Respondents had put in safeguards to ensure their right to a clean and healthy environment would not be violated.

Whether the project violates or is likely to violate the Petitioners rights:

51. The Petitioners impleaded that the school’s operations introduced traffic congestion, dust, and air and noise pollution thus disrupting their right to a clean and healthy environment. In support, the Petitioners relied on the Traffic Impact Assessment (TIA) Report dated October 2024, which stated in the conclusion’s clause that;

“the new school development will adversely affect traffic flow along Sports Avenue and other adjoining roads in its current outlay. These impacts can only be mitigated through an elaborate traffic management at the school and local routes by the concerned road agencies.”



52. I have also considered the Environmental Noise Level Survey dated 24th October 2024 which reads in clause 3.1. as follows;

“The assessment results show that baseline noise levels measured along the sampled boundary walls fall within the recommended limits for mixed residential areas during daytime when school activities are not in session. However, these readings were taken while the school was on break, suggesting that noise levels may exceed the baseline once school resumes, due to the additional noise generated by classroom activities and, particularly, from children playing on the field near the boundary wall. Elevated noise levels for a school situated within a residential area may have health implications, including potential distractions and stress for nearby residents. Prolonged exposure to high noise levels can also contribute to hearing issues and decreased concentration, affecting overall wellbeing and productivity.

53. The Petitioners assert that the scientific reports submitted indicate that the environmental and noise levels are at or near regulatory thresholds even before the school is fully operational, and will worsen, thus making their homes uninhabitable. The Petitioner is urging the court to grant orders in anticipation since the noise levels as currently emitted and measured is not detrimental to the environment. However, the door of the court and the 3rd and 4th Respondents is not closed for the Petitioners to move them appropriately when the noise levels shall rise beyond permissible levels.

54. For now, I am unable to grant the anticipatory orders without certainty when the 1st Respondent’s population if at all will increase and ensuing rise in the noise levels beyond permissible standards.

55. The sizes of a standard classroom as per the Ministry of Education guidelines was never pleaded in the petition or the affidavits in support thereof. It is being raised for the first time in the submissions which action amounts to trial by ambush. In any event, parties are not allowed in law to introduce documents through submissions hence reference to Safety Standards Manual for Schools in Kenya (April 2008) is both unprocedural and unfair to the Respondents.

56. The Petitioners argue that their rights under article 39 has been violated which right allows them to settle and own land anywhere in Kenya. The Respondents are neither claiming the Petitioners land nor have they been asked to vacate their properties. In their further affidavit, Mr Davinder confirms the existence of an “illegal bus stop” referred to in the Noise Levels Report filed by the 1st and 2nd Respondents. He deposes that they had lodged a complaint with the Nairobi County Government to have the “illegal bus stop” removed.

57. Despite the existence of this “illegal bus stop” the Petitioners have not vacated their homes. Besides the bus stop, the 1st and 2nd Respondent averred that there exists a church and a mall nearby. Hence, I do not find how the establishment of a school per se amount to a violation of an article 39 right and find the claim for the violation as not proved.

58. With respect to claims of violation and or threats to their health arising from dust and air pollution/ emissions, no air quality report for the surrounding environment was filed to corroborate the averment. Other than the report, the Petitioner was under obligation to prove that it is only emissions from the 1st and 2nd Respondents property that was emitting air/dust polluting their (Petitioners) environment for this court to hold these Respondents culpable.

59. It is one thing for parties to make allegations of violations of their rights. They also have a duty to prove the actual or likelihood of such violations and not just proceed on assumptions. In this instance, the Petitioners except for the right to public participation have failed to demonstrate how the



Respondents violated their rights under article 27, 33, 35, 61, 118, 119, 174, 184, 196, 201 and 232 of *the Constitution*.

60. The Court of Appeal in the case of Director of Public Prosecutions v Justus Mwendwa Kathenge & 2 others [2016] eKLR discussed that traditionally the basis of application of the equitable remedy of injunction has been section 63 of the *Civil Procedure Act* and Order 40 (previously 39) of the Civil Procedure Rules. That today Article 23 of *the Constitution* specifically identifies an order of injunction as one of the reliefs that a court can grant if it is satisfied that a person's right or fundamental freedom under the bill of rights has been denied, violated or infringed or is threatened.
61. The purpose of an order of injunction was described in the case of New Kenya Co-operative Creameries Limited v Hassan Ali Mboga & 150 others; National Land Commission (Interested Party) [2021] eKLR, was held that;

“By granting a prohibitory injunction, the Court does no more than prevent for the future continuance or repetition of the conduct the applicant complains of.”
62. The impugned development which is a school is to be undertaken on private property whose owner is also bestowed with the right to property under article 40 of *the Constitution* and the right to occupy and use given by section 24 and 25 of the *Land Registration Act*. Hence while considering what orders to grant, their rights have to be balanced with the rights of Petitioners and the environment and proof of the alleged violations.
63. It is therefore unjust to prohibit the 1st and 2nd Respondents from utilizing their suit property provided they do it in a pro-clean and healthy environment manner and adhere to the procedural regulations such as conducting quantitative and qualitative public participation before acquiring the requisite licenses.

Orders available and are granted:

64. In conclusion, I find that the right procedure of acquiring the Change of User and EIA license not having been followed, the Petitioners rights under article 10(2) of *the Constitution* was violated. Therefore, it is my opinion and I so hold that the orders contained under prayers b, c, and f be issued and I issue them as follows:
 - a. That a declaration does issue that the 3rd and 4th Respondents irregularly, unconstitutionally issued approvals for change of use from residential to commercial/school, and the Environmental impact assessment license in the absence of notification to the public and or public thus contravened Articles 1(2), 10(2a, b, c) of *the Constitution*.
 - b. The 1st & 2nd Respondents are given 90 days from the date of this judgement to pull down, remove and clear all the advertisement posters inviting members of the public to enroll their kids into the school and/or stop any admissions into the school.
 - c. The 1st & 2nd Respondents are granted 120 days to regularize the impugned licenses and in default, an order shall issue directing them to discontinue operating the school on the suit premises.
 - d. Since the issues raised in the Petition touched on environmental rights, each party shall meet their respective costs.

DATED, SIGNED AND DELIVERED AT NAIROBI THIS 14TH DAY OF AUGUST, 2025

A. OMOLLO



JUDGE

