



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT MERU

CONSTITUTION PETITION NO. 14 OF 2017

**IN THE MATTER OF: ARTICLE 2, 3, 6, 10, 19,21,22,23,25,26,27,28,29,35,37,40,43,47,48,50,165,
186 OF THE CONSTITUTION OF KENYA**

AND

**IN THE MATTER OF:CONTRAVENTION OF FUNDAMENTAL RIGHTS AND FREEDOMS
UNDER ARTICLE 26 (1), (3), 27(1), (2),28,29(c) (d) 17 ,40 & 43 OF THE CONSTITUTION AND
RULE 11 (C) AND 12 THE CONSTITUTION OF KENYA (PROTECTION OF
FUNDAMENTAL RIGHTS AND FREEDOMS) PRACTICE AND PROCEDURE RULE, 2013
AND ALL OTHER RELEVANT ENABLING POWER & PROVISION OF THE LAWS OF
KENYA.**

AND

**IN THE MATTER OF: ARTICLE 25 OF THE UNIVERSAL DECLARATION OF HUMAN
RIGHTS**

BETWEEN

JOHN NTOITI MUGAMBI, EMILY MUTUA K

& ISIAAH MWITI MUNGATHIA officials of the ISIOLO STAGE

VIEW ENTERPRISES C.B.O

**(Acting in the interest of its
members).....PETITIONERS**

AND

**ISIOLO COUNTY GOVERNMENT.....1ST
RESPONDENT**

**THE INSPECTOR GENERAL OF POLICE.....2ND
RESPONDENT**

**THE HON. ATTORNEY GENERAL.....3RD
RESPONDENT**

RULING

The Court has been urged to grant prayer No. 2 in the application of 28:09: 17 which is to the effect that ***“an order of Temporary Injunction be issued to restrain the respondent jointly and severally by themselves, agents, servants, assigns, representations, unions supervisors herein by from interfering and/or removing, evicting , constructing and desist from blocking the Applicants from carrying out their business in the manner and the places they were carrying their business before the fire gutted down there business premises pending hearing and determination of this application and the main petition”***.

A perusal of the documents availed by the Applicant reveals that there is (or there was) a similar case ELC No. 102/15 where the Petitioners had obtained Injunctive Orders against 1st Respondent. The Court has not been told as to what are the status of this case. In absence of any further particulars regarding the ELC case, I would be reluctant to grant any orders Exparte.

Secondly, I find that prayer 1 in the petition is an order for ***“declaration that the forcible violence and brutal eviction of the Petitioners members from their business establishment within the main market within Isiolo County.....is a violation of fundamental right to life”***. The Court cannot therefore grant the orders Exparte as it has to determine the rights and interests of the petitioners in the Suitland.

I therefore decline to grant the orders Exparte.

Instead, I direct that the matter be heard on priority basis (both the application and the Petition).

DELIVERED, SIGNED AND DATED IN OPEN COURT AT MERU THIS 3rd DAY OF OCTOBER, 2017 IN THE PRESENCE OF:

CA: Janet

Ashaba for Petitioner/ Applicant Present

Hon. L.N. MBUGUA

ELC JUDGE