



**Mainland Properties Limited v Attorney General & 3 others (Environment & Land Petition 13 of 2018) [2024] KEELC 3540 (KLR) (11 April 2024) (Judgment)**

Neutral citation: [2024] KEELC 3540 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT MOMBASA  
ENVIRONMENT & LAND PETITION 13 OF 2018  
SM KIBUNJA, J  
APRIL 11, 2024**

**BETWEEN**

**MAINLAND PROPERTIES LIMITED ..... PETITIONER**

**AND**

**THE HON ATTORNEY GENERAL ..... 1<sup>ST</sup> RESPONDENT**

**CABINET SECRETARY, MINISTRY OF LANDS & PHYSICAL  
PLANNING ..... 2<sup>ND</sup> RESPONDENT**

**COUNTY COMMANDER KENYA POLICE SERVICE MOMBASA .... 3<sup>RD</sup>  
RESPONDENT**

**THE INSPECTOR GENERAL NATIONAL POLICE SERVICE .... 4<sup>TH</sup>  
RESPONDENT**

**JUDGMENT**

1. The Petitioner moved the court through the petition dated the 26<sup>th</sup> June 2018 brought under Articles 2(6), 20(1) to (4), 21(1) & (2), 22 (1) & (2), 23 (1) & (3), 40 (1) & (3), 47 (1) & (2), 60 (1) (b), 67 (2), 165 (3)(b) & (d) and 258 (1) of *the Constitution* seeking for the following reliefs against the 1<sup>st</sup> to the 4<sup>th</sup> respondents:
  - a. A declaration of rights that the 3<sup>rd</sup> and 4<sup>th</sup> respondents have a constitutional and legal duty to comply with the order issued on 9<sup>th</sup> February, 2017 and ensure peace, order and security and oversee the eviction of the Trespassers and all other persons illegally residing on the suit property by providing sufficient of policemen and security officers;
  - b. A declaration of rights that the Respondents have a constitutional and legal duty to ensure that the Petitioner obtains vacant possession of the suit property



and has a further duty to protect the Petitioner's right to the use, possession and quiet enjoyment of the suit property;

- c. A declaration of rights that the Respondents have a constitutional duty to prevent third parties from encroaching on the Petitioner's suit property and to remove any such third parties from the suit property in protection of and furtherance of the Petitioner's right to peaceful vacant occupation and enjoyment of the same;
- d. A declaration that the failure of the Respondents to fulfil the duties set out in paragraphs a, b and c above constitutes an infringement of the Petitioner's fundamental right to property in violation of Article 40 of *the Constitution* of Kenya, 2010 and Article 14 of the African Charter on Human and People's Rights;
- e. A declaration that the failure of the Respondents to fulfil the duties in paragraph a, b and c above constitutes an infringement of the Petitioner's right to fair administrative action in violation of Article 47 of *the Constitution* of Kenya, 2010;
- f. A notice to show cause be issued to the Inspector General , National police Service and the County Commander, Mombasa County to show cause why the order issued on 9<sup>th</sup> February, 2017 issued by this Honourable Court has not been complied with;
- g. An order for general damages be issued against the Respondents for violating the Petitioner's fundamental rights and freedoms as set out in paragraphs a, b, c, d, e and f above;
- h. An Order for special damages as compensation for the loss of user, occupation, and possession of the land since October, 1984 to July, 2017 at the current market value of the suit property in the sum of Kenya Shillings One Billion Seven Hundred Million (KES 1,700,000,000);
  - i. An order for compensation for the costs incurred in creating development proposals blueprints, engineers, consultants and architect fees for the proposed development scheme in the sum of:
    - i. KES 28,280,088.25,
    - ii. EUR 4,800,
    - iii. USD 4,500;
- j. An order for special damages as lost profits arising for the Petitioner's inability to utilise and develop the suit property to its full potential in the proposed and intended development project estimated at KES 5 Billion;
- k. An order for compensation for the costs of the previous attempts to evict the trespassers at the sum of KES 3,500,000;
- l. An award of costs and interest against the Respondents in any event; and;



m. Such other orders that this Honourable Court shall deem just.

The petition is based on the grounds on its face and supported by the affidavits of Karim S. Anjarwalla advocate and petitioner's director, sworn on the 26<sup>th</sup> June 2018 and 4<sup>th</sup> February 2019.

2. The 1<sup>st</sup> to 4<sup>th</sup> respondents, responded to the petition through the replying affidavit of CIP Barnabas Ng'eno sworn on the 21<sup>st</sup> December 2018 and filed through the 1<sup>st</sup> respondent.
3. The 1<sup>st</sup> respondent also filed a cross -petition dated 4<sup>th</sup> July 2019 on behalf of the National Government and the 4<sup>th</sup> Respondent against the petitioner in the main petition and the 169 squatters who were occupying the suit property. The cross petition was filed under Articles 1(2), 2(1), 10(2(a) to (c), 19, 20 and 21 of the Constitution and seeks for the following reliefs:
  - a. An Order dismissing the Petition and any claim against the cross petitioners with costs.
  - b. An order granting the 1<sup>st</sup> Respondent vacant possession of the suit property hence the 2<sup>nd</sup> -170<sup>th</sup> Respondents are herein are to peacefully vacate the suit property.
  - c. A declaration that the 1<sup>st</sup> and 2<sup>nd</sup> to 170<sup>th</sup> Respondents participate in the eviction process to prevent a humanitarian crisis.
  - d. That the eviction orders be enforced by the court bailiff(s).
  - e. An Order that the 1<sup>st</sup> Respondent be denied the damages as compensation for the loss of user, occupation and possession of the land since October 1984 to July, 2017 since it constitutes unjust enrichment.
  - f. An alternative Order that the 2<sup>nd</sup> -170<sup>th</sup> Respondents compensates the 1<sup>st</sup> respondents for the use, occupation, ownership and any waste on the suit parcel.
  - g. In the alternative an order that the 1<sup>st</sup> and 2<sup>nd</sup> to 170<sup>th</sup> Respondents (with the assistance of the National Government) conducts an enumeration of the 2<sup>nd</sup> to 170<sup>th</sup> Respondents, thereafter survey of the 2<sup>nd</sup> to 170<sup>th</sup> Respondents respective occupied part of the suit parcel, thereafter a valuation of the 2<sup>nd</sup> to 170<sup>th</sup> respondents respective occupied part of the suit parcel and a purchase plan by the 2<sup>nd</sup> to 170<sup>th</sup> respondents respective occupied part of the suit parcel.
  - h. Costs of the Cross-Petition.
    - i. Any other order or relief as the Honourable Court shall deem just to grant.
4. In response to the cross-petition, the petitioner filed a replying affidavit sworn by one Karim S. Anjarwalla, on 22<sup>nd</sup> January 2021 and the grounds of opposition. The petitioner also filed a notice of preliminary objection dated 30<sup>th</sup> April 2021 which has however not been prosecuted to date, and is hereby deemed to have been abandoned.
5. The court issued an order for service of the 2<sup>nd</sup> to 170<sup>th</sup> respondents in the cross-petition through advertisement. The firm of Shariff & Company Advocates came on record for the said respondents.



6. Through the notice of motion dated the 21<sup>st</sup> June 2022, Jando A. Sadika & 3438 others applied to be joined to the main petition through the firm of Sharia Nyange Njuguna & Company Advocates. The application was heard and on the 19<sup>th</sup> September 2022, the court allowed the joinder of only 1,219 applicants, whose identity had been verified, as respondents. The 1219 squatters filed their replying affidavit to the petition and cross-petition sworn by Sadiki Jando, chairman Kajiweni Asili CBO, on 6<sup>th</sup> November 2022. In his deposition, Sadiki Jando inter alia described the 1219 respondents as members of Kajiweni Asili CBO2, and they will be so referred, henceforth.
7. The property subject matter in the petition is Plot No. 828/ II/ MN whereby the petitioner is claiming it has been the registered owner since 16<sup>th</sup> December 1982. The petitioner's position is that at the time of purchase of the suit property, there were about 6 families, but by 2001 their number had increased to 69 families. That through cooperation with the local administrative offices now defunct i.e the District Commissioner and the Chief's office they were able to settle the said families on a portion of the suit property, and issued them with allotment letters. That sometime in 2003 there was an influx of about 200 squatters who wanted to benefit from similar arrangements as the first group of 69 squatters. The said 200 squatters filed an adverse claim suit vide HCCC NO. 96 OF 2003, which was dismissed on 24<sup>th</sup> July 2009. That the petitioner in the main petition obtained orders for vacant possession in HCCC 503 of 2011 whereby the 3<sup>rd</sup> and 4<sup>th</sup> Respondents were to inter alia provide security for the enforcement of the orders, but have failed to do so.
8. Directions on filing and exchanging submissions within specified timelines were given on the 23<sup>rd</sup> February 2023 and 3<sup>rd</sup> July 2023. The learned counsel for the petitioner had by then filed their submissions dated the 8<sup>th</sup> May 2019, and subsequently filed the supplementary submissions dated the 8<sup>th</sup> January 2024. The learned counsel for the 1<sup>st</sup> to 4<sup>th</sup> respondents filed their submissions dated 3<sup>rd</sup> April 2023 while counsel for the Kajiweni Asili CBO squatters filed their submissions dated 30<sup>th</sup> June 2023. The 169 respondents in the cross petition did not file any replies or submissions. The court then fixed the matter for highlighting of the submissions that took place on the 25<sup>th</sup> January 2024. The court has considered the written and oral submissions presented by counsel on behalf of their respective parties.
9. The following are the issues for court's determination in the petition and cross-petition:
  - a. What are the constitutional rights to be enforced by this court, and on whose behalf?
  - b. What prayers can be granted?
10. The court has considered the petition, cross-petition, affidavit evidence, submissions by the learned counsel, superior courts decisions relied upon thereon and come to the following determinations:
  - a. The superior courts have variously pronounced themselves on the standard of proof in a petition, both pre and post Constitution of Kenya 2010. In the famous case of Anarita Karimi Njeru versus Republic (No1)-[1979] KLR 154 the court stated as follows:

“... if a person is seeking redress from the High Court on a matter which involves a reference to *the Constitution*, it is important (if only to ensure that justice is done to his case) that he should set out with a reasonable degree of precision that of which he complains, the provisions said to be infringed, and the manner in which they are alleged to be infringed.” (see also Meme v Republic & another [2004] 1 KLR 637)



The above principle was addressed in *Mumo Matemo versus Trusted Society of Human Rights alliance* [2014] eKLR, where the Court of Appeal stated that:

“...the principle in *Anarita Karimi Njeru* (supra) underscores the importance of defining the dispute to be decided by the court... Procedure is also a handmaiden of just determination of cases. Cases cannot be dealt with justly unless the parties and the court know the issues in controversy. Pleadings assist in that regard and are a tenet of substantive justice, as they give fair notice to the other party. The principle in *Anarita Karimi Njeru* (supra) that established the rule that requires reasonable precision in framing of issues in constitutional petitions is an extension of this principle”

In the case of *Christian Juma Wabwire versus Attorney General* [2019] eKLR, the court relied on the decision in *Lt Col Peter Ngari Kagume and 7 others versus AG*, Constitutional Application No 128 of 2006 it was held that:

“It is incumbent upon the petitioners to avail tangible evidence of violation of their rights and freedoms. The allegations of violations could be true but the court is enjoined by law to go by the evidence on record. The petitioners’ allegations ought to have been supported by further tangible evidence such as medical records, witnesses..... the court is deal to speculation and imaginations and must be guided by evidence of probative value. When the court is faced by a scenario where one side alleges and the rival side disputes and denies, the one alleging assumes the burden to prove the allegation... However, mere allegation of incarceration without providing evidence of the same does not at all assist the court. It was incumbent upon the Petitioners to provide evidence of long incarceration beyond the allowed period and not to be presumptuous that the court knows what happened.....”

Furthermore, the court held as follows:

“I am alive to the fact, that the petitioner in his petition alluded to various constitutional violations, but without having availed tangible evidence of violation of his rights and freedoms, I find the allegation by mere words without any other evidence, the court cannot find that the petitioner has proved violations of his rights and freedoms. The petitioner herein ought to have produced documentary evidence such as medical reports and called witnesses to ensure court considers the same. The courts of law are deaf to speculations and irregularities as it must always base its decision on evidence. I therefore find and hold that the petitioner failed to discharge the burden of proof to the required standard of proof. I find that the petitioner did not give evidence of probative value to enable this court decide the petition in his favour and grant the orders sought.”

In the main petition, the petitioner avers that it is the registered owner of the suit property of around 341 acres. That averment has not been contested by the 1<sup>st</sup> to 4<sup>th</sup> respondents. However, the 171 to 1388 respondents, Kajiweni Asili CBO, are claiming through their reply to the petition and cross-petition, possession rights over the said property.

- b. The main constitutional right the petitioner is seeking to protect is its property rights under Article 40 of *the constitution*. The petitioner has shown evidence of its attempts in evicting the squatters, who are now in their thousands. Despite, the court order in HCCC 503 of 2011 of 9<sup>th</sup> February 2017, the petitioner has been unable to secure vacant possession of the suit property. The said court order was directed towards the 3<sup>rd</sup> respondent. Mativo J, as he then was, in the case of *Trusted Society of Human Rights Alliance versus Cabinet Secretary* for



Devolution and Planning & 3 others [2017] eKLR held as follows on the obligation to obey court orders:

“It is essential for the maintenance of the rule of law and order that the authority and the dignity of Courts is upheld at all times. The Court will not condone deliberate disobedience of its orders and will not shy away from its responsibility to deal firmly with proved contemnors. It is the plain and unqualified obligation of every person against, or in respect of whom, an order is made by a Court of competent jurisdiction, to obey it unless and until that order is discharged. The uncompromising nature of this obligation is shown by the fact that it extends even to cases where the person affected by an order believes it to be irregular or void. [ See Econet Wireless Kenya Ltd vs. Minister for Information & Communication of Kenya & Another [2005] 1 KLR 828 Ibrahim, J (as he then was)].

It must be remembered that court orders must be obeyed at all times in order to maintain the rule of law and good order. This of course means that the authority and dignity of our courts must be upheld at all times, and this differentiates civilized societies from those applying the law of the jungle. It is the duty of the Court not to condone deliberate disobedience of its orders and not to waiver from its responsibility to deal decisively and firmly with contemnors. [See Awadh vs. Marumbu (No 2) No. 53 of 2004 [2004] KLR 458].

The Court does not, and ought not to be seen to make orders in vain otherwise, the Court would be exposed to ridicule, and no agency of the constitutional order would then be left in place to serve as a guarantee for legality, and for the rights of all people. [See Ojwang, J (as he then was) in B vs. Attorney General [2004] 1 KLR 431].

- c. From the depositions filed on behalf of the 1<sup>st</sup> to the 4<sup>th</sup> respondents in reply to the main petition, and in support of the cross-petition, and the submissions by their learned counsel, there is no doubt they do not dispute the petitioner’s title to the suit property. They also do not dispute that the court order was issued on the 9<sup>th</sup> February 2017 in Mombasa Land Case No.503 of 2011, directed to the 3<sup>rd</sup> respondent to “provide adequate contingent of policemen and women to ensure protection of the auctioneers and ensure peace and security during the eviction process.” They say that the 3<sup>rd</sup> respondent had provided 50 police officers who went to the suit property to carry out the court order but were not successful and were left with injuries. In the cross-petition, the National Government and Inspector General of Police, though at prayer (i) they sought for the petition to be dismissed, they then turn around to seek inter alia for the petitioner in the main petition to be granted vacant possession; the 169 respondents in the cross petition to be ordered to vacate peacefully; “the eviction orders be enforced by the court bailiff(s)”, and “an order that the 1<sup>st</sup> to the 170<sup>th</sup> respondents (with assistance of the National Government) conducts an enumeration of the 2<sup>nd</sup> to 170<sup>th</sup> respondents, thereafter survey of the 2<sup>nd</sup> to 170<sup>th</sup> respondents respective occupied part of the suit parcel, thereafter a valuation of the 2<sup>nd</sup> to 170<sup>th</sup> respondents respective occupied of the part of the suit parcel and a purchase plan by the 2<sup>nd</sup> to 170<sup>th</sup> respondents respective occupied part of the suit parcel.” Considering court bailiffs are civilians, the court wonders how they would be expected to carry out the orders that the 50 policemen the 3<sup>rd</sup> respondent had allegedly provided were unable to accomplish, and instead were left with injuries.
- d. While I do not find merit in the prayers in the cross-petition, the last substantive prayer (vii) appears to be one worth of more consideration, as it is likely to resolve the squatter resettlement problem, while ensuring the petitioner, as the proprietor of the suit property, is compensated for the portion of the land to be taken. However, as there is no evidence that the 1<sup>st</sup> to the



4<sup>th</sup> respondents have engaged the petitioner on that proposal or obtained its concurrence, the court would not consider issuing that kind of an order. Needless to state, the parties should however be at liberty to pursue the idea and possibly bring on board the National Land Commission and the relevant County Government to see whether an agreed resolution along that proposal could amount to fruition.

- e. The rule of thumb has always been that he who alleges must prove as per section 107 of the [Evidence Act](#). The court order of 9<sup>th</sup> February 2017 required of the 3<sup>rd</sup> respondent to “provide adequate contingent of policemen and women to ensure protection of the auctioneers and ensure peace and security during the eviction process.” There are no doubts that the eviction has not taken place from 2017 to today, and there is no evidence that the said court order has been successfully appealed against, reviewed or set aside. Had the 3<sup>rd</sup> respondent provided “adequate contingent of policemen and women” as directed in the order, the court has no doubt the eviction would long have been accomplished, and petitioner placed in vacant possession. The fact that 50 police officers were not able to carry out the directions of the court ought to have shown the 3<sup>rd</sup> respondent that number of the police officers was not adequate. As the matters stands now, the court has no difficulty in finding that the 3<sup>rd</sup> respondent has not complied with the court order of 9<sup>th</sup> February 2017.
- f. Article 40 (3) of [the Constitution](#) provides as follows:
- “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.

The failure by the 3<sup>rd</sup> respondent to provide adequate police officers in compliance with the court order of 9<sup>th</sup> February 2017, was tantamount to denying the petitioner its exclusive right to enjoyment of its property under Article 40 of [the Constitution](#). That deprivation amounts to a violation of Article 47 of [the Constitution](#).

- g. The court agrees with the submissions by counsel for the 171 to 1388 respondents, Kajiweni Asili CBO, that the order of 9<sup>th</sup> February 2017, was not directed to the 1219 respondents simply because they were not parties to the suit, HCCC NO. 503 of 2011, where the order emanated from. It would be against the rules of natural justice to have them affected by the order without giving them the opportunity to be heard under Article 50 of [the Constitution](#), and or to seek redress under sections 152A to 152G of the [Land Act](#) No. 6 of 2012.
- h. However, as the 2<sup>nd</sup> to 169 respondents to the cross-petition did not file a reply to the petition and or cross petition, or submissions thereof, it is deemed that they had no objection to the eviction ordered on 9<sup>th</sup> February 2017 in HCCC NO. 503 of 2011.



- i. Rule 3 of *the Constitution* of Kenya (Protection of Rights and Fundamental Freedoms) Practice and Procedure Rules, 2013 requires the rules to be interpreted in accordance with Article 259 (1) of *the Constitution*, and to be applied with a view to advancing and realizing the (a) rights and fundamental freedoms enshrined in the Bill of Rights; and (b) values and principles in *the constitution*. Rule 8 thereof provides that nothing in the rules shall limit or otherwise affect the inherent power of the court to make such orders as may be necessary for the ends of justice or to prevent abuse of the process of the court. It is clear the petitioner has sought for among others, compensation or special damages, tabulated from the time it acquired ownership in 1982. The petitioner has admitted in its pleadings that out of humane treatment of the original squatters of 69 families, it decided to settle them at its own cost. It is baffling therefore, that the petitioner is requesting for the amount expended in the said exercise, yet the same was done out of the goodwill between the petitioner, the local authorities and the squatters. The 69 squatters stopped being trespassers on the suit property after they were issued with allotment letters, and the petitioner is estopped from requesting for any damages relating to their resettlement. See the decision in the case of *Evanson Jidraph Kamau Waitiki versus Kenya Power & Lighting Company Ltd* [2017] eKLR where the Court of Appeal held as follows:

“She found that it was a conceded fact and a matter of public knowledge for which she took judicial notice that the suit land was purchased by the Government after which the Government issued title deeds to the squatters on the land; that thereafter the appellant had no interest on the suit land; that following the purchase and transfer of the suit land the claim for mandatory injunction to direct the respondent to remove the installation and one for permanent injunction were inapplicable, leaving only the claim for damages for trespass. On that question the learned Judge reached this conclusion;

“My interpretation of this is that whatever action that previously was an act of trespass now ceased to be. If the squatters are no longer called trespassers but now are owners of the suit land then I do not see why the defendant’s infrastructure on the land would still amount to trespass. In my opinion the transaction between the plaintiff and the government compromised the suit.”

- j. Taking into consideration the previous litigation towards the petitioner getting vacant possession of the suit property, and the circumstances of the parties in this petition, the court is of the considered view that the prayers seeking for compensations and or damages will not serve the justice of the case. Those prayers are g, h, j and k of the main petition and are hereby declined. As for prayer i, for costs in the proposals, blueprints, engineers, consultants and architect fees, all is not lost as the petitioner can still use them at a later date, once eviction is properly carried out, and it gains vacant possession of the suit property. Prayer f cannot issue in this petition and the petitioner should have considered seeking for it through HCCC No. 503 OF 2011, in which the order of 9<sup>th</sup> February 2017 was issued. For good order, execution proceedings of the orders and or decree issued in HCCC No. 503 of 2011 should be pursued through that suit.
- k. I agree with the petitioner’s submissions on the relevance of the case of *Government of the Republic of South Africa & Others versus Grootboom & Others* (2000) ZACC 19;2001 (1) SA 46;2000 (11) BCLR 1169 to this petition. The provision of section 26 of the South African Constitution, which is *pari passu* to Article 40 of *the Constitution* of Kenya is to be read with



Article 60 of the same, on principles of land policy where everyone needs to have equitable access to land. Indeed the 3<sup>rd</sup> respondent and the state generally had the responsibility to help secure the petitioner's property rights under Article 40 of *the Constitution*, but has so far failed to do so.

- i. The state could also have considered under the provisions of Chapter 5 of *the Constitution* to take steps and initiate the process of resettling the squatters on the suit property or part of it through compulsory acquisition. That avenue or route is still available as already alluded to earlier above, but will be left to the relevant parties and other prayers to consider and pursue. The 171<sup>st</sup> to 1388<sup>th</sup> respondents, Kijaweni Asili CBO group, may consider petitioning the relevant Government agencies towards that direction now that the proposal was one of the prayers in the cross-petition. In the upshot of the foregoing, I find the petitioner has established entitlement to prayers 'a', 'b', 'c', 'd', and 'e' of the main petition, which are hereby granted.
- m. It is obvious the petitioner was forced to file this petition by the failure of the 3<sup>rd</sup> respondent to comply with the court order of 9<sup>th</sup> February 2017 issued in HCCC No. 503 of 2011. The petitioner has substantially succeeded in its petition against the 1<sup>st</sup> to 4<sup>th</sup> respondents, who have failed in their cross-petition. The petitioner in the main petition is therefore, awarded the costs in the petition as per prayer 'l' and cross-petition to be borne by the 1<sup>st</sup> to 4<sup>th</sup> respondents. The 171<sup>st</sup> to 1388<sup>th</sup>, Kajiweni Asili CBO, were not brought into this proceeding by the petitioner or the 1<sup>st</sup> to the 4<sup>th</sup> respondents. They voluntarily applied to join the petition and will meet their own costs in both the petition and cross-petition.
- n. With the nature of the contestations between the petitioner and the 1<sup>st</sup> to 4<sup>th</sup> respondents being apparent to the court, and with a view of ensuring the court orders issued in HCCC NO. 503 of 2011 of 9<sup>th</sup> February 2017 are complied with, I find this an appropriate case for the court under prayer 'm' to exercise its powers under Article 23 of *the Constitution*, and issue an order of mandamus, requiring the 3<sup>rd</sup> and 4<sup>th</sup> respondents to ensure compliance with the court order of 9<sup>th</sup> February 2017 within the period to be specified here below.
  1. In view of the above determinations, the court finds and orders as follows:
    - a. That the cross-petition by the National Government and the Inspector General of Police dated the 4<sup>th</sup> July 2019 is without merit and is hereby dismissed with costs to the 1<sup>st</sup> respondent/petitioner in the main petition.
    - b. That petitioner in the main petition has substantially proved its claim against the 1<sup>st</sup> to 4<sup>th</sup> respondents which is determined as follows:
      - i. Prayers 'a', 'b', 'c', 'd', 'e', and 'l' of the petition dated the 26<sup>th</sup> June 2018 are granted as prayed.
      - ii. Prayers 'f', 'g', 'h', 'i', 'j', and 'k' of the petition dated the 26<sup>th</sup> June 2018 are rejected.
    - c. The 1<sup>st</sup> to 4<sup>th</sup> respondents are granted sixty (60) to engage all the relevant parties and come up with resettlement solution for the squatters on the suit property or part thereof.
    - d. That if there is no settlement solution within the time given in (c) above, an order of mandamus, requiring the 3<sup>rd</sup> and 4<sup>th</sup> respondents to ensure compliance with the court order of 9<sup>th</sup> February 2017 issued in HCCC NO. 503 of 2011 within the next sixty (60) days be issued.

Orders accordingly.

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DATED AND VIRTUALLY DELIVERED ON THIS 11<sup>TH</sup> DAY OF APRIL 2024.

S. M. Kibunja, J.

ELC MOMBASA.

IN THE PRESENCE OF:

PETITIONER : M/s Onesmus.

1<sup>ST</sup> TO 4<sup>TH</sup> RESPONDENTS : Mr Makuto for Langat.

2<sup>ND</sup> TO 170<sup>TH</sup> RESPONDENTS : No appearance.

171<sup>ST</sup> TO 1388<sup>TH</sup> RESPONDENTS : No appearance.

WILSON – COURT ASSISTANT.

S. M. Kibunja, J.

ELC MOMBASA.

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