



Bhatt & another & 21 others v Alina Valley Company Limited & 7 others (Environment and Planning Civil Case E024 of 2024) [2024] KEELC 13356 (KLR) (13 November 2024) (Ruling)

Neutral citation: [2024] KEELC 13356 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NAIROBI
ENVIRONMENT AND PLANNING CIVIL CASE E024 OF 2024**

AA OMOLLO, J

NOVEMBER 13, 2024

**IN THE MATTER OF ARTICLES 1, 2, 3, 10, 19, 20, 21(1), 22(1) & (21), (23)
(1) & (31), 70, 73(2), 165 AND 232 OF THE CONSTITUTION OF KENYA,**

2010 &

**IN THE MATTER OF THE ALLEGED CONTRAVENTION OF
ARTICLES 1(1), 2(2), 3(1), 10, 21(1), 27(1) & (21), 28, 29(C), (D) & (F), 35(1),
39(3), 40(1) & (31), 42, 43(1) (B) & (D), 46(1), 47(1) & (21), 50(1), 60(1), 69, 70,**

73 AND 75(1) OF THE CONSTITUTION OF KENYA, 2010 &

**IN THE MATTER OF THE PHYSICAL LAND USE AND PLANNING ACT,
CHAPTER 303 LAWS OF KENYA &**

**IN THE MATTER OF ENVIRONMENT MANAGEMENT AND CO-
ORDINATION ACT NO. 8 OF 1999 CHAPTER 387 LAWS OF KENYA &
IN THE MATTER OF NATIONAL CONSTRUCTION AUTHORITY ACT**

&

**IN THE MATTER OF LEADERSHIP AND INTEGRITY ACT &
IN THE MATTER OF PUBLIC OFFICERS ETHICS ACT**

BETWEEN

**JAGDISH CHANDRA J BHATT & BHARTI BHATT 1ST PETITIONER
SARAT KIRIT RAVAL & KHILNA R RAVAL 2ND PETITIONER
SAVERI RWANGA AYABATWA 3RD PETITIONER
SUMANT RAI PATEL & RAMABEN S R PATE 4TH PETITIONER
MARY IRENE AGUTTU ATIENO 5TH PETITIONER**



CHARLES DAVID OBADHA	6 TH PETITIONER
JANE ABAYO	7 TH PETITIONER
PAUL NYAKIAMO	8 TH PETITIONER
HILDA NELLY W GAKURE	9 TH PETITIONER
SUAD YUSUF NUR	10 TH PETITIONER
ABBAS MOHAMED	11 TH PETITIONER
NANCY NYAKERARIO ONGATI	12 TH PETITIONER
CHARLES KAMANDA & FAITH W KAMANDA	13 TH PETITIONER
GETRUDE LAN'O JOSEPH	14 TH PETITIONER
PETER J NJAGI	15 TH PETITIONER
JULIUS KIPTARUS	16 TH PETITIONER
SARAH AKINYI OOKO	17 TH PETITIONER
TRUPHENA KIRONGO	18 TH PETITIONER
SIMON KIPNG'ENO LANG'AT	19 TH PETITIONER
DAVID KIMUTAI BARGORIA	20 TH PETITIONER
KILIMANI PROJECT FOUNDATION LIMITED	21 ST PETITIONER
ASSOCIATION (SUING THROUGH ITS REGISTERED OFFICIALS ADRIEL RAYMOND NJOGU, FRANKILIN KENNEDY AMBUDO AND MARY IRENE AGUTTU ATIENO)	22 ND PETITIONER

AND

ALINA VALLEY COMPANY LIMITED	1 ST RESPONDENT
NATIONAL ENVIRONMENTAL MANAGEMENT AUTHORITY	2 ND RESPONDENT
COUNTY GOVERNMENT OF NAIROBI CITY	3 RD RESPONDENT
THE GOVERNOR NAIROBI CITY COUNTY	4 TH RESPONDENT
NAIROBI METROPOLITAN SERVICES	5 TH RESPONDENT
PATRICK ANALO AKIVAGA	6 TH RESPONDENT
STEPHEN GATHUITA MWANGI	7 TH RESPONDENT
NATIONAL CONSTRUCTION AUTHORITY	8 TH RESPONDENT



RULING

1. This Ruling is in respect to the application dated 26th June, 2024 brought under the provisions of articles 22 and 23 of *the Constitution* 2010 and Rules 23 & 24 of *the Constitution* of Kenya Practice & Procedure Rules, 2013. The Petitioners are seeking for Orders;
 1. Spent
 2. Pending hearing and/or determination of this Petition, a conservatory or interim order of injunction be and is hereby issued stopping and/or suspending any forms of works and/or construction and/or works or activity related to construction on plot L.R No. 209/9351, Kilimani, Nairobi County, situated along Likoni Lane, off Dennis Pritt Road by the 1st Respondent, their servants, agents, contractors or any other person.
2. The application is premised on the supporting affidavit of the 1st Petition and several grounds listed on the face of the motion some of which touch on the merits of the petition. I here below include a few of the grounds as follows;
 1. The 1st Respondent intends to construct inter alia, three (3) semi detached 15 floors Blocks with 248 Apartment units on a one (1) acre parcel of land, LR No. 209/9351 (the subject plot) situated along Likoni Lane, off Dennis Pritt Road in Kilimani area of Nairobi City County. The intended construction is by the 2nd Respondent's regulatory standards deemed and classified as a "High Risk Project." The 1st Respondent is already in the process of excavation works.
 2. Likoni Lane is a cul-de-sac; and the subject plot lies between two built up plots at the edge of the Kirichwa Kubwa River, therefore riparian land. The subject plot itself is directly adjacent to the said Kirichwa Kubwa River.
 3. The 1st Respondent has no valid or lawful or legal approvals for the intended construction. All approvals relied upon were obtained either illegally, or fraudulently, or simply in direct contravention of the law and/or lawful procedures.
 4. Existing Zoning Laws and/or Physical Planning Rules, Laws, Regulations, Policies and/or Building Codes stipulate inter alia that Likoni lane, and Kilimani area in general fall within "Zone 4" which permits development of up to maximum of four (4) floors and maximum plot coverage of up to 35%. Likoni Lane is classified as a low-density residential neighbourhood.
 5. The intended construction is illegal and in violation of the existing Physical Planning Rules, Laws, Regulations, Zoning Laws, Policies and the Building Code governing construction within Nairobi City County and more specifically the Kilimani Area where the subject plot is situated.
 6. The 1st Respondent also failed and/or neglected to seek a Change of Densification of Use Contrary to Regulation 15(e), f, (g) of the Physical and Land Use Planning (General Development Permission and Control) Regulations, 2021 therefore the intended construction is illegal from the start.
 7. The 2nd to 7th Respondents are jointly accused of failing, refusing, neglecting, abdicating and/or has otherwise been negligent in performing their constitutional roles, duties and responsibilities. For instance;



- i. The 2nd respondent itself did not conduct and/or seek to conduct a public hearing in contravention of Regulation 22 of the Environmental (Impact Assessment and Audit) Regulations, 2003 as read together with Articles 10(2) (a, b and c) and 69 (1) (d) of *the Constitution* of Kenya in spite of its knowledge that the impugned construction was highly contested and before issuing an Environmental Impact Assessment License.
 - ii. The 2nd Respondent illegally and unlawfully issued an Environmental Impact Assessment License on 23rd October, 2023 to the 1st Respondent against the knowledge that the impugned construction did not comply with applicable zoning guidelines and regulations. Therefore, the 2nd Respondent is culprit and/or complicit in the deliberate violation and/or blatant disregard for urban planning and management rules and regulations.
 - iii. The 3rd Respondent has contravened the *Physical and Land Use Planning Act* as no building plans were submitted to it in connection with application number PPA-CU-AAE972 and that there was no material/information which they considered to make the determination.
 - iv. The 3rd Respondent failed to ensure public participation was conducted when considering the purported change of user.
3. The application is opposed by the Respondents through the various replying affidavits filed and the 8th Respondent's grounds of opposition. Vide a replying affidavit sworn by Lucas Yu on 31st July, 2024 on behalf of 1st Respondent, it is deposed that prior to commencing the proposed project, all the statutory approvals and licenses were obtained. The 1st Respondent deposed that before the issuance with a change of user license, they had put a notice on site and advertised the notice in the Standard newspaper of 17th November, 2021. They also aver to have lodged electronically and paid to the 3rd Responding application for the development.
4. The 1st Respondent avers that they also conducted stakeholder engagement for the process of obtaining an E.I.A license on the 28th January, 2023, 18th March, 2023 and 29th April, 2023. It is their assertion that for each public meeting, prior to the date, they published the dates by putting notices in strategic places, vicinity of the site, radio announcements and newspaper adverts. Mr. Yu annexed copies of the newspaper adverts and payment made for the radio announcement as LY-11(a) – (c).
5. The 1st Respondent pleaded that reasonable opportunity was offered to members of the public to know about the development and to have their objections/suggestions heard. The 1st Respondent deposed that they sought from the Water Resources Authority the pegging of riparian reserve on L.R. No. 209/9351 along Likoni Lane Off Dennis Pritt Road. That the site was visited on 4th March 2022 and beacons were placed at the edge of the riparian reserve.
6. The 1st Respondent added that the Water Resources Authority vide a letter dated 9th March, 2022 gave conditions that were to be complied with. Equally, that they obtained approval of the 8th Respondent after having complied with all the development laws and regulations. The 1st Respondent accuses the petitioners of malice in bringing the application and the Petition, the particulars of malice were set out at paragraph f of the replying affidavit inter alia;
 - a. The grounds of the Petitioners' objection to the development are based on a preference of the type of houses in the area rather than scientific or technical findings of the effect of the proposed development to the environment for the area.



- b. Furthermore, the petitioners failed to present their grievances before the appropriate statutory bodies vested with the authority to address such matters, thereby undermining the established legal framework.
7. The 1st Respondent contends that the Petitioners'/Applicants' allegations that the proposed development's height and density will expose the environment to harsh and destructive effects in the area is unsubstantiated since the 1st Respondent submitted mitigation measures put in place to the 2nd Respondent which after consideration of the same, the 2nd Respondent proceeded to find as sufficient and the 1st Respondent compliant by issuing the EIA License.
8. On merit of the application for the orders of conservatory nature to issue, the 1st Respondent deposed that the subject matter in dispute is the legality of the approvals and licenses obtained which dispute cannot be determined at an interlocutory stage. That despite the Petitioners' allegation that the approvals were irregularly obtained, they still hold valid approvals/licenses as they have not been revoked. It is their contentions that the Petition would not be rendered nugatory if the conservatory orders are refused. That the construction has not resulted in any significant negative impact that would justify an immediate cessation through the issuance of conservatory orders and that substantial time will elapse before the building progresses to the 4th floor.
9. The 2nd Respondent's replying affidavit was sworn on 22nd August, 2024 by its Director General, Mr Mamo B. Mamo. He began by setting out the mandate of the 2nd Respondent under the governing law, EMCA 1999 and asserted that the 1st Respondent holds a lawfully obtained EIA license issued on 23rd October, 2023. The 2nd Respondent deposed to receiving a TOR for E. I. A on 7th April, 2022 referenced TOR 417 which was approved. That the team of experts undertook the EIA and submitted a study report to the Authority.
10. The 2nd Respondent outlined the manner in which the Petitioners and the public were engaged. For instance, the proponent placed notices in the Star and the Standard newspaper as well as Ghetto Radio. That the 2nd Respondent received numerous complaints, objections and concerns from Likoni Lane Residents and the 21st Petitioner on 25th August, 2022 citing issues around Zoning, traffic impacts and proximity of the project to Kirichwa Kubwa river. The 2nd Respondent avers that the Water Resources Authority also forward sectoral comments citing no objection provided the proponent ensured the effluent meets the required standards for discharge and that they adhered to the effective design & construction of surface drainage.
11. Subsequently a site inspection by the 2nd Respondent took place on 22nd June, 2022 to assess suitability and inform decision making. The site visit recommendations are contained in paragraph 18 of Replying Affidavit of the proponent. That considering all the issues raised, the 1st Respondent decided to re-start the E.I.A process and gave notice vide its letter dated 19th October, 2022.
12. The 2nd Respondent explained the steps taken by the 1st Respondent during this second E.I.A study. That they dispatched the E.I.A study report to the relevant lead agencies for sectorial review and comments (lead agencies listed). They also issued public notice for publication in the print media & radio inviting the public to make comments within 30 days. That the proponent at their own cost published the notice as follows;
- i. In the Kenya Gazette of Friday, 18th August, 2023
 - ii. In the Standard of Wednesday, 16th August, 2023
 - iii. The Star on Wednesday, 16th August, 2023



- iv. Ghetto Radio on air mention on Friday, 18th August, 2023.
13. The 2nd Respondent has given particulars of objections raised by some of the Petitioners here found at paragraph 31 – 34 of its replying affidavit. That after technical review, they wrote to the 1st Respondent on 26th September, 2023 to inter alia;
- i. Provide an integrated site layout plan drawn to scale and printed in at least A3 paper size clearly indicating siting of all components in relation to the pegged riparian reserve for the Kirichwa River, the plot boundary line, the buildings set-back distance as per development condition No. (e) and the TIA recommended access design with acceleration and deceleration lands.
 - ii. One of the issues raised by the project affected persons is that the project design does not conform to the existing land use and zonation framework for the area that is designated as Zone 4 that allows for four levels high rise apartments. In Chapter 6 of the TIA report on the fourth paragraph you state that there is a recent re-zoning of the area to allow for higher density developments. Clarify the re-zonation framework.
 - iii. Provide a 3-Dimensional artistic impression of the project design model illustrating the building perspective and orientation to the surrounding.
14. The proponent responded to the issues raised and a technical review undertaken that established technical adequacy of the response, baseline environmental information and the environmental management plan for the potential impacts of the project that were mitigatable. The Likoni Lane Residents, the Architect Alliance and the Kilimani Project Foundation respectively wrote to the Authority seeking an extension of time for submission of public comments. The 2nd Respondent averred that no comments had been received by close of business on 18th October, 2023. Consequently, the project was recommended for approval and issuance of an EIA license with mandatory compliance conditions to institute the appropriate environmental and social safeguards.
15. Mr. Patrick Analo Akwaga swore the replying affidavit on behalf of the 3rd to 7th Respondents opposing the application for conservatory orders. He deposed that the 1st Respondent followed the steps provided under Physical Land Use and Planning *Act No. 13 of 2019* including putting up advertisements and posters on the site and the application passing through the technical committee of the county.
16. He deposes further that the 1st Respondent submitted an application for development on 27th April, 2022 which was approved on 16th June, 2022 after a comprehensive review by technical experts. He avers that the current zoning policy is under review at the County Assembly and the technical committee is mandated to approve proposed projects ensuring they meet all legal and technical standards.
17. That the proposed development is consistent with the Nairobi City County's vision and the wide National vision for urban development and planning, which encourages high-density residential buildings to optimize land use and address housing shortages. That the approvals granted to the 1st Respondent were based on a thorough evaluation process that included environmental impact assessments, technical reviews, and public participation. The 3rd Respondent avers the Petitioners have not demonstrated any specific harm or prejudice they will suffer as a result of the 1st Respondent's development, thereby failing to establish a basis for the reliefs sought.
18. The 8th Respondent filed ground of opposition dated 23rd July, 2024. The grounds stated inter alia;



- i. That the Applicants' application dated 26th June, 2024 makes no allegation of any infringement or violation of the Applicants' rights by the 8th Respondent.
 - ii. That the issues raised in the Application constitute matters of zoning and planning, and the environment, which are covered under the *Physical and Land Use Planning Act*, 2019, and the Environment, Management and Coordination Act, 1999 respectively, to which the 8th Respondent is not a regulator.
 - iii. That the 8th Respondent is not mandated to approve development plans. The County Government undertakes the approval process of any construction project. Therefore, the 8th Respondent only registers construction work once the relevant County Government has approved a construction project.
19. The Petitioner filed a further affidavit sworn by the 1st Petitioner on 3rd October, 2024 in responding to the facts contained in the replying affidavits. He reiterated that all the approval/licenses obtained by the 1st Respondent were obtained unlawfully and irregularly. The Petitioner aver that the change of user did not comply with regulation 15 2(e) and (g) of the Physical Land Use Planning (General Development Permissions 2021. Further that no public participation was conducted prior to granting of the change of user license.
 20. With respect to EIA license the Petitioners aver that only the meeting of 28th January, 2023 was fruitful. That during that meeting, the Likoni Lane were categorical that as a pre-condition for any subsequent meeting, the 1st Respondent must present plans that were in accordance with the existing laws and regulations. It is their averment that the 1st Respondent was not keen on carrying out any meaningful and robust engagement.
 21. That the 1st Respondent has never denied importing fake residents into the project site to defeat the goals of meaningful public participation. They accuse the 2nd Respondent of not taking any investigations to ensure the right thing is done. That the meeting of 18th March, 2023 did not meet the requirements of regulation 17(c) of Environment (E.A.A) Regulations. They described the meeting of 29th April, 2023 as disastrous and shambolic.
 22. I note that the paragraphs of the further affidavit from paragraphs 12 – 16 onwards touches on the merits of the petition and not the justification for grant of the conservatory orders. The Petitioners asserted that the 5th Petitioner who is an architect has expressed that digging a foundation for a 15 storeyed building will have significant effects on the foundation of adjacent or surrounding properties yet the 1st Respondent has failed to put in place setbacks between the intended construction and the Petitioner's properties.
 23. In regard to the 2nd Respondents replying affidavit, the Petitioners aver that the 2nd Respondent has a duty to take pre-cautionary measures and not be reactionary. That by leaving the decisions to the proponent, it was failing in its duty of taking pre-cautionary steps. That the traffic management plan has only addressed the project cycle and not the occupation cycle.

Analysis/Determination:

24. The advocates for the parties filed written submissions which I have read and considered. The determination at this stage is whether to grant/refuse the conservatory orders sought in the present motion. The petitioners have aptly summarised the purpose of conservatory order as upholding the adjudicatory authority of the court, in the public interest and to ensure the petition is not rendered



nugatory if the Petitioners succeed. They cited inter alia Gatirau Peter Munya vs. Dickson Mwenda Kithunji & 2 others (2014) eKLR.

25. In submitting that they have established a prima facie case, they argued that where the legality of a construction is challenged and were the court to find the challenge was meritorious, a prima facie case is established. In particular, they challenged the validity of the change of user license stating the process of obtaining it was tainted with illegalities. One of the grounds listed is that the 1st Respondent has no valid or lawful or legal approvals for the intended construction. All approvals relied upon were obtained either illegally, or fraudulently, or simply in direct contravention of the law and/or lawful procedures.
26. Although the Petitioners contended the 1st Respondent does not deny that due process was not followed, the truth is that the replying affidavits by the all the Respondents have vehemently asserted that due process was followed. The details of their assertions as explained in their replying affidavits for instance a copy of the advertisement placed in the newspaper was produced. The Petitioners acknowledge that the 1st Respondent has obtained a change of user license and an approved development plan but qualifies that the same were irregularly obtained. The irregularity is described contravening the zoning regulations for the area and the absence of public participation.
27. The 2nd limb of the Petitioners' case was that the 2nd Respondent did not conduct and/or seek to conduct a public hearing which omission contravenes Regulation 22 of the Environmental (Impact Assessment & Audit) Regulation 2003. The Petitioners criticised the alleged public participation process that was undertaken by the 1st Respondent prior to the issuance of the E.I.A license.
28. I have reviewed the provisions of Regulation 22 and the contents of the affidavits of the 1st and 2nd Respondents vis a vi that of the Petitioners. Regulation 22 provides inter alia: "for a public hearing presided over by a suitably qualified person appointed by the Authority. The date and venue of the public hearing to be publicized at least a week prior to the meeting. The publication is to be put in one daily newspaper of national circulation and one of local circulation; two announcements in radio with nation wide coverage. The public hearing venue shall be conducted at a venue convenient and accessible to people who are likely to be affected by the project."
29. It is gleaned from the pleadings that the Petitioners were made aware of the project through an invitation extended to them by the 1st Respondent in February, 2022 and which invitation culminated in the meeting of 19th February, 2022. There were subsequent meetings held some which the Petitioners described as shambolic. The Petitioners however admit the meeting of 28th January, 2023 was fruitful.
30. There is also evidence of notices published in the Star and Standard newspapers which newspapers have national coverage and the notices invited public views. Similarly, there is evidence of radio announcements made through Ghetto Radio and Social Impact Assessment Questionnaires that were distributed albeit what the Petitioners called selective and that the Ghetto radio does not have nationwide coverage. It is discernible from the face of the pleadings filed in support of and against the application that public participation was undertaken. Whether the same fully complied with Regulation 22 of the Environmental Regulations 2003 or whether the process met the standard provided for in law are issues which can only be answered when the petition is finally determined which raises a triable issue.
31. Further, the Petitioners want the development put on hold until all the issues raised are determined otherwise the petition would be rendered nugatory. Some of the violations listed are that the construction will violate the Petitioners' privacy in their homes; impede natural light and air circulation by its sheer height. Others are increase in vehicular and human traffic thus the project threatens the standard and quality of life in Likoni Lane. On the basis that there are allegations of violations



- of environmental rights pleaded, I will also review the application if a prima facie case has been demonstrated under the precautionary principle rule taken up by the Petitioners arguing that they will suffer harm that cannot be undone in the event the petition succeeds.
32. Some of the alleged violations of the rights by the Petitioners are anchored on the zoning policy for the area, as they pleaded that the area is zoned for development upto four floors. They argued that the two Sessional Papers relied upon by the 1st and 3rd Respondents were drafted after the illegally obtained licenses and that they had not been passed into law. I noted that the Petitioners did not in their affidavit in support of the motion annex a copy of the 3rd Respondent policy which zoned the area to four-level floors.
33. In considering the preventive/precautionary principle on the impact of a project, the court looks at the likelihood of the social and environmental harm caused to the Petitioners and the public vis – a – vis the economic benefit/loss of the project to the proponent. The Petitioners submit that the structural integrity of their homes is likely to be affected by the deep drilling required of the foundation of fifteen (15) storey building since the adequate setback between the plots have been flouted. The fear on the impact of the drillings/excavations on the foundations of the homes of the petitioners and other environmental amenities may be real or unfounded.
34. In the case of Paul Gitonga Wanjau vs. Gathuthis Tea Factor Company Ltd & 2 Others [2016] eKLR, for the proposition that;
- “Where any doubt exists as to the applicants’ right, or if the right is not disputed, but its violation is denied, the court, in determining whether an interlocutory injunction should be granted, takes into consideration the balance of convenience to the parties and the nature of the injury which the Respondent on the other hand, would suffer if the injunction was granted and he should ultimately turn out to be right and that which injury the applicant, on the other hand, might sustain if the injunction was refused and he should ultimately turn out to be right...Thus, the court makes a determination as to which party will suffer the greater harm with the outcome of the motion. If applicant has a strong case on the merits or there is significant irreparable harm, it may influence the balance in favour of granting an injunction. The court will seek to maintain the status quo in determining where the balance on convenience lies.”
35. Thus, Petitioners’ pleadings having acknowledged that the development allowable in the area goes upto four (4) floors means they would be no issues with the 1st Respondent’s development upto four floors save on how to deal with their excavations/drillings for the foundation. Therefore, weighing the Petitioners’ rights and those of the 1st Respondent, I am persuaded that the circumstances of the case allow for issuing a conditional temporary injunction instead of a blanket stoppage of construction pending the determination of the petition.
36. My position is premised on the facts that some of the violations complained of can be addressed in the recommendations issued by the 2nd Respondent as clearly set out in the conditions of the licences issued. Others such as the level of the height of buildings permitted in the area to be dealt with during the hearing and which height to be permitted for now will answer to the rights of light and air circulation pending determination of the suit. It is my opinion and I so hold that granting the conditional temporary injunction would not render the Petition nugatory.
37. Further, on the question of whether allowing the re-start of the construction would legitimise the illegality of the licenses challenged, I hold otherwise. The 1st Respondent’s licenses have not been revoked and until evidence is led and a decision reached, they remain valid on their faces. There is



nothing that would prevent this court from issuing an order of restoration as is deemed necessary at the conclusion of this case and depending on its outcomes.

38. In conclusion the application dated 26/6/2024 is allowed partially on the following terms;
- i. The 1st Respondent is permitted to continue with on construction works on plot L.R No. 209/9351, Kilimani, Nairobi County, situated along Likoni Lane, off Dennis Pritt Road on condition that it files in court (at its convenience) a fresh expert report on measures for setbacks put in place while excavating/drilling its foundations for the project to prevent it from negatively impacting on the immediate adjacent plots of the Petitioners.
 - ii. Pending hearing and/or determination of this Petition, a conservatory or interim order of injunction be and is hereby issued stopping and/or restraining the Respondents and in particular the 1st Respondent, their servants, agents, contractors or any other person from constructing/building the impugned project beyond four (4) level floors, pending the hearing and determination of this Petition.
 - iii. No order as to costs

DATED, SIGNED AND DELIVERED AT NAIROBI THIS 13TH NOVEMBER, 2024

A. OMOLLO

JUDGE

