



REPUBLIC OF KEYA

IN THE ENVIRONMENT AND LAND COURT OF KENYA

AT NAKURU

PETITION 23 OF 2012

V/D BERG ROSES.....1ST PETITIONER

PROJECT AGRO LEASE LIMITED.....2ND DEFENDANT

VERSUS

THE ATTONERY GENERAL.....1ST RESPONDENT

THE MINISTER FOR ENVIRONMENT AND

MINERAL RESOURCES.....2ND RESPONDENT

AND

NATIONAL ENVIRONMENT MANAGEMENT

AUTHORITY.....INTERESTED PARTY

JUDGMENT

(Suit by petitioner challenging the constitutionality of certain regulations made for the management of the Lake Naivasha riparian area; argument that the provisions will interfere with the right to own property; constitution having elaborate provisions on the protection of the environment; nothing wrong with rules and regulations for the protection of the environment; right to property does not mean that a person can use land as he/she wishes; same subject to regulation on planning and land use; nothing unconstitutional about the impugned regulations; petition dismissed with costs)

PART A. INTRODUCTION AND PLEADINGS

1. This is a constitutional petition commenced on 4 June 2012. The 2nd petitioner is said to be the registered lessee from the Government of Kenya of the land parcel number 10854/60. This property is used by the 1st petitioner to carry out horticultural farming and it is averred that the 1st petitioner has been farming the land in excess of 10 years without interference. The quarrel that the petitioners have is with the Environmental Management (Lake Naivasha Management Plan) Order which is comprised in Legal Notice No. 108 of 2004, specifically paragraphs m, n, o, and p dealing with Habitat Management and Nature Conservation of the Lake Zone. These provisions are drawn as follows :-

(m) all agricultural activities on riparian land shall be prohibited.

(n) all structures except those approved by the Committee on riparian land, shall be prohibited.

(o) the planting of suitable indigenous fuel wood crops and screens for unsightly developments shall be encouraged; and

(p) the cultivation of reverse slopes away from the lake shall be encouraged.

2. It is the contention of the petitioners that the effect of the above provisions is to take away the petitioners' right to property without buying it or compulsorily acquiring the same. The petitioners have asked for the following prayers:-

(a) A declaration that the petitioners' right to property as protected by Article 40 (1) and (2) of the Constitution, 2010 has been contravened and is being contravened by paragraphs m, n, o, and p, of the Habitat Management and Nature Conservation part of the Environmental Management (Lake Naivasha Management Plan) Order, 2004.

(b) A declaration that paragraphs m, n, o, and p of the Habitat Management and Nature Conservation part of the Environmental Management (Lake Naivasha Management Plan) Order, Legal Notice No. 108 of 2004 are unconstitutional for being in contravention of Article 40 (1) and (2) (a) of the Constitution.

(c) A conservatory order be issued restraining the respondents or any other person acting on their behalf from implementing paragraphs m, n, o, and p of the Habitat Management and Nature Conservation part of the Environmental Management (Lake Naivasha Management Plan) Order, Legal Notice No. 108 of 2004 or in any other way interfering with the applicants' occupation and use of its legally acquired parcel of land known as LR No. 10854/6 and which forms part of the Lake Naivasha riparian land.

3. The petition is supported by the affidavit of Johan Remeeus. He has averred inter alia that the effect of implementing the foregoing would be to render the petitioners' occupation of its legally acquired parcel of land illegal and to arbitrarily deprive them of their property. It is stated that the petitioner has already put up permanent structures on its land and has over a long period of time carried out horticultural farming thereon in a manner friendly to the environment. He has argued that Article 40 (1) of the Constitution provides for the right to acquire and own property and that sub-article 2(a) bars Parliament from enacting a law that permits the State or any person to arbitrarily deprive a person of property. He has further argued that Article 2 (4) of the Constitution nullifies any law which is inconsistent with the Constitution. It is his view that the above noted paragraphs of the Environmental Management (Lake Naivasha Management Plan) Order, are unconstitutional. He has averred that if implemented, the petitioners stand to lose property that it has for a long time worked to build and it would also mean that the petitioner will be put out of business.

4. The petition, as filed, was only against the Attorney General and the Minister for Environment and Mineral Resources. They filed a replying affidavit sworn by Ali D. Mohamed, the Permanent Secretary in the Ministry of Environment and Mineral Resources. He deposed inter alia, that in the year 1989, Kenya became a party to the Ramsar Convention, and as a member it is under obligation to conserve wetland ecosystems and manage wetlands wisely. After Kenya became a party to the Ramsar Convention (the Convention), Lake Nakuru was identified as the first Ramsar site and later Lake Naivasha became a Ramsar site in the year 1995. He has stated that Lake Naivasha was selected as a Ramsar site because of its uniqueness as it is the second largest fresh water lake in the country and contributes to the economy in terms of fish production and floriculture. To prevent the lake from degradation, the government felt that there was great and urgent need to arrest the effects of degrading human activities. A draft sessional paper was prepared in the year 2005. A draft management plan was also developed and subjected to stakeholder validation. It is stated that the objective of the plan is to ensure that Kenya meets its international and constitutional obligation to conserve the environment. He has stated that to his knowledge the management plan has never been implemented owing to a suit High Court Misc. Application No. 1643 of

2004 and an interim order obtained. He has averred that the petitioners are vexatious litigants as they filed this suit after failing to obtain orders in Nakuru High Court Petitions No. 9 and 10 of 2011.

5. Through an application dated 8 October 2012, the National Environmental Management Authority (NEMA) sought to be enjoined to the proceedings as interested party. That application was allowed. Upon coming into the matter, NEMA filed an affidavit to oppose the petition. The affidavit is sworn by Benjamin Langwen, who at that time was the Acting Director General of NEMA. He is also Director in charge of Compliance and Enforcement. He has deposed inter alia that the petitioners are represented on the Lake Naivasha Management Committee established by Gazette Notice No. 7704, by the various representatives including the Lake Naivasha Riparian Association and Lake Naivasha Growers Group and cannot be heard to say that they are not represented or have no avenue to ventilate their grievances. He has stated that the matter is extremely belated as the Lake Naivasha Management Order (hereinafter LNMO) was published in the year 2004 and yet the petition herein was filed 8 years later. He has stated that through the LNMO, Kenya was seeking to comply to its international obligations under the Ramsar Convention. He has also pointed out that in their records, Van de Berg Roses Kenya Limited, are not compliant on a licence over a borehole and reservoir and the 2nd petitioner has no authorization from NEMA to carry out any activity or project. He has stated that NEMA enquired from the Registrar of Companies for the particulars of the directors of the petitioners and they received a letter showing that the 2nd petitioner is non-existent. He has deposed that the 2nd petitioner has no locus to file this suit. He has further deposed that according to the records in the Lands Offices, the petitioners are not the rightful owners of the suit property and therefore have no locus to file the claim. He has pointed out that by their own admission, the petitioners state that the property is located inside a riparian reserve. He has stated that the process of developing the LNMO was very interactive and participatory. It is his view that the petition should be dismissed.

PART B. SUBMISSIONS OF COUNSELS

6. In his submissions, counsel for the petitioner referred me to Article 40 of the Constitution and submitted that the provisions of the LNMO in issue are in contravention of the same. He submitted that the LNMO was made by NEMA without consultation of stakeholders contrary to Article 10 of the Constitution. He also submitted that the Environmental Management and Coordination Act (1999) (EMCA) makes provision for public participation and consultation. He submitted that the petitioners had a legitimate expectation that they would be consulted. He further submitted that the respondents had a duty to act fairly when coming up with the regulations. He submitted that the respondents did not give the petitioners any reasons as to why the rules were to be implemented immediately.

7. For the Attorney General, it was argued by Mr. Paul Ojwang, learned counsel, that first the title to the land in the petition is not that annexed by the affidavit of Mr. Remeeus. He further submitted that the petitioners admit that the land is riparian land and therefore the same is subject to control by the relevant authorities as per Sections 2, 116, and 118 (1) and (2) of the Water Resources Rules of 2007. He submitted that there is a management obligation on the owners of riparian habitats. He submitted that Section 116 of the Water Resources Management Rules, 2007 prohibits certain activities which are also imposed by Section 48 of the Agriculture Act, CAP 318, and Sections 44, 47, and 50 of EMCA. He submitted that Article 69 (1) (a) of the Constitution give the State power to ensure sustainable exploitation, utilization, management and conservation of the environment and eliminate processes and activities that are likely to endanger the environment. He refuted the allegation that the LNMO is aimed at interfering or taking away the petitioners' land. He submitted that Kenya as State party to the Ramsar Convention, has an obligation to conserve wetland ecosystems. He submitted that this is in line with Article 2 (5) of the Constitution, the Kyoto protocol and the UN Framework Convention on Climate Change to which Kenya is a signatory. He submitted that no proof has been tendered to show that the State has infringed on their rights to own land.

8. He further submitted that the suit is incurably defective as no board resolution was annexed to the supporting affidavit. He also submitted that the suit is frivolous, filed after the petitioners had failed to get orders in Petitions NO. 9 and 10 of 2011. He submitted that the process leading to the LNMO was done with consultation and public participation and all stakeholders involved. He submitted that the petitioner

has not raised any constitutional issue for determination. He submitted that EMCA has procedures and remedies to a person aggrieved to appeal to the Tribunal (the National Environmental Tribunal). He submitted that the petitioners failed to disclose that they participated in the making of the LNMO and that they also failed to disclose to court that they tried to obtain similar orders in Petitions 9 and 10 of 2011.

9. For NEMA, it was submitted inter alia by Ms. Cecilia Githaiga, learned counsel that in gazetting and implementing the LNMO, Kenya was seeking to comply with its international obligations as set out in the Ramsar Convention. She submitted that the law cannot apply retrospectively since the LNMO came about in the year 2004 before the Constitution of 2010. She further submitted that the petition is belated and that "equity does not aid the indolent." She submitted that any grievances ought to have been the subject of the consultative process before the LNMO was gazetted or immediately after it was gazetted. She submitted that the petitioners cannot be allowed to abuse the court process in a bid to advance their own commercial interests at the expense of the wider public good. She submitted that this petition is an attempt to help the petitioners avoid regulation.

10. She submitted that riparian reserves are classified as public land under Article 62 of the Constitution. She submitted that the petitioners are occupying public land and that Article 40 of the Constitution does not protect property found to have been unlawfully acquired. She submitted that the petitioners were not locked out of the process of consultation on the LNMO and that the process was interactive and involved all stakeholders. She also submitted that the petitioners have no locus as they do not exist and are not the rightful owners of the property in issue. She cited various international principles which she believed are applicable such as the precautionary principle, the principle of prevention, the principle of common heritage for mankind and common good, the principle of international cooperation, the principle of intergenerational and intragenerational equity, the principle of sustainable development and wise use of wetland ecosystems. She further relied on Article 69 (2) of the Constitution which provides that every person has a duty to cooperate with State organs and other persons to protect and conserve the environment and ensure ecologically sustainable development and use of natural resources. She asked that the Petition be dismissed.

PART C : ANALYSIS AND DECISION

11. The main issue in this petition is whether or not certain provisions in the LNMO are in contravention of the Constitution. But before I tackle this main point, there are several issues which the parties and/or their counsels brought forth and which I wish to first address.

12. To begin with, it was raised that this petition is incompetent for the reason that the petitioners are non-existent. In his replying affidavit, Mr. Langwen annexed two letters, one dated 16 November 2012, and the other dated 21 November 2012 on the existence of the two petitioners. In the letter of 16 November 2012, the Registrar of Companies, wrote that there does not exist a company or business with the name of Vander Berg Roses Kenya Limited. In the letter of 21 November 2012, the Registrar of Companies, wrote that the company Project Agro Lease Limited was registered on 15 January 2004 but that on 14 November 2007, the company changed its name to Project Horti Lease Limited. I have looked at the Petition, the first petitioner is said to be V/d Berg Roses Kenya Limited, whereas the 2nd petitioner is said to be Project Agro Lease Limited. For sure, Project Agro Lease Limited did not exist as at the time this petition was filed for what existed was Project Horti Lease Limited. It cannot therefore be claimed that Project Agro Lease Limited is a petitioner for it does not exist any more. In so far as V/d Berg Roses Kenya Limited is concerned, I am not too sure if that is the same entity as "Vander Berg Roses Kenya Limited" which is the name the Registrar of Companies was giving particulars of. I will therefore give benefit of doubt that V/d Berg Roses Kenya Limited exists. That said, I strike out the name of the 2nd petitioner from this suit for it does not exist and I will take it that this petition has only been filed by the 2nd petitioner. The cost of this will be borne by Mr. Reemus for clearly he could not have been authorized to file suit by a non-existent company.

13. There was argument that there is no Board resolution by the company authorizing the filing of this suit, but again I am prepared to give benefit of doubt that Mr. Reemus, had the authority of V/d Berg Roses Kenya Limited to swear the supporting affidavit for there has been no complaint from the

Company.

14. There was contention by the respondents that this petition is belated. It was pointed out that the petition was filed 8 years after the LNMO was gazetted. However, a law does not become legal just because it has not been contested for a number of years. The Constitution does not discriminate. Article 2 of the Constitution provides that the Constitution is the supreme law of the land and any law, which is inconsistent with the Constitution, is void to the extent of the inconsistency. It therefore follows that any law, whether old or new, can be declared unconstitutional at any time. The maxims of equity on indolence do not apply to challenges of law that contravene the Constitution. You cannot argue that since this law has been there for a long time and has been implemented for so many years, then it should be spared from being declared unconstitutional. That is not a sound argument in my opinion. Neither is there any limitation of time for challenging a law which is claimed to be unconstitutional. Just because a law has been in operation for long does not mean that the said law is constitutional and a person is perfectly in order to challenge the constitutionality of such law. Neither are the laws passed before the current Constitution exempt. All laws, even those passed before the Constitution of 2010 must conform to the Constitution that is in operation.

15. There was also an assertion that the petitioner had avenue to challenge the law when it was still at the proposal stage. That may be so, but the fact that they did not bring issues at that time is no bar to them seeking a declaration that the law is unconstitutional. Simply because one participated in passing a law that is in all respects unconstitutional does not bar the same person from seeking a declaration that the law is unconstitutional.

16. There was an argument that if aggrieved, the petitioner ought to have filed an appeal to the National Environmental Tribunal (NET). This argument is completely misplaced. The jurisdiction of NET as provided for in Section 129 of the Environmental Management and Coordination Act, 1999, is to hear disputes arising from NEMA decisions. The law sought to be declared unconstitutional is not a NEMA decision but a legal notice and NET cannot have jurisdiction.

17. In his submissions, counsel for the petitioner went at length to submit that the LNMO is unconstitutional for want of public participation and stakeholder involvement. The respondents and their counsel similarly took lots of trouble to demonstrate that there was public participation. But I think both counsel for the petitioner and respondents are off the mark. The petition herein does not seek to challenge the process leading to the LNMO. It is a specific challenge to certain provisions of the LNMO which are said to be unconstitutional. Indeed, in its replying affidavit to the application by NEMA to seek to be enjoined to these proceedings, the petitioner deposed as follows at paragraphs 4 and 5 and I quote verbatim :-

(4). That the subject of the petition is not about how legal notice No. 108 of 2004 was arrived at or who the participants were, this disqualifies the interested party as a crucial party to this (sic) proceedings and its application should therefore be dismissed forthwith.

(5). That at no point will there be need to canvass on the circumstances that led to the establishment and gazettelement of the Legal Notice. The issues to be determined here are in effect the legality or otherwise of the provisions in the legal notice in comparison to the Constitution of Kenya 2010.

18. All the above is from the horse's mouth and nowhere in the petition is there any allegation that the process leading to Legal Notice No. 8 of 2004 was unconstitutional. If it was a game of football, I would say that both counsels are offside for they are dribbling the ball in an area that is off limits. The question of the process that led to the LNMO is off limits for the circumstances of this suit.

19. The main issue for determination remains whether the provisions m,n,o,p of the Habitat Management and Nature Conservation Regulations, in the LNMO, are constitutional or not. The said provisions are argued to be unconstitutional for the reason that they are said to interfere with the right to own property granted by Article 40 of the Constitution. It is therefore important that we have a look at Article 40 of the

Constitution. The same is drawn as follows :-

40. (1) Subject to Article 65, every person has the right, either individually or in association with others, to acquire and own property—

(a) of any description; and

(b) in any part of Kenya.

(2) Parliament shall not enact a law that permits the State or any person—

(a) to arbitrarily deprive a person of property of any description or of any interest in, or right over, any property of any description; or

(b) to limit, or in any way restrict the enjoyment of any right under this Article on the basis of any of the grounds specified or contemplated in Article 27 (4).

(3) The State shall not deprive a person of property of any description, or of any interest in, or right over, property of any description, unless the deprivation—

(a) results from an acquisition of land or an interest in land or a conversion of an interest in land, or title to land, in accordance with Chapter Five; or

(b) is for a public purpose or in the public interest and is carried out in accordance with this Constitution and any Act of Parliament that—

(i) requires prompt payment in full, of just compensation to the person; and

(ii) allows any person who has an interest in, or right over, that property a right of access to a court of law.

(4) Provision may be made for compensation to be paid to occupants in good faith of land acquired under clause (3) who may not hold title to the land.

(5) The State shall support, promote and protect the intellectual property rights of the people of Kenya.

(6) The rights under this Article do not extend to any property that has been found to have been unlawfully acquired.

20. It will be seen from the above, that firstly, every person has the right to own property. Such property ought not to be taken away by the State without payment of compensation. The petitioner has issue with the cited provisions of the LNMO because it is their view that their horticultural business will be greatly affected. The petitioner has stated that they undertake agricultural activities within the riparian land and that they have structures on the riparian area of Lake Naivasha. By being asked not to undertake these activities within the riparian area, it is their view that their right to property is being taken away without compensation.

21. There is of course contention as to whether or not the petitioner owns the property in issue. But let us put that aside for the moment. Assuming that it is owner, do the impugned provisions violate the Constitution especially Article 40 which protects the right to property ? I do not think so. If I got the argument of the petitioner right, it is his view that since he owns the land in issue, he should be allowed to use it as he wishes whether or not it falls within a riparian area.

22. The argument of the petitioner is fundamentally flawed. Simply because you own land, does not give you a licence to use it as you wish. The Constitution itself provides at Article 60 that land should be held

in a manner that is sustainable. One of the principles of land use and management under Article 60 is the sound conservation and protection of ecologically sensitive areas. The entire Article 60 is drawn as follows :-

60. (1) Land in Kenya shall be held, used and managed in a manner that is equitable, efficient, productive and sustainable, and in accordance with the following principles—

- (a) equitable access to land;*
 - (b) security of land rights;*
 - (c) sustainable and productive management of land resources;*
 - (d) transparent and cost effective administration of land;*
 - (e) sound conservation and protection of ecologically sensitive areas;*
 - (f) elimination of gender discrimination in law, customs and practices related to land and property in land; and*
 - (g) encouragement of communities to settle land disputes through recognised local community initiatives consistent with this Constitution.*
- (2) These principles shall be implemented through a national land policy developed and reviewed regularly by the national government and through legislation.*

23. Now, there is no question that Lake Naivasha and its riparian area are ecologically sensitive. The importance of Lake Naivasha has indeed been recognized by the Convention on Wetlands of International Importance especially as Waterfowl Habitat (or simply the Ramsar Convention). The Convention lists what it terms as Ramsar Sites, which are wetlands deemed to be of significant international ecological importance and Lake Naivasha is one of the listed sites. Kenya ratified the Convention on 30 October 1990 and was bound by the obligations placed upon it in the Convention. The core obligation is in Article 3 (1) of the Convention which provides as follows :-

The Contracting Parties shall formulate and implement their planning so as to promote the conservation of the Wetlands included in the List, and as far as possible the wise use of wetlands in their territory.

24. Under the Convention, the State has a duty to engage in planning so that wetlands are conserved. The obligations in Ramsar, are indeed encompassed in the obligations placed on the State and individuals by the Constitution of 2010 to conserve the environment. These are contained in Article 69 of the Constitution which provides as follows :-

69. (1) The State shall—

- (a) ensure sustainable exploitation, utilisation, management and conservation of the environment and natural resources, and ensure the equitable sharing of the accruing benefits;*
- (b) work to achieve and maintain a tree cover of at least ten per cent of the land area of Kenya;*
- (c) protect and enhance intellectual property in, and indigenous knowledge of, biodiversity and the genetic resources of the communities;*
- (d) encourage public participation in the management, protection and conservation of the environment;*

- (e) *protect genetic resources and biological diversity;*
- (f) *establish systems of environmental impact assessment, environmental audit and monitoring of the environment;*
- (g) *eliminate processes and activities that are likely to endanger the environment; and*
- (h) *utilise the environment and natural resources for the benefit of the people of Kenya.*

(2) *Every person has a duty to cooperate with State organs and other persons to protect and conserve the environment and ensure ecologically sustainable development and use of natural resources.*

25. It will be observed from Article 69 above that the State, among other things, is supposed to ensure sustainable exploitation, utilization, management and conservation of the environment and natural resources. It is also supposed to eliminate processes and activities that are likely to endanger the environment. The State can and does this by use of legal instruments, whether it be Acts of Parliament, or regulations made within existing statutes. Individuals too, also have a duty to cooperate with the State to protect and conserve the environment and ensure ecologically sustainable development and use of natural resources.

26. There is no absolute right given to one to use his land as he wishes. All land must be used in a manner that does not endanger the environment. This is where planning and land use management comes in. Laws will and shall continue to be made to manage land use, so that use of land, is in conformity with the obligation to protect the environment as provided in the Constitution. Rules and regulations will also continue being made. If we do not have laws and rules, then what we will have is everybody doing what they think should be done on their land, even where such activities cause harm to the environment.

27. There is an important place for regulation on land use and planning. The mandate to formulate rules is upon various institutions one of which is NEMA. NEMA's mandate as pronounced by Section 9 of EMCA is inter alia to be the principal instrument of Government in the implementation of all policies related to the environment. At Section 9 (2) (n) of EMCA, NEMA is empowered to "*publish and disseminate manuals, codes or guidelines relating to environmental management and prevention or abatement of environmental degradation*". It is out of the utility of their mandate that NEMA formulated the rules on the proper management of the Lake Naivasha ecosystem.

28. Lake Naivasha is an ecologically sensitive wetland. There is no question that it needs protection. If we do not protect it, the Lake will lose its ecological value. We have a duty to protect this lake and its resources for this and the future generation. The manner in which all people are to contribute, so that the Lake is conserved, is partly contained in the rules that have been attacked by the petitioner. I am appalled to hear from the petitioner that she wants to do as she wishes on the land in issue simply because she believes she owns the land or has leased it. There is no such room. As I have said earlier, the Constitution itself requires that land must be used in a manner that is sustainable and friendly to the environment. Let shame be upon the person who faults a law that is aimed at protecting the environment and let bigger shame be upon the person who wishes to undertake activities that will no doubt cause harm to the wetland of Lake Naivasha which is our pride and our heritage.

29. If one looks at the provisions impugned by the petitioner with sobriety, the only conclusion one can reach is that they are actually aimed at protecting the environment and are in perfect harmony with the Constitution. In the said regulations, paragraph (m) attempts to stop all agricultural activities on riparian land. What is wrong with that ? You cannot have people farming horticultural crops which no doubt utilize chemicals in an area such as this. You need to have some sort of precaution exercised, for there is great danger that dangerous chemicals will seep into the lake and harm the flora and fauna therein. Paragraph (n), prohibits all structures except those approved by the committee. Again, I see no problem with this. You do not want all manner of structures in a lake as important as this. Lake Naivasha is not only a great ecological hub, but also a great tourist site. Tourists come to see the beauty of nature not the

man made structures that may be erected by the persons who undertake farming and other economic activities around the lake. I assume the petitioner in its horticultural farming makes use of greenhouses and such structures. I am not too sure that tourists will be too interested in looking at these. It is the enchanting beauty of the lake, the soothing scenery of the yellow fever tree, the majesty of the fish eagle and the magical sundowner which individuals wish to see. Paragraph (o) requires the planting of suitable indigenous fuel wood crops and screens for unsightly developments. Again there is nothing wrong with this. Indigenous fuel wood crops will increase the biodiversity of the area and act as a buffer between the lake and the persons undertaking economic activities around it. Paragraph (p) encourages the cultivation of reverse slopes away from the lake. This no doubt is to reduce the chances of erosion into the lake or flow of pollutants from those undertaking economic activities around the lake.

30. What, pray, is unconstitutional about these provisions ? My answer is that there is nothing unconstitutional about them. In fact, the provisions are in my view fully in conformity with the Constitution which has elaborate provisions touching on the protection of the environment. I would encourage the petitioner to fully conform to them.

31. Need I say more ? I think not. I believe that I have made myself clear that there is nothing unconstitutional about the provisions of the LNMO. I find not an iota of merit in this petition and it is hereby dismissed with costs.

32. It is so ordered.

Dated, signed and delivered in open court at Nakuru this 16^h day of February 2016.

MUNYAO SILA

JUDGE

ENVIRONMENT & LAND COURT_

AT NAKURU

In presence of :-

No appearance on both counsels for the petitioner and Respondents

Court Assistant: Janet

MUNYAO SILA

JUDGE

ENVIRONMENT & LAND COURT

AT NAKURU