



REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND OF KENYA

AT NAKURU

PETITION NO 42 OF 2013

**IN THE MATTER OF ARTICLES 1, 2, 3, 10,19,20,21,22,23,28,40,43,47,48,159,165 (3) (d), 258
AND 259 OF THE CONSTITUTION OF KENYA**

AND

IN THE MATTER OF THE ALLEGED CONTRAVENTION OF THE CONSTITUTION

AND

**IN THE MATTER OF VIOLATION OF THE RIGHT TO PROPERTY, DIGNITY AND
PROTECTION OF FREEDOM AND SECURITY OF PERSON**

BETWEEN

CLEMENT KIPCHIRCHIR

SARAH T CHESANG

SARAH J ROTICH

LINDA C ROTICH

SAMMY MUTUAL

BENJAMIN KIPROTICH KIGEN T

THOMAS K SIRMA

LUDIA CHEBII

CHARLES K CHEBON

CHEBII SIRMA

WILLIAM K KAISANG

JEREMIA NGETICH

ZACHARIA KIBET K

KINYEKERA C KIPROTICH

NELSON K KIMELI

VASCALYNE CHEMUTAI KOSKE

FRANCIS KIBET KOSKE

CHRISTINE CHEBASKWONG

BARNABAS KIPTARUS BARNO

JANE JERONO KOMEN

DAVID KIPKORIR KIMUTAI

ZACAHARIA SANG

TAPKILI KIMOI MAIYO

RAEL SARGUTA

MUSA CHEPKIYENG KURUI

DAVID KIPTARUS TUITOEK

RAPHAEL CHIRCHIR CHEPTURGUT

SILAS C SKWONY

WILLIAM KWAMBAI KITILIT KARAMAI

CHELIMO MURTO

ERNEST KIPLANGAT CHEPKURUI

DANIEL KIPKOECH CHUMO

HENRY SADALLA

JAMES KANGOGO

SAMSON KENDAGOR

KIPRUTO KEMBOI

SOLOMON KIPTUM

SAMUEL CHEPTORUT KIMELI

CHEBII SIRMA

KIPLIMO VITALIS KANDIE

TERIKI KANDIE

RICHARD KIGEN

P J LANGAT

ELIZABETH MITEI

FRANCIS KEMEI

JOSHUA CHERUIYOT NGENO

NICHOLAS KIPKEMBOI

ERICK KAISANG

MARY CHEBET

PETER KORIR

EUNICE KOMICH BOMMET

KIRWA KITOLEL THOMAS

JULIUS KIMITEI RAMBAEI

DANIEL KIPCHIRCHIR

DANIEL K SEREM.....PETITIONERS

AND

PRINCIPAL SECRETARY MINISTRY OF LANDS

HOUSING AND URBAN DEVELOPMENT.....1ST RESPONDENT

NATIONAL LAND COMMISSION2ND RESPONDENT

KENYA FOREST SERVICE3RD RESPONDENT

ATTORNEY GENERAL4TH RESPONDENT

JUDGMENT

(Constitutional petition by several persons evicted from the Mau Forest; petitioners arguing that they hold valid titles; titles of petitioners having been issued prior to the degazettement of the forest; such titles cannot be said to be proper titles; no obligation under law for such titles to be protected; whether any compensation may be paid to such persons; level of compensation cannot be equated to acquisition of a good title; whether eviction was justified; Mau Forest being an important water tower; need to protect the environment; proper justification to evict the petitioners; whether eviction was done inhumanely; no evidence of any inhumane acts; no evidence that the Government breached the constitution or was in breach of its international obligations; petition dismissed)

A. INTRODUCTION AND PLEADINGS

1. This is a Constitutional Petition filed on 3 November 2013 by 55 persons. The petitioners have described themselves as settlers of Likia Settlement Scheme (Extension) within Nakuru County. Their

case as pleaded, is that in the year 1997, they were allocated land by the Commissioner of Lands and were subsequently issued with title deeds. The land that they were allocated is land that is said to have been formerly within a forest that was de-gazetted vide Gazette Notice No. 889 of 2001 and Legal Notice No. 142 of 2001. The petitioners have averred that in the year 2007, the Government of Kenya, through what they have described as a "political slogan" called Mau Restoration, insisted that the land that was allotted to them should be taken back by the 3rd respondent, Kenya Forest Service (KFS), and that the petitioners were promised to be compensated by the Government through the provincial administration.

2. It is averred that in July 2007, the petitioners were instructed by the then District Commissioner of Molo, to pick ballot papers for the settlement schemes, but since then, they have not been shown the farms where they can settle and that there has never been any communication from the Government. It is averred that in the year 2011, the respondents evicted the petitioners in the most inhumane, degrading and demeaning manner, rendering them squatters in their own country despite having been issued with title deeds by the Government. It is said that the settlers of the scheme who succumbed to the illegal and reckless actions of the Government were paid Kshs. 400,000/= for no reason but perpetuation of lawlessness and caprice of individuals in Government. It is averred that the sum of Kshs. 400,000/= was a political move by the Government to cheat the petitioners and deprive them of their constitutional rights to own property. It is said that the eviction of the petitioners by the Government, sought to associate them with the former President Daniel Toroitich arap Moi, as opposed by the law.

3. Through this petition, the petitioners seek the following orders :-

(a) A declaration that the actions of the Government of Kenya, of evicting, razing down houses and degazetting private property without due process are brazen, illegal, egregious, discriminatory and hence null and void for violating the right to property and freedom and security of person and the right to dignity of the petitioners.

(b) An order of mandamus compelling the respondents to provide security against reckless individuals within the Government and to restore the petitioners to their respective parcels of land forthwith.

(c) In the alternative, adequate and prompt compensation at market value of the parcels of land in question be paid to the petitioners.

(d) A declaration that the Government has abdicated its role and has become an escapist by acting on individual President's whims, sweet and caprice.

(e) The petitioners be paid costs of this petition.

4. The petition is supported by the affidavit of Clement Kipchirchir Kitolel. He has described himself as the Chairman of Likia Settlement Scheme (Extension). In his affidavit, he has explained that the petitioners were allocated land at Likia Settlement Scheme in the year 1997 and later issued with title deeds. He has annexed copies of several title deeds to his affidavit. He has also annexed the Legal Notice No. 889 of 2001 and Legal Notice No. 142 of 2001, which he has explained degazetted the forest, so that the petitioners may be settled. He has also repeated what was stated in the petition, that in the year 2011, the petitioners were evicted in the most inhumane way; that some persons succumbed to a payment of Kshs. 400,000/= to move out; that this is a pittance as the valuation of two of the parcels in issue, Nakuru/Lilia/1427 and 1429 total the sum Kshs. 7,250,000/= which is an average of Kshs. 450,000/= per acre. He annexed some valuation reports to support this position. He also deposed that the degazettement only affected 544 hectares occupied by the petitioners and not the 35,000 hectares earlier degazetted as Sururu and Baraget areas. He annexed another Legal Notice No. 68 dated 6 June 2012, by Noah Wekesa the then Minister for Forestry and Wildlife. He has stated that the notice appropriating their land was done in the year 2012 after the egregious acts undertaken by the Government. It is his position that the respondents have set a bad precedent where individuals at State House abrogate the law and undo legal actions taken by previous individuals in the same office. He has averred that the court now needs to make a determination on whether a legally acquired private property can be whimsically appropriated into the

Government, without due process, in the name of environmental conservation and restoration of water towers without more.

5. The 2nd and 3rd respondents appointed the law firm of M/s Odhiambo & Odhiambo to act on their behalf, but I have only seen a Replying Affidavit filed by the 3rd respondent, Kenya Forest Service (KFS) on 21 January 2014. The affidavit is sworn by Lucas Kiptanui Cheruiyot, who has described himself as a Forester One officer with the KFS and in charge of conservation and management of the Mau Forest. He has stated that during the period 2008 and 2013, he was stationed at Likia Forest Station. It is his view that the petition is fraudulent and moot. He has pointed out that only 35 copies of title deeds have been annexed yet there are 55 petitioners. He has also stated that the ownership of the titles is doubtful as there are no copies of official searches annexed to confirm and authenticate ownership. He has stated that the petitioners were removed from the parcels of land that they are claiming in the year 2011, and that thereafter, the matter was arbitrated in court where the petitioners were advised to seek compensation, which compensation has already been made as admitted by the petitioners themselves. He has referred to the suit Nakuru High Court Miscellaneous Application No. 60 of 2011.

6. He deposed that the reason why the Government removed the petitioners from Likia Settlement Scheme, was because their occupation was illegal, since the petitioners were allocated land in the year 1997, while the excision of the forest through degazettment was done in the year 2001. He has deposed that after Legal Notice No. 142 was issued, several organizations went to court and an injunction against the Government was issued vide Nairobi High Court Miscellaneous Application No. 421 of 2002. He averred that even if the excision was legal in Eastern Mau, which comprises of settlement schemes, the petitioners have made illegal extensions into the forest which has frustrated conservation efforts. He averred that the petitioners' cry to protection of property is baseless since the greater public interest requires conservation of the environment, both for the present and future generations. He has annexed a map of the Mau Forest which he stated shows massive encroachment and deforestation which is a threat to the Kenyan economy. He stated that the Government has embarked on a reforestation exercise which has led to the rehabilitation of the forest. It is also averred that KFS have been improperly enjoined since it is the State through the Attorney General who is the custodian of fundamental rights and freedoms.

7. The 1st and 4th respondents filed Grounds of Opposition and averred that :-

(a) *The petition is bad in law, lacks merit and is misconceived.*

(b) *The petition is an abuse of the court process.*

(c) *The petitioners have failed to establish any reasonable cause of action as against the 1st and 4th respondents to warrant the orders being sought.*

(d) *That it is common knowledge that the Mau Forest is a water catchment area which is the source of a number of rivers which if allowed to be invaded will cause an ecological disaster as it will interfere with flora and fauna.*

(e) *The petitioners have failed to demonstrate and/or provide any evidence on which particular rights and freedoms have been violated by the 1st and 4th respondents to warrant the orders being sought.*

They asked that the petition be dismissed with costs.

B. SUBMISSIONS OF COUNSEL

8. I directed all parties to file written submissions and gave counsels an opportunity to make oral submissions.

9. Mr. B.N. Kipkoech for the petitioners, submitted inter alia that the Constitution of Kenya, 2010, through Article 2(6) makes applicable to Kenya, the General Rules of International Law and treaties

ratified by Kenya. He referred to various human rights instruments, being, the Universal Declaration of Human Rights (UDHR, 1948), the International Covenant on Civil and Political Rights (ICCPR, 1976), International Covenant on Economic, Social and Cultural Rights (ICESCR, 1976), and the Optional Protocols to the ICCPR (the 1st optional protocol to the ICCPR allowing individuals to report personal human rights violations (1976) and the 2nd optional protocol to the ICCPR calling for the abolition of the death penalty (1991)). He submitted that under international human rights law, States have obligations to respect, protect and fulfill the rights spelt out in any instrument that they have ratified/acceded. He submitted that these obligations are captured in Article 21 (1) of the Constitution of Kenya, 2010 and that under Article 23, the courts are given power to jealously safeguard human rights and fundamental freedoms. He submitted that Articles 27,28 and 29 of the Constitution, prohibit discrimination, protect the right to dignity and security of the person. He submitted that Kenya ratified the International Covenant on Economic, Social and Cultural Rights (ICESCR) on 3 January 1976, and consequently became bound to respect, protect and enforce the rights therein, including the right to adequate housing and the related prohibition of forced evictions as guaranteed by Article 11 of the Covenant, and the right to education, as guaranteed under Article 13.

10. He submitted that for evictions to be justified under the ICESCR, they must be carried out in the most exceptional circumstances, after all feasible alternatives to eviction are explored, in consultation with the affected community and after due process protections are afforded to the individual, group or community. He submitted that it is the duty of the State to provide adequate alternative housing, resettlement or access to productive land, as the case may be. He further submitted that forced evictions are also prohibited by Article 17 of the ICCPR. He submitted that Article 8 of the UDHR and the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law adopted by the UN General Assembly (Resolution 60/147 of 21 March 2005) state that a proper remedy for forced evictions is to return the victims as close as possible to the status quo ante. He further submitted that this has been the position applied in South Africa and relied on the case of *Tswelopele Non-Profit Organization & Others v City of Tshwane Metropolitan Municipality, 2007 SCA 70 (RSA)*. He further relied on another South African decision, *Dawood v Minister of Home Affairs (2000) (3) SA 936 (CC)* and the local decision of Lenaola J in the case of *Satrose Ayuma & 11 Others v Registered Trustees of Kenya Railways Staff Retirement Benefits Scheme & 3 Others*.

11. He submitted that the petitioners have been subjected to human indignity contrary to the Constitution and further that their rights to own property have also been infringed. He pointed at Articles 19 (2), 20 (5) and 40 of the Constitution. He submitted that the petitioners acquired their parcels of land legally, having been given the same by the State, and it is their fundamental right to live in that land. He submitted that if land is taken away, there must be compensation as provided by Article 40 (3) (b) and Section 107 of the Land Act. He submitted that the sum of Kshs. 400,000/= was a carrot dangled to the impecunious to lock them out of the seat of justice in an unconstitutional charade. He submitted that Article 47 (1) gives one a right to fair administrative action and relied on the case of *Evelyn College of Design Ltd vs Director of Children's Department & Another (2013) eKLR*.

12. He finalized his submissions by stating that the court ought to restore sanity and stop chaos in acquisition of land by the public mandarins who subject Kenyans to squalor and abject poverty for purposes of enhancing their political positions.

13. In his oral submissions, Mr. Kipkoech submitted that although degazettement was done in the year 2001 and titles were issued in the year 1997, this variance was merely a procedural lapse that cannot take away the right to property. I inquired why, no search nor register has been annexed, and Mr. Kipkoech responded that there is a "political caveat" barring any dealing on these parcels of land and therefore one cannot obtain a search document. He submitted that the Government has not filed any replying affidavit to state what exactly it did. He submitted that through an operation dubbed "okoa mau", the Government razed down the houses of the petitioners and slashed their maize, and the petitioners had to leave their land. He submitted that the Government has not denied issuing titles, and that is why, it asked for revocation of them. He submitted that the only way to revoke a title is to follow due process. He further submitted that no list of those who have been compensated has been annexed. He submitted that

administrative action has to be fair, and that titles cannot be issued, people settled, then the same titles are revoked without a hearing. He submitted that the petitioners ought to be allowed back to their land.

14. Ms. Khatambi for the State Law Office, relied on the grounds of opposition. She submitted that rights have limitations. She pointed out that titles were issued in 1997 and 1999 before the degazettement of the forest which was done on 8 October 2001. She was of the view that the petitioners' land was acquired illegally and/or unlawfully. She submitted that there was no proof tabled of any forced eviction; no photographs annexed, no P3 forms or any police report. She submitted that the evictions were for purposes of protecting the environment and could not be illegal. She submitted that Section 23 of the Forest Act, empowers the Minister by notice to declare land to be a State Forest and therefore the Government can acquire land for conservation purposes. She submitted that the petitioners were compensated. She submitted that the petitioners cannot link their evictions to President Moi, as he went out of power several years prior to the evictions. She relied on the case of **James Kaptipin & 43 Others vs The Director Forest & 2 Others, High Court at Kitale, Constitutional Petition No. 6 of 2012**.

15. In their written submissions, the firm of M/s Odhiambo & Odhiambo for the 2nd and 3rd respondents, first submitted that the 3rd respondent is improperly joined to the petition as it is the State which is the custodian of the fundamental rights and freedoms. Reliance was made upon Article 21 (1) of the Constitution and the dictum of Nyamu J, in the case of **Kenya Bus Services Ltd & 2 Others vs Attorney General, Nairobi HCCC Misc. Case No. 413 of 2005** where the learned judge stated that :-

"Fundamental rights are contained in the Constitution are principally available against the State because the Constitution's function is to define what constitutes government and the governed and it regulates the relationship between the government and the governed..."

16. It was further submitted that the petitioners have no cause of action against the 3rd respondent. It was submitted that Article 42 of the Constitution gives the right to a clean and healthy environment and that this provision, for the greater public good, outweighs the claim of the petitioners. It was submitted that the claims of the petitioners are limited by Article 24 of the Constitution. Counsel relied on the case of **Seventh Day Adventist Church (East Africa) Limited vs Minister for Education & 3 Others (2014) eKLR** and the South African case of **S v Manamela & Another (2000) (5) BCLR 491 (CC)**.

17. It was submitted that the petitioners were systematically and with dignity evicted from the Mau conservancy after being handsomely compensated as proposed in the Mau Forest Complex Report. It was submitted that the interests of the petitioners must be objectively weighed against the interest of the larger public. Counsel referred to the case of **Beatrice Wanjiku & Another v Attorney General & Another (2012) eKLR** to buttress the point that there must be a weighing of considerations. It was submitted that Section 54 of the Environmental Management and Coordination Act, allows the taking of land for conservation purposes thus limiting an individual's right to own a parcel of land. It was submitted that the petitioners cannot lay claim over land that the Government seeks to protect.

18. It was further submitted that there is need to protect the Mau Forest and various statistics on the effect to the economy were demonstrated. I was referred to a report by the Kenya Forest Service in conjunction with the Kenya National Bureau of Statistics, and other international partners, illustrating this position. Counsel submitted that a number of programmes have been put in place to restore the Mau Forest Complex.

19. It was submitted that Section 27 of the current Forest Act, indicates that a notice must be issued for the variance of the boundaries of a state or local authority forest. This was submitted to have been the position in the prior Forest Act, CAP 285. It was submitted that Section 4(2) requires a 28 days gazette notice of intention to alter the forest boundaries, that the intended area for excision needed to be surveyed and a boundary plan delineating the area drawn and approved by the Chief Conservator of forests, currently the Director of KFS, and the Director of Surveys. It was further submitted that an Environment Impact Assessment (EIA) must be done; that there must be public consultation; there be a recommendation of the KFS Board; the proposal must be ratified through a resolution of Parliament; and that there must be publication by the Minister for Forestry and Wildlife through a Gazette Notice. It was

submitted that procedure was not followed resulting to many de facto settlements.

20. On the titles held by the petitioners, it was submitted that only 35 titles are annexed, yet there are 55 petitioners. It was also pointed out that the names of some title holders do not correspond to those of the petitioners and there needs to be strict proof. It was submitted that the court cannot enforce an illegality and relied on the case of **Mapis Investment (K) Ltd vs Kenya Railways Corporation, Civil Appeal No. 14 of 2005**. It was submitted that the titles of the petitioners are illegal as gazettelement was done after their issuance and that the court cannot aid an illegality. It was submitted that in the year 1997, no land was available for allocation.

21. It was finally submitted that the Government has an obligation under international instruments to safeguard the environment including the Stockholm Declaration of 1972. It was submitted that all excisions of forestland which were made contrary to the provisions of the Forest Act and the Government Land Act should be cancelled, including that of the petitioners. They asked that the petition be dismissed.

22. Mr. Yoni, of the law firm of M/s Odhiambo & Odhiambo made some brief oral submissions to highlight the written submissions. He pressed the point that the titles of the petitioners were illegally acquired; that the petitioners had not shown that they acquired their titles legally; and that the same petitioners have been to court over the same issue. On this latter point, Mr. Yoni submitted that the lead petitioner in the suit Petition No. 22 of 2012 is petitioner No. 19 in this petition, and that they are seeking substantially the same prayers. He submitted that there is clear abuse of the court process. He submitted that the titles recommended for revocation in the Task Force Report, is in reference to titles issued after the degazettelement in the year 2001, and that the court cannot recognize titles issued in the year 1997.

23. In reply, Mr. Kipkoech repeated that the late gazettelement was a procedural lapse and that in any event the Registered Land Act, at Section 42 protects first title. He submitted that there is no proof that the petitioners were compensated nor that the sum of Kshs. 400,000/= was ever offered to them. He distinguished this case with that of **James Kaptipin & 43 Others vs The Director Forest & 2 Others** as in this case, the petitioners are not asking to be resettled in a forest, but in their own land of which they have titles. He further submitted that under Article 40(4) of the Constitution, even people without title may be compensated.

C. DECISION

24. In my view, the following points are up for determination :-

1. Is this petition an abuse of the court process as being *res judicata* ?
2. Can this petition be sustained against the 3rd respondent ?
3. Do the petitioners hold title to land and were the titles of the petitioners properly acquired ?
4. Can such titles be protected ?
5. Are the petitioners entitled to compensation for the titles that they held and if so to what extent ?
6. Were the petitioners forcefully evicted and in the process of eviction was there any violation of their rights to dignity and security or a violation of the Constitution and of the State's international obligations ?
7. Conclusion ?

Issue 1 : Is this petition res judicata ?

25. I have opted to start with this issue for the reason that it was claimed that various other cases over the same subject matter have previously been presented to court and determinations made. If I find that the issues in this petition have been canvassed before, then obviously, this petition will be caught up by the *res judicata* principle and there will be no point of me continuing to make any further determinations. In his replying affidavit, the 3rd respondent referred to the cases Nakuru High Court, Miscellaneous application No. 60 of 2011; Nairobi High Court Miscellaneous case No. 421 of 2002. Nakuru High Court Misc. No. 60 of 2011 was an application to commence judicial review proceedings to bar the KFS and the Head of Mau Conservancy, from alienating the portion of land known as Likia Extension. The application for leave to commence judicial review proceedings was denied and the matter was never canvassed on merits. In the ruling, the applicants therein were advised to seek alternative legal redress. It cannot therefore be said that the issues sought to be canvassed in the suit Nakuru High Court Misc. No. 60 of 2011 have been addressed and it cannot be argued that for that reason this suit is *res judicata*.

26. The other matter is Nairobi Misc. Civil Suit No. 421 of 2002. Unfortunately, save for a mere mention of the matter and annexing an order where leave to commence judicial review proceedings was allowed, no party provided me with any information on what transpired in the said suit, and my own efforts to find out what happened proved futile. For this reason, I will allow the petitioners benefit of doubt as without the requisite pleadings in Nairobi Misc. Civil Suit No. 421 of 2002, I am unable to hold that this case is *res judicata*.

27. The suit Nakuru High Court Petition No. 22 of 2012 was mentioned by Mr. Yoni during his oral submissions. The proper way of bringing up this point would have been to place it in an affidavit where the pleadings or other appropriate document of the said suit is annexed. Be as it may, I did a quick check on the suit Nakuru High Court Petition No. 22 of 2012 and I have discovered that it is completely unrelated to this suit. The claim therein is by 23,374 persons who claim compensation from the Government for having been displaced from Enosupukia in Narok, during the tribal violence of the year 1992 which occurred after the 1992 general elections. There is no way that the matter can be said to be related to this one.

28. It is my view therefore that it has not been demonstrated that this petition is *res judicata* and I cannot strike it out on that ground.

Issue 2 : Can this petition be sustained against the 3rd respondent ?

29. The 3rd respondent argued that it has been wrongfully enjoined to these proceedings. Article 21 of the Constitution was cited. That provision is drawn as follows:-

Article 21

- (1) *It is a fundamental duty of the State and every State organ to observe, respect, protect, promote and fulfil the rights and fundamental freedoms in the Bill of Rights.*
- (2) *The State shall take legislative, policy and other measures, including the setting of standards, to achieve the progressive realisation of the rights guaranteed under Article 43.*
- (3) *All State organs and all public officers have the duty to address the needs of vulnerable groups within society, including women, older members of society, persons with disabilities, children, youth, members of minority or marginalised communities, and members of particular ethnic, religious or cultural communities.*
- (4) *The State shall enact and implement legislation to fulfil its international obligations in respect of human rights and fundamental freedoms.*

30. Counsel pointed at Article 21 (1) and argued that the obligation to safeguard the bill of rights is upon the State and therefore the KFS is wrongfully enjoined to these proceedings. The view of Mr. Kipkoech,

for the petitioners, was that it is Article 20 (1) which applies. That provision is drawn as follows :-

Article 20 (1) The Bill of Rights applies to all law and binds all State organs and all persons.

31. It was his view that the Constitution at Article 260 defines "person" as a company, association or other body of persons whether incorporated or unincorporated. He relied on the decision of Lenaola J, in the case of ***Jemimah Wambui Ikere v Standard Group Limited & Another (2013) eKLR*** and that of Majanja J in the case of ***Law Society of Kenya vs Betty Sungura Nyabuto 92012)eKLR***. In the case of ***Jemimah Wambui Ikere***, a preliminary objection was raised, that "*rights and fundamental freedoms set out in the Bill of Rights in the Constitution of Kenya, 2010 can be enforced by individuals by way of Constitutional Petition only as against the State and State organs and not by an individual as against private person(s) as sought in the Petition herein.*" The brief facts of the case were that the respondents, who run the popular daily newspapers The Standard and Daily Nation, had published photographs of children of an alleged most wanted criminal who had been shot dead. It was argued in the petition, that the said publications inter alia infringed on the minors' rights to privacy and protection from inhuman treatment. The learned judge after reviewing various authorities, held that the Constitution applies both "vertically", that is, between the State and the individual, and also "horizontally", that is, between one citizen and another citizen, and that "each case must be looked at in its specific and unique circumstances."

32. I am of the same view. There are instances where the alleged violation is purely an allegation of violation of the Constitution and I do not see why the court ought not to hear the petition simply because the respondents are private individuals. I ascribe to the view that constitutional rights apply both vertically and horizontally, that is upon the state and also upon private individuals. This however, is not to encourage the settlements of purely private disputes through a constitutional petition where such dispute is best handled through the ordinary channels of litigation, and especially where there is already in place a mechanism and procedure provided for the settlement of such disputes. There may be instances where a person alleges infringement of a constitutional provision by a private individual, yet such claim is not suited for hearing through a constitutional petition. In the words of Lenaola J, "each case must be looked at in its specific and unique circumstances." In some instances, as Majanja J, held in the case of ***Law Society of Kenya vs Betty Sungura Nyabuto***, "*the nature and extent of a particular right may be limited in scope to apply to the State and not a private individual.*" It is therefore upon the court to determine whether a petition against a private individual, or even at times against the State, is a proper case for resolution through a constitutional petition. Various factors need to be looked at, and in my view factors, such as the nature of the right alleged to be infringed, the parties said to have infringed that right, and whether there are set mechanisms for the determination of such disputes other than through a constitutional petition, are relevant, and if the court is of the view that the dispute is not suited for determination as a constitutional petition, the court has discretion to decline to hear the matter and advise the parties to pursue other available legal channels. To give an example, if one has a dispute over trespass, one can easily allege that his rights to property have been infringed, but in my view, that would be a dispute that is best decided through an ordinary civil suit, rather than through a constitutional petition alleging infringement of rights over property.

33. The above principle has been applied in various decisions. The court has denied the litigation of purely private rights through a constitutional petition as happened in the case of ***Uhuru Muigai Kenyatta vs Nairobi Star Publications Ltd, Nairobi High Court Petition No. 187 of 2012*** and ***Rapinder Kaur Atwal vs Manjit Singh Atwal, Nairobi High Court Petition No. 236 of 2011***. The latter was a defamation case, whereas the former was a contempt of court proceeding which the court rejected. However, in some cases, private individuals, meaning individuals other than the State or State organs, have been allowed to be the subject of a constitutional petition, depending on the nature of the violation which is alleged. Thus in the case of ***Jemimah Wambui Ikere***, the court dismissed the preliminary objection and held that there was an issue to be determined, as to whether the alleged acts of the respondents in that case, violated the constitutional rights of the petitioners, in as much as the respondents were private individuals.

34. The case herein is one through which the petitioners allege that the State infringed on their rights to own property, by taking away their titles without appropriate compensation, and without giving them

alternative land. That claim to me does not run afoul a claim that may properly be determined through a constitutional petition. The claim indeed, is primarily against the State. However, KFS, is said to be a participant in that infringement. As an alleged participant in the alleged constitutional infringements, I am of the view that KFS was not improperly enjoined to this petition; in fact, I believe that they are necessary parties to this petition, as the mandate to manage forests fall squarely within the docket of KFS as provided by Section 5 the Forest Act, Act No. 7 of 2005.

35. I do not therefore agree with the argument that KFS were improperly enjoined to these proceedings and I overrule that objection.

Issue 3 : Do the petitioners hold title to land and were the titles of the petitioners properly acquired ?

36. The case of the petitioners is that they were issued with title deeds in the year 1997 and that the State cannot therefore revoke these titles without due process and without compensation. This of course has been contested by the respondents, who have inter alia argued that the petitioners have not shown any proof, by way of a search document, that they hold valid titles. It has also been pointed out that only a few copies of title deeds are annexed, much less than the number of petitioners.

37. I have myself gone through the copies of title deeds annexed. The copies annexed are title deeds to the parcels of land described as :-

- (1) Nakuru/ Likia/1261 issued on 16 July 1997 to Musa Chepkuyeng Kurui,
- (2) Nakuru/Likia/1263 issued on 16 July 1997 to David Kiptarus Tuitoek;
- (3) Nakuru/Likia/1438 issued on 16 July 1997 to Jane Jerono Komen;
- (4) Nakuru/Likia/1426 issued on 16 July 1997 to David Kipkori Mutai;
- (5) Nakuru/Likia/1279 issued on 21 July 1997 to Zacharia Sang;
- (6) Nakuru/Likia/1271 issued on 16 July 1997 to Tapkili Kimoi Maiyo;
- (7) Nakuru/Likia/1280 issued on 21 July 1997 to Rael Sarguta;
- (8) Nakuru/Likia/1427 (4.05 hectares) issued on 21 July 1997 to Clement Kipchirchir;
- (9) Nakuru/Likia/1367 (2.02 hectares) issued on 21 July 1997 to Christine Chebaskwony;
- (10) Nakuru/Likia/1507 (2.02 hectares) issued on 16 July 1997 to Zacharia Kibet K;
- (11) Nakuru/Likia/1296 (2.02 hectares) issued on 21 July 1997 to Kinyekera C. Kiprotich;
- (12) Nakuru/Likia/1245 (2.04 hectares) issued on 16 July 1997 to Nelson K. Kimeli;
- (13) Nakuru/Likia/1477 (2.04 hectares) issued on 16 July 1997 to Thomas K. Sirma;
- (14) Nakuru/Likia/1480 (2.04 hectares) issued on 16 July 1997 to Ludia Chebii;
- (15) Nakuru/Likia/1486 (2.04 hectares) issued on 16 July 1997 to Charles K. Chebon;
- (16) Nakuru/Likia/1473 (2.04 hectares) issued on 16 July 1997 to Chebii Sirma;
- (17) Nakuru/Likia/1243 (2.02 hectares) issued on 16 July 1997 to William K. Kaisang;
- (18) Nakuru/Likia/1323 (2.02 hectares) issued on 21 July 1997 to Sarah T. Chesang;

- (19) Nakuru/Likia/1461 (2.02 hectares) issued on 21 July 1997 to Sarah J. Rotich;
- (20) Nakuru/Likia/1432 (2.02 hectares) issued on 16 July 1997 to Jeremiah Ngetich;
- (21) Nakuru/Likia/1484 (2.0 hectares) issued on 16 July 1997 to Vascalyne Chemutai Koske;
- (22) Nakuru/Likia/1487 (2.02 hectares) issued on 16 July 1997 to Francis Kibet Koske;
- (23) Nakuru/Likia/1249 (2.02 hectares) issued on 16 July 1997 to Ernest Kiplagat Chepkurui;
- (24) Nakuru/Likia/1251 (2.02 hectares) issued on 16 July 1997 to Henry Sadalla;
- (25) Nakuru/Likia/1266 (2.04 hectares) issued on 16 July 1997 to Chelimo Murto;
- (26) Nakuru/Likia/1485 (2.02 hectares) issued on 16 July 1997 to Charles Kibungei Sang;
- (27) Nakuru/Likia/1476 (2.02 hectares) issued on 16 July 1997 to Daniel Kipyego Serem;
- (28) Nakuru/Likia/1250 (2.04 hectares) issued on 16 July 1997 to William Kwambai Kitilit Karamai;
- (29) Nakuru/Likia/1449 (4.05 hectares) issued on 21 July 1997 to Linda C. Rotich;
- (30) Nakuru/Likia/1318 (2.02 hectares) issued on 21 July 1997 to Sammy Mutua.
- (31) Nakuru/Likia/1477 (2.02 hectares) issued on 16 July 1997 to Benjamin Kiprotich Kigen;
- (32) Nakuru/Likia/1447 (2.02 hectares) issued on 16 July 1997 to Daniel Kipkoech Chumo;
- (33) Nakuru/Likia/1264 (2.04 hectares) issued on 19 February 1999 (recipient not clear).
- (34) Nakuru/ Likia/1429 (2.02 hectares) issued on 16 July 1997 to Barnabas Kiptarus Barno (copy of title annexed to valuation report)

38. It will be seen from the above, that only 34 copies of title deeds were annexed not 35 as thought by the respondents. The petitioners are 55 in number. I do not know how the other 21 persons, having no proof whatsoever that they were allotted any land, can allege that their titles have been irregularly revoked by the Government. They have not demonstrated that they were given any land, and neither have they demonstrated to me that they had settled on any land in Likia Settlement Area, nor any proof that they were evicted from the said area, and I do not see why they have been enjoined to these proceedings.

39. I have no option but to straightaway dismiss the claims of the persons who are not in the list of 34 that I have set out above.

40. I have my own doubts as to the veracity of the titles, as no allotment letter, no Registry Index Map, nor search document have been annexed. The petitioners allege that they cannot obtain a search through a "political caveat" but no document has been shown to me to demonstrate that they have tried to obtain a search in vain. I find it extremely difficult to authenticate the titles of the petitioners.

41. The other question to determine, assuming that the 34 titles are actual land titles, is whether these titles were properly acquired. It is not denied by the petitioners, and in fact it is their case, that they obtained their titles to land that was within the Mau Forest Complex. It is their position that the land that

they acquired is among the parcels of land which comprised the degazetted forest in Legal Notice No. 142 of 8 October 2001. The said Legal Notice apparently excised about 35,301.01 hectares of land adjoining the western, northern and eastern boundaries of Eastern Mau Forest. Now, if it is the petitioners' case, that the titles they obtained formed part of what was excised in Legal Notice No. 142 of 8 October 2001, it follows that the petitioners obtained titles even before the forest was degazetted. They clearly could not have properly obtained titles to land that was still part of the forest without first there being a declaration that the said land no longer forms part of the forest. The forest first needed to be properly degazetted before titles could be issued.

42. That is indeed what was provided for by The Forests Act (CAP 385) (now repealed by the Forests Act, Act No. 7 of 2005) which was then in operation at the time that the forest herein was purportedly allocated. Section 4 of the said statute provided as follows :-

S. 4 (1) The Minister, may from time to time, by notice in the Gazette :-

- (a) declare any unalienated Government land to be a forest area;*
 - (b) declare the boundaries of a forest and from time to time alter those boundaries;*
 - (c) declare that a forest area shall cease to be a forest area.*
- (2) Before a declaration is made under paragraph (b) or paragraph (c) of subsection (1), twenty-eight days' notice of the intention to make the declaration shall be published by the Minister in the Gazette.*

43. If any titles were issued prior to the degazettement of the forest, then such titles cannot be said to be good titles for they were obtained in clear contravention of the law.

Issue 4 : Can titles acquired unlawfully be protected ?

44. The Constitution at Article 40 does on a general scale protect title to land. However, title which is unlawfully acquired does not benefit from the protection offered by Article 40. This is brought out by the provisions of Article 40 (6), and I think for proper import, it is necessary for me to set down the provisions of Article 40 in full.

Article 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.

45. It will be seen from Article 40 (6) above, that title to land which is found to have been unlawfully acquired cannot seek shelter under Article 40 of the Constitution. The mischief of Article 40 (6) is not far to find, for if this was not the case, then all one would need to do is bend or break every law with impunity, and get title to land, after which such person will then contend that his title to land must be protected. That cannot be permitted. If one acquires title unlawfully, such person cannot seek the protection of the law to protect such title.

46. The provisions of the Constitution are buttressed by the Land Registration Act, Act No. 3 of 2012. The said statute at Section 26 does protect title to land, but removes such protection for titles which were improperly acquired. The said section is drawn as follows :-

Section 26. (1) The certificate of title issued by the Registrar upon registration, or to a purchaser of land upon a transfer or transmission by the proprietor shall be taken by all courts as prima facie evidence that the person named as proprietor of the land is the absolute and indefeasible owner, subject to the encumbrances, easements, restrictions and conditions contained or endorsed in the certificate, and the title of that proprietor shall not be subject to challenge, except—

(a) on the ground of fraud or misrepresentation to which the person is proved to be a party; or

(b) where the certificate of title has been acquired illegally, unprocedurally or through a corrupt scheme.

47. I have no proof that the titles of the petitioners were acquired fraudulently or by misrepresentation, but there is no question that the titles were obtained illegally and/or unprocedurally, and as provided by Section 26(2) (b) above, such title is subject to challenge.

48. There have been several decisions where the court has refused to protect a title acquired illegally. I will only mention one, the case of **Henry Muthee Kathurima vs Commissioner of Lands & Another, Court of Appeal sitting at Meru, Civil Appeal No. 8 of 2014 (2015) eKLR**. In this case, the High Court held that the title of the plaintiff had been illegally acquired as the land was public land. The Court of Appeal upheld this position.

49. Owing to the provisions of Article 40 (6) and Section 26 of the Land Registration Act, I am unable to bring myself to protect the titles of the petitioners, which to me, were not lawfully acquired, and/or were acquired unprocedurally, for the reason that they were titles issued on land that was a gazetted forest, before such forest was degazetted. Such titles of the petitioners, if at all they can be said to be titles, cannot be protected.

Issue 5 : Are the petitioners entitled to compensation for the titles that they held and if so to what extent ?

50. Having held above, that the titles of the petitioners were not lawfully acquired, can the petitioners then be entitled to compensation for the value of the land for which they held titles ? My short answer is no. One cannot seek compensation for something that has been acquired unlawfully unless there is an express provision in the law. To hold otherwise would be an absurdity.

51. Mr. Kipkoech argued that under Article 40 (4) even persons without good title may be compensated. I had earlier set out the provisions of Article 40 and Article 40(4) provides that *"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."*

52. I have not come across any authority that has attempted to interpret the provisions of Article 40(4) and none was presented to me. But it does appear that where the Government takes over land under Article 40(3), it is acceptable for it to make provision for compensation to persons occupying the land in good faith and who may not hold title to such land. To me, this provision may cover squatters, and *a fortiori*, a person who believes that he holds a good title from the Government. But such occupants must be occupying the land in good faith. In my view, an occupant of land in good faith is one who is not privy to any illegality that made him come into occupation or who may not be expected to know that he/she is in illegal occupation of land.

53. The petitioners who had title deeds, were given those title deeds by the Government. I have not been given any evidence to suggest that they were involved in the unlawful manner in which the titles were acquired. I believe that they did occupy the parcels of land that they were given in good faith. They now have to move out because it has emerged that their titles were unlawfully acquired. I think, they can fit themselves within the provisions of Article 40(4) of the Constitution and are entitled to compensation.

54. The next issue to decide, is, what is the level of such compensation? Is the compensation supposed to be commensurate with the value of the land that such person occupies ? The argument of the petitioners is that they are entitled to the full value of the land that they held titles to. I disagree. Compensation under Article 40(4) cannot be equivalent to the compensation under Article 40(3) of the Constitution. Article 40(3) applies to situations where the Government compulsorily acquires land from a title holder. Such person is entitled to *"prompt payment in full, of just compensation"* as provided in Article 40(3)(b)(i). I am unable to equate a person holding good title to land with a person who holds no title, but is in occupation of such land in good faith. There needs to be a difference or else there would be no distinction between a person holding title to land and a mere squatter in good faith.

55. I will address this issue of compensation with finality in the next issue.

Issue 6. Were the petitioners forcefully evicted and in the process of eviction was there any violation of their rights to dignity and security or a violation of the Constitution and of the State's international obligations?

56. It is the position of the petitioners that they were "forcefully evicted." The parameters of this term has been a challenge, as appreciated by the UN Committee on Economic, Social and Cultural Rights (CESCR), in its General Comment No. 7 (16th Session,1997) when addressing the right to adequate housing, which is provided at Article 11 of the ICESCR. The Committee stated as follows in paragraph 3 of the said General Comment :-

3. The use of the term "forced evictions" is, in some respects, problematic. This expression seeks to convey a sense of arbitrariness and of illegality. To many observers, however, the reference to "forced evictions" is a tautology, while others have criticized the expression "illegal evictions" on the ground that it assumes that the relevant law provides adequate protection of the right to housing and conforms with the Covenant, which is by no means always the case. Similarly, it has been suggested that the term "unfair evictions" is even more subjective by virtue of its failure to refer to any legal framework at all. The international community, especially in the context of the Commission on Human Rights, has opted to refer to "forced evictions", primarily since all suggested alternatives also suffer from many such defects. The term "forced evictions" as used

throughout this general comment is defined as the permanent or temporary removal against their will of individuals, families and/or communities from the homes and/or land which they occupy, without the provision of, and access to, appropriate forms of legal or other protection. The prohibition on forced evictions does not, however, apply to evictions carried out by force in accordance with the law and in conformity with the provisions of the International Covenants on Human Rights.

57. It will be noted from the above, that after considering the challenges of the use of the term "forceful evictions" the Committee settled on its use as referring to *"the permanent or temporary removal against their will of individuals, families and/or communities from the homes and/or land which they occupy, without the provision of, and access to, appropriate forms of legal or other protection."*

58. There is no question that the petitioners were evicted. Whether the eviction was "forcefull" is what is problematic, for the respondents do assert that there was compensation, which would mean some access to an appropriate form of legal or other protection.

59. There was a lot of reference to international law on the obligations of government in relation to eviction of persons. It will be noted that counsel for the petitioners relied on various international instruments including the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the Optional Protocols to the ICCPR.

60. The general position in international law is that where it is necessary for persons to be evicted, such persons need to be evicted in a humane way, and alternatives be offered to them. It is not the position that a State is barred by the ICCPR or the ICSCER from evicting persons. Evictions are indeed permissible so long as the eviction is justified; that there are adequate safeguards to protect the dignity and security of the persons, and alternatives are provided. I cannot say that the eviction of the petitioners was in any way arbitrary or that there was no justification for it. The petitioners were in illegal occupation of the Mau Forest Complex, an important ecological pillar and lifeline to a myriad of species, not to mention that it is probably the most important water catchment in the country. The importance of the Mau Forest is well captured in the *Report of the Prime Minister's Task Force on the Conservation of the Mau Forest Complex*, attached to the Replying Affidavit of the 3rd respondent.

61. From what I can see, the evictions were aimed at conserving the Mau Forest, a forest of great importance, in that it is a water tower and is of huge ecological value. Indeed the lives of many Kenyans depend on the Mau forest. The Constitution at Article 69(1) (b) obligates the Government to work to achieve and maintain a tree cover of at least 10% of the land area of Kenya. The same Article obligates the State to eliminate processes and activities that are likely to endanger the environment. There can be no argument that the presence of the petitioners in the forest was going to endanger the forest and the larger environment. It was not an arbitrary exercise of State power for the Government to move to evict the petitioners. The move to evict them in my view was fully justified.

62. It was alleged by the petitioners that they were forcefully evicted; that they were later in the year 2007 informed to pick ballots for an alternative settlement scheme but that they have never been resettled; and that in the year 2011, they were evicted *"in the most inhuman, degrading and demeaning manner rendering them (the applicants) squatters in their own country..."* (paragraph 12 of the petition). In their prayers, the petitioners have inter alia asked for a declaration that *"the actions of the Government of Kenya of evicting, razing down houses and degazetting private property without due process are brazen, illegal etc..* (prayer (a)). At paragraph 7 of the supporting affidavit, it was said that the respondents *"not only evicted us but also razed down our houses in the most bizarre, barbaric and uncivilized manner and slashed our crops in the farm thus subjecting us to frustration, dejection, discrimination, inhuman, degrading, and demeaning treatment."*

63. This of course had been denied by the respondents who have averred that the petitioners were removed because the lands they occupied were illegally occupied and that they were "handsomely" compensated. It will be noted that Ms. Khatambi for the State in her submissions, pointed out that there

was absolutely no evidence of the allegations that the houses of the petitioners were razed or that they were subjected to any inhuman treatment.

64. I am inclined to agree with the respondents. There is actually no proof that any of the crops of the petitioners were slashed, their houses razed, or that they were removed in a *"barbaric and uncivilized manner."* It would not have been difficult to annex photographs, or reports of any such incidences, or even medical examination chits if indeed this is what occurred. The burden of proof was on the petitioners to demonstrate that the respondents evicted them in a manner that is not permissible by the international human rights instruments or by the constitution. I have absolutely no evidence of the matters that are alleged to have happened, and in absence of evidence, I am unable to hold that the petitioners were evicted in a manner that involved slashing of crops and razing of houses. I have in fact looked at the valuation reports annexed, which give the ground situation of two of the land parcels, that is Nakuru/Likia/1427 and 1429. The valuer has indicated that in the parcel No. 1427 there is a forest department camp whereas in the parcel No. 1429, there are no structures. There is no indication of any apparent destruction of any structures on these two parcels of land. Neither is there any indication that the parcels of land were farmed at some point. In short, I have no evidence of the allegations that the Government used arbitrary force or destroyed any of the properties or crops of the petitioners at the time that the petitioners were evicted. Without any evidence, I regret that I am unable to hold that the Government evicted the respondents inhumanely or in a barbaric fashion.

65. In their petition, the petitioners seem to confirm that an amount of Kshs. 400,000/= was offered as compensation. It is their position that this sum was *"a political move to cheat the evictees...as the Kshs. 400,000/= is a pittance as in fact the valuation of parcel numbers Nakuru/Likia/1427 and 1429 total Kshs. 7,250,000/=... a value of Kshs. 450,000/= per acre.*

66. As I stated earlier, the titles of the petitioners were unlawfully acquired and the petitioners could not therefore stand to be compensated as would a person with a legally acquired title. Unfortunately, it was not shown to me where the petitioners came from and why they were allocated the land in the forest. Were they landless before? Did they have other homes? If they did, what happened to these homes? Is it that the petitioners have no alternative homes? All that the petitioners stated is that they were allocated the parcels of land in the year 1997 by the Commissioner of Lands. They have not explained why it was necessary for the Government to allocate them these parcels of land. I on my part do not know how the figure of Kshs. 400,000/= as compensation, was arrived at. But it would appear to me that this figure was comfortable with many others. Without demonstrating why they were allocated the subject parcels of land, I am afraid that I cannot fault the Government for granting the petitioners and others in the same situation as them, the amount of Kshs. 400,000/= as compensation so that they can vacate the forest, which in any event, they were in unlawful occupation of. I also cannot term the said amount as a pittance without a valuation of surrounding settlements so that it can be demonstrated that the said amount cannot purchase some land for re- settlement.

67. The totality of the above is that I am unable to hold that the petitioners were forcefully evicted without adequate compensation.

7. Conclusion and final orders

68. From the above discourse, it will be noted that I have held that the petitioners have not demonstrated to me that they had valid titles, or that they were evicted in an inhumane manner, or that the amount of Kshs. 400,000/= offered to them was so low as to be unjustifiable in the circumstances. I am therefore unable to hold that the respondents were in breach of any Constitutional provisions cited, and I am in the same vein, unable to hold that the Government was in breach of its international obligations.

69. The upshot of the above is that I find no merit in this petition. It is hereby dismissed. However, in my discretion, I make no orders as to costs.

It is so ordered.

Dated , signed and delivered in open court at Nakuru this 21st day of April 2015.

MUNYAO SILA

JUDGE

ENVIRONMENT AND LAND COURT

AT NAKURU

In presence of:

Mr B N Kipkoech for the petitioners

Ms D Alwala holding brief for Mr Biko of M/s Odhiambo & Odhiambo Advocates for 2nd & 3rd respondents.

Ms Yvonne Khatambi of the state Law office for 1st & 4th respondents.

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ENVIRONMENT AND LAND COURT

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