



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT NAIROBI

E.L.C. PETITION NO. 18 OF 2017

IN THE MATTER OF THE CONTRAVENTION OF THE FUNDAMENTAL RIGHTS AND FREEDOMS

UNDER ARTICLES 2 (5) & (6), 28, 31, 40, 258 AND 260 OF THE CONSTITUTION OF KENYA, 2010

AND

THE CONSTITUTION OF KENYA (PROTECTION OF RIGHTS AND FUNDAMENTAL FREEDOMS) PRACTICE AND PROCEDURE RULES, 2013

AND

SECTION 13 OF THE ENVIRONMENT AND LAND COURT ACT, 2011

AND

BETWEEN

SIGMA PHI INVESTMENTS LIMITED.....PETITIONER

VERSUS

THE INSPECTOR GENERAL OF THE

NATIONAL POLICE SERVICE.....1ST RESPONDENT

THE DEPUTY INSPECTOR GENERAL

OF THE ADMINISTRATION POLICE SERVICE.....2ND RESPONDENT

RULING

The Petitioner filed the application dated 4th May 2017 seeking conservatory orders to restrain the Respondents, their officers, complainants, agents, servants or employees from threatening, intimidating, harassing, interfering, undermining, restricting and disturbing the Petitioner's quiet and peaceful use, ownership, possession, development and construction of L. R. No.209/11434 situated in Masaa Road off Mombasa Road within Nairobi County ("the Suit Property"). The Petitioner seeks these orders pending hearing and determination of its petition. It seeks a further order for the Respondents to reveal or disclose to it and this honourable court the full names of the complainant and the nature of their complaint over the

Suit Property within 30 days.

The application is supported by the affidavit of Catherine Wangari, a Manager of the Petitioner. She depones that the Petitioner which is a limited liability company is the lawful owner of the Suit Property. It commenced construction and development of the Suit Property. On 25th April, 2017 at around 4.00 p.m., a land rover full of administration police officers arrived at the Suit Property while the Petitioner's contractor Juja Blocks Ltd was carrying out construction and development activities on the Suit Property. The armed Administration Police officers demanded access to the Suit Property ostensibly to conduct a search. They did not display a court order or identify themselves. They claimed that there was an ownership dispute and that the complainant had reported a dispute to them. These officers demanded that the Petitioner and its agents immediately stop construction and present themselves to the Deputy County Commissioner of Police at Wilson Airport police station and to present the documents of ownership of the Suit Property. The Petitioner claims that the actions of the Respondent were unlawful, unconstitutional and amounted to harassment and intimidation of the Petitioner, its servants, agents and employees. The Petitioner expressed fear that its agents may be harmed, injured or mortally wounded if the crowd of administration police officers were to return and follow up on their threats. They therefore, seek conservatory orders.

This court granted interim conservatory orders on 11th May 2017 and directed that the Respondents were to be served for *inter partes* hearing on 21st June 2017. The Respondents were served but did not file any papers.

The court has considered the application and is of the view that it would be in the interest of justice to grant prayers 4, 5 and 6 of the application dated 4th May, 2017.

Dated and delivered at Nairobi on 29th June 2017.

K. BOR

JUDGE

In the presence of: -

Ms. Wangui holding brief for Wairoto for the Applicant

No appearance for the Respondents

Mr. V. Owuor- Court Assistant