

REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT MACHAKOS

ELC. CONST. PETITION NO.34 OF 2015

EASY PROPERTIES LIMITED.....PETITIONER

VERSUS

THE SUB-COUNTY ADMINISTRATOR,

MAVOKO TOWN.....1ST RESPONDENT

THE MACHAKOS COUNTY GOVERNMENT.....2ND RESPONDENT

AND

EXPRESS CONNECTIONS LTD1ST INTERESTED PARTY

KENYA COMMERCIAL BANK LTD.....2ND INTERESTED PARTY

JUDGMENT

1. On 16th November, 2015, the Petitioner herein filed a Petition in which it alleged that it developed a parcel of land known as L.R. No. 12715/522 which it sold to Express Connections Limited; that the 1st Respondent issued a notice in regard to the suit land purporting to exercise powers which it did not have and that the directions of the Respondents were *ultra vires*, illegal, irrational and in breach of the rules of natural justice.
2. In the prayers, the Petitioner sought for a declaration that the notice that was issued on 2nd April, 2015 by the 1st Respondent is null, illegal and void. The Petitioner also sought for the costs of the Petition.
3. The 2nd Respondent's Chief Legal Officer filed a Replying Affidavit in which he opposed the Petition. According to the 2nd Respondent, the Petitioner breached the provisions of the Physical Planning Act by developing the suit land without a development permission granted by the local authority, amongst other breaches.
4. On 15th March, 2018, the court directed that the Petition to proceed by way of written submissions. However, the Petitioner's advocate did not file the written submissions as directed by the court. It is only the advocate for the 2nd Interested Party who filed his submissions.
5. Having failed to file submissions, I find that the Petition herein remains unprosecuted. Consequently, the Petition dated 12th November, 2015 is dismissed with costs for want of prosecution.

DATED, DELIVERED AND SIGNED IN MACHAKOS THIS 28TH DAY OF SEPTEMBER, 2018.

O.A. ANGOTE

JUDGE