

REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT MOMBASA

ELC PETITION NO. 50 OF 2021

AINEA RAGEN (Suing on his own capacity and on behalf of Mwembelegaza
Community/Residents PETITIONER
-VERSUS-

ANWARALI AND BROTHERS LIMITED.....1ST RESPONDENT
COUNTY GOVERNMENT OF MOMBASA2ND RESPONDENT
WATER RESOURCES AUTHORITY 3RD RESPONDENT
NATIONAL LAND COMMISSION..... 4TH RESPONDENT
NATIONAL ENVIRONMENT MANAGEMENT AUTHORITY 5TH RESPONDENT
NATIONAL CONSTRUCTION AUTHORITY 6TH RESPONDENT
CHIEF LAND REGISTRAR, MOMBASA 7TH RESPONDENT

IN CHAMBERS ON THE 14TH MARCH, 2022
BEFORE THE HONORABLE JUSTICE L.L. NAIKUNI (JUDGE)

ORDER

THIS MATTER coming up for Mention before Hon. Justice L. Naikuni on 14th March, 2022 AND in the presence of Ainea Ragen (The petitioner in person) and Learned Counsels M/s. Gwahalla holding brief for Gikandi for the Interested Parties, M/s. Lisanza for the 5th Respondent, Mr. Otieno for 2nd Respondent, M/s. Makori for the 3rd Respondent, M/s. Waswa for the 7th Respondent, Songole for the 1st Interested Party and Mr. Mogaka for the 1st Respondent in the Petition and Cross Petition.


IT IS HEREBY ORDERED:-

1. THAT the Petitioner in the Main Petition to ensure that all parties are served with both the Petition and all the Submissions.
2. THAT the National Land Commission be and are hereby compelled to appear before this Honorable Court on 4th April, 2022 either by one Mr. S. Mbuthia or any other responsible designated Officer to explain their position on the filed Petition and the Cross Petition and one Mrs. Korir of the National Construction Authority (NCA).
3. THAT the 7th Respondent in the Main Petition and the 1st Interested Party in the Cross Petition be and is hereby granted thirty (30) days leave to file and serve their Responses to the 10 Paragraphed Cross Petition and file a Land Valuation Report by the Government of Kenya Valuer.

4. **THAT** the Petitioner in the main Petition and Cross Petition to ensure their written submissions are well placed in the court file and served accordingly.
5. **THAT** all the parties are granted 21 days to file and serve/exchange their written submissions.
6. **THAT** from the presentations made hereby by the parties in the matter, this court orders and/or directs "*Suo Moto*" that the matter be disposed off by both through written affidavits and oral evidence – adducing of "*Viva-voce*" evidence.
7. **THAT** the matter to be mentioned on 4th April 2022 for further directions.
8. **THAT** M/s. Songole be and is hereby directed to file and/or place on record an affidavit by one Mr. Mark Ndiema indicating them withdrawing from the matter dated 27.1.2022 within the next 7 days.

Given under my hand and the seal of the court this 14th day of March 2022




DEPUTY REGISTRAR
ENVIRONMENT AND LAND COURT
MOMBASA

ISSUED at MOMBASA this 14th day of April, 2022

Penal Notice:

If anyone served or becomes aware of this order and he/she disobeys same, he/she shall be deemed to be in contempt of court and shall be liable for a punishment of six (6) months in Civil jail.