



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT OF KENYA

MILIMANI LAW COURTS

ELC PETITION NO 46 OF 2018

EVERLINE SANDE NGULAMU.....1ST PETITIONER

MARY WAMBUI NJOROGE.....2ND PETITIONER

GEORGE NJOROGE NJOKI.....3RD PETITIONER

(Suing in the public interest, on their own behalf and on behalf of the 647 residents of Deep Sea informal settlements located in Highridge, Parklands area facing eviction)

VERSUS

KENYA URBAN ROADS AUTHORITY.....1ST RESPONDENT

THE HON. ATTORNEY GENERAL2ND RESPONDENT

**THE CHAIRPERSON, NATIONAL CONSULTATIVE
COORDINATION COMMITTEE ON INTERNALLY**

DISPLACED PERSONS.....3RD RESPONDENT

CABINATE SECRETARY, MINISTRY OF INTERIOR AND

COORDINATION OF NATIONAL GOVERNMENT5TH RESPONDENT

INSPECTOR GENERAL OF POLICE.....6TH RESPONDENT

NATIONAL LAND COMMISSION7TH RESPONDENT

KENYA NATIONAL COMMISSION ON HUMAN RIGHTS.....8TH RESPONDENT

LAW SOCIETY OF KENYA.....1ST INTERESTED PARTY

KATIBA INSTITUTE.....2ND INTERESTED PARTY

JUDGEMENT

A. Background

1. This Petition arises out of the construction of the Missing Link Road known as Ring Road Parklands M15A. The construction of the road necessitated relocation of the residents of Deep Sea Settlement. The Residents contend that despite the fact that there is a Resettlement Action Plan, the Respondents have failed and or refused to implement the Plan. Instead, the Respondents have chosen to evict them without following due process. It is the Petitioners case that their worst fears were realized on the night of 1st day October 2021 when police officers wielding weapons arrived at the settlement and proceeded to demolish and destroy their homes. This greatly traumatized the inhabitants of Deep Sea Settlement and left them in the cold to battle the elements. This eviction followed an earlier one on 7th July, 2016 and took place while this Petition was pending in this court.

B. Pleadings

2. The Petitioners suing in the Public interest, on their own behalf and on behalf of 647 residents of Deep Sea Informal Settlement vide an amended Petition sought various reliefs namely;
 - a) A declaration that the eviction which took place on the 1st of October 2021 were illegal and unjust as the 1st Respondent had not provided any notice whatsoever to the residents of Deep Sea. Neither did the personnel in charge of the demolitions identify themselves, provide alternative settlement take heed of the mandatory eviction procure or adhere to the basic and fundamental principles of human rights.



- b) A declaration that any further forcible, violent and brutal eviction through demolition of homes of the Petitioners and any other residents of the Deep Sea Informal Settlement, without according them alternative shelter and/or accommodation leaving them to live in the open exposed to the elements and vagaries of nature is a violation of their fundamental right to life guaranteed by Article 26 (1) and (3) of the Constitution of Kenya, 2010 and Article 11 of the ICESCR.
- c) A declaration that any forcible, violent and brutal eviction through demolition of homes of the Petitioners and other residents of the Deep Sea Informal Settlement, without according them alternative shelter and/or accommodation leaving them to live in the open exposed to the elements and vagaries of nature by the Respondents is unconstitutional contravening the nation values and principals of governance that include human dignity, equity social justice and need to protect the marginalized as enshrined in Article 10 (2) of the Constitution of Kenya, 2010.
- d) A declaration that any forcible, violent and brutal eviction through demolition of homes of the Petitioners and other residents of the Deep Sea Informal Settlement, without any warning, court orders, any of reasonable notice in writing or availing them information regarding the evictions and without according them alternative shelter and/or accommodation and leaving them to live in the open exposed to the elements and vagaries of nature is a violation of their fundamental rights to inherent human dignity and the security



of the person guaranteed by Articles 28 and 29 (c), (d) and (f) of the Constitution of Kenya, 2010.

- e) A declaration that any forcible, violent and brutal eviction through demolition of homes of the Petitioners and other residents of the Deep Sea Informal Settlement, without warning, any or reasonable notice in writing or availing them information regarding the evictions is a violation of their fundamental right of access to information guaranteed by Article 35(1) of the Constitution of Kenya, 2010.
- f) A declaration that any forcible, violent and brutal eviction through demolition of homes of the Petitioners and other residents of the Deep Sea Informal Settlement, and the destruction of the building materials and their household goods in the process, without court orders/s and without according them an opportunity to salvage any of their belongings is a violation of their fundamental right to protection of property guaranteed by Article 40 (1), (3) and (4) as read with Article 21 (3) of the Constitution of Kenya.
- g) A declaration that any forcible, violent and brutal eviction through demolition of homes of the Petitioners and other residents of the Deep Sea Informal Settlement, without according them alternative shelter and or accommodation and leaving them to live in the open exposed to the elements and vagaries of nature is a violation of their fundamental rights to accessible and adequate housing, reasonable standards of sanitation, health care services, freedom from hunger and the right to clean and safe water in adequate



quantities guaranteed by Article 43 (1) read with Articles 20 (5) and 21 (1), (2) and (3) of the Constitution of Kenya 2010.

- h) A declaration that any violent and brutal eviction through demolition of homes of the Petitioners and other residents of the Deep Sea Informal Settlement, without any court order/s, warning any or reasonable notice in writing or availing them information and reasons regarding the demolitions and evictions is a violation of their fundamental right to fair administrative action guaranteed by article 47 of the Constitution of Kenya 2010.
- i) A declaration that any forcible, violent and brutal eviction through demolition of homes of the Petitioners and other residents of the Deep Sea Informal Settlement, without according them alternative shelter and/or accommodation and leaving to live in the open exposed to the elements and vagaries of nature is a violation of their fundamental rights to physical and mental health, and the fundamental right to physical and moral health of the family under Articles 16 and 18 of the ACHPR read with Article 2 (6) of the Constitution of Kenya 2010.
- j) A declaration that any forcible, violent and brutal eviction through demolition of homes of the Petitioner without according their children alternative shelter and/or accommodation and leaving the children to live in the open exposed to the elements and vagaries of nature is a violation of the fundamental rights of children to basic nutrition, shelter and healthcare and protection and to basic education guaranteed by Article 53 (1) (b), (c), (d) and (2) read together with Article 21 (3) of the Constitution of Kenya 2010 and



Article 28 of the ACHPR read with Article 2 (6) of the Constitution of Kenya 2010.

- k) A Declaration that any forcible, violent and brutal eviction through demolition of homes of the elderly persons among the Petitioner without according them alternative shelter and/or accommodation rendering them to live in the open exposed to the elements of vagaries of nature is a violation of the fundamental rights of the elderly persons to the pursuit or personal development, to live in dignity, respect and freedom from abuse and to receive reasonable care and assistance from the state guaranteed by Article 57 (b), (c) and (d) as read with Article 21 (3) of the Constitution of Kenya 2010.
- l) An order of compensation as a result of the demolitions which were orchestrated by the 1st Respondent through their agents, servants, employees and/or anyone acting under their instructions on the 1st of October 2021 wherein homes, business structures and other amenities were destroyed without prior notice amounting to millions of Kenyan shillings based on the assessment ordered by the court.
- m) General damages at a quantum assessed by the court in compensation for the violation of the Petitioners' fundamental freedoms under Article 26, 28, 29, 43, 47, 54, 55, 56 and 57 of the Constitution as a result of the unjust and unlawful evictions which took place on the 1st of October 2021.

- n) An order that the 1st to 8th Respondents bear the Petitioners' costs of this litigation while the interested parties each bear their own costs.
- o) A structural interdict of continuing mandamus under Article 23 of the Constitution of Kenya 2010, directing the 1st to 8th Respondents to file affidavits in court, within a period determined by the court, indicating their status of compliance with the orders issued in this Petition.
- p) An order directing the 1st Respondent to continue engaging the Petitioner with the aim of resetting the Petitioners as had been the motive of the earlier engagement and/or negotiations which had stalled.
- q) Any other relief and orders that the court may deem just.
3. The Petitioners brought the Petition as residents of Deep Sea Informal Settlement who claimed they were under the continuous risk of forceful eviction by the Respondents. The 1st Respondent Kenya Urban Roads Authority was sued for its role in destroying the Petitioners homes and forcibly evicting them on 7th July 2015 and 1st October 2021. The 2nd Respondent the Honourable Attorney General is sued in his capacity as the Principal Legal Advisor and representative of government.
4. The 3rd Respondent the National Consultative Coordination Committee on Internally Displaced Persons is sued on the basis of its mandate to coordinate prevention and preparedness efforts, protection and assistance

to internally displaced persons throughout their displacement until a durable and sustainable solution is found.

5. The 4th Respondent Cabinet Secretary, Ministry of Transport, infrastructure, housing and urban development is sued for its mandate in housing policy management and development of affordable housing.
6. The 5th Respondent the Cabinet Secretary Ministry of Interior was faulted for the use of police officers in the continuous forced evictions in Deep Sea Peoples Settlement that has led to excessive use of force resulting in damage to property, injury to residents and general interference with the peaceful existence, shelter and livelihoods of the vulnerable population of the settlement.
7. The 6th Respondent the Inspector General of Police is sued for his role in deploying officers to aid and assist in the continuous unlawful and forced evictions of the Petitioners.
8. The 7th Respondent is an independent constitutional commission established under article 67 and administered through the National Land Commission Act. It is sued for defaulting on its mandate to superintend the eviction of the Petitioners under Section 152 B and Section 152 of the Land Act.
9. The 8th Respondent Kenya National Commission on Human Rights is sued for defaulting on its mandate to superintend the eviction of the Petitioners in accordance with Constitutional, Statutory and international human rights obligations.



10. The Law Society of Kenya and Katiba Institute appeared as the 1st and 2nd interested parties respectively.

11. The Petitioners legal standing to file the petition is drawn from the transformative Article 22 of our Constitution which provides *that where rights have been affected or threatened with contravention proceedings may be instituted by;*

- a. A person acting on behalf of another who cannot act in their own name*
- b. A person acting as a member of, or in the interest of, a group or class of persons;*
- c. A person acting in the public interest; or*
- d. An association acting in the interest of one or more of its members.*

12. The Petition was founded on various Articles of the Constitution to wit Article 1,3,10,22(1), 23,2(5), 2(6),19 (1),19(2), 19 (3), 20,,21,25,27,28,29,35,40,43,45,47,and 73 of the Constitution.

13. Recognizing that Article 2 (5) of the Constitution recognizes that the general rules of international law are a part of the laws of Kenya, the Petitioners cited the United Nations Declaration of Human Rights, the international covenant on economic and social rights, the international covenant on social and political rights, the Africa Union Convention for the protection and assistance of internally displaced persons in Africa- the Kampala Convention, the protocol on the protection and assistance to internally displaced persons – the Great Lakes Protocol, the UN Basic

Principles and Guidelines on Development Based Eviction and Displacement, OCHA guiding principles on internal displacement (UN GUIDING PRINCIPLES), African Charter on Human and Peoples Rights.

14. The Petitioners outline in detail the statutory and legal framework upon which they bring the Petition. For purposes of brevity I will not restate the framework.

15. The 1st Respondent relied on the Replying Affidavit and submissions filed earlier in answer to the application dated 27th July 2018. The 8th Respondent filed a reply and submissions.

16. The 2nd Interested Party Katiba Institute filed a Replying Affidavit and Submissions

C. Facts

17. The facts of the Petitioners case were presented by Mary Wambui Njoroge who deposed that the Petitioners were residing on the suit property from the year 2002. On the 7th July 2016, a group of armed police officers descended on the property without notice and demolished houses and structures. The residents sought help from Amnesty International who brokered an agreement that each of the residents was to be paid a sum of Kshs 20,000 for the damage caused during the demolitions. It was also agreed that the Residents were to be resettled.

18. The Petitioners aver that as they were awaiting resettlement, on the 19th July, 2018 the Petitioners received an oral notice by one Mr. John Cheboi,



that their structures were to be demolished by 1st August 2018. On the 23rd July 2018 after demolitions took place in Kibera, the same officer did on national television announce that the next place to be affected was Ring Road Parklands. The Petitioners rushed to court. On the 1st October 2021 the eviction took place after the residents were given a thirty minute notice to vacate.

19. After thirty minutes the evictions took place notwithstanding the fact that it was raining heavily. According to the Petitioners their pleas for any letter authorizing the evictions was met with violence and untold force.
20. The 1st Respondent in the Replying Affidavit to the application stated that the Deep Sea Settlement lies on one of the missing link roads known as Ring Road Parklands M15A. That the encroachment by the Petitioners had affected construction of the road. The 1st Respondent insisted that they were following the Resettlement Action Plan(RAP) as guided by the court in Milimani ELC 425 of 2015.
21. The 8th Respondent also filed a Replying Affidavit dated 9th August 2018 in which they averred that upon receipt of a complaint by the Petitioners they wrote to the 1st Respondent requesting for information.
22. That they received a response following which they called upon the 1st Respondent and obtained the Resettlement Action Plan. That in the circumstances they had fully discharged their responsibility by taking all necessary steps immediately the issue was brought to their attention.



23. The 2nd Interested Party, Katiba Institute filed a Replying Affidavit in which they insisted that an oral notice had been issued which is unlawful in light of Section 152 A- I of the Land Act.

D. Submissions

24. The Petitioners were represented by Economic and Social Rights Center who submitted that the Petitioners had been evicted three times and on all occasions there had been no notice. The Petitioners were subjected to grave danger and had lost property and important documents. Counsel urged the court to find that the Petitioners are entitled to compensation and General Damages.

25. Katiba Institute who appeared as the 2nd Interested Party submitted that the failure to issue written notices was a violation of the law which rendered the eviction unlawful. That the failure to issue a written notice resulted in the violation of other rights for which the Petitioners are entitled to compensation.

26. Counsel for the 8th Respondent submitted that the 8th Respondents acted immediately the issue was brought to their attention and hence cannot be faulted.

27. All counsels cited several authorities which the court has considered.

E. The Law

28. The Constitution of Kenya lays the foundation for protection from arbitrary eviction. Article 10 enshrines the national values and principles of governance, including human dignity, participation, inclusiveness, transparency, and accountability. These values and principles bind all



public officers who are required to reinforce them in all administrative actions.

29. Article 28 protects the inherent dignity of every person, while Article 40 safeguards the right to property, prohibiting deprivation of property except in accordance with the law and upon prompt payment of just compensation. Article 43(1)(b) guarantees the right to accessible and adequate housing. The State and all its organs have a responsibility to respect, protect and fulfill that right.

30. Further, Article 47 read with the Fair Administrative Action Act, 2015 transforms eviction into an administrative decision which must meet the twin tests of lawfulness and procedural fairness. The decision to demolish, relocate or clear persons must therefore be preceded by written notice, opportunity to be heard, and reasons for the decision.

31. In **Mitu-Bell Welfare Society v Kenya Airports Authority & others [2021] KESC 34 (KLR)**, the Supreme Court affirmed that socio-economic rights are fully justiciable and that evictions conducted without adherence to Articles 28, 40, 43, and 47 are unconstitutional. The Court held that State organs bear the obligation to act within the bounds of the Constitution and that human dignity and fair process are non-derogable obligations, even where the occupants lack formal title.

32. The Land Act, Sections 107–133 regulates compulsory acquisition of private land for public purposes. Section 107 vests the power of acquisition in the National Land Commission, while Section 111 mandates prompt, just compensation. In **Kenya Urban Roads Authority**

& another v Belgo Holdings Ltd [2025] KECA 764, the Court of Appeal faulted KURA for entering private land without completing acquisition through the NLC.

33. The Fair Administrative Action Act, 2015 operationalizes Article 47 of the Constitution. Prior and adequate notice, an opportunity to be heard, and written reasons for any decision are essential components of a fair process. In **Satrose Ayuma & 11 others v Kenya Railways Staff Retirement Benefits Scheme & others [2013] eKLR**, the Court held that eviction is an administrative act subject to notice, consultation, and humane treatment.

34. The Prevention, Protection and Assistance to Internally Displaced Persons and Affected Communities Act, 2012 prohibit arbitrary displacement and require consultation, notice, and resettlement mechanisms.

35. The Public Roads and Roads of Access Act makes provision for creation and alteration of public roads. In **Elizabeth Wambui Githinji & 29 others v KURA & others [2019] KECA 706**, the Court affirmed that designation as a road reserve must be proved by official records.

36. Kenya has domesticated international instruments under Articles 2(5) and 2(6) of the Constitution. Relevant international instruments are; the UN Basic Principles and Guidelines on Development-Based Evictions and Displacement (2007); the International Covenant on Economic, Social and Cultural Rights (Art. 11); the African Charter on Human and

Peoples' Rights (Arts. 14, 16, 18); the UN Guiding Principles on Internal Displacement (1998). The common thread running through the principles is lawful authorization, consultation, notice, and resettlement.

37. In interpreting the Constitutional and Statutory framework regarding eviction, the courts have been unequivocal that state led evictions must satisfy the test of legality, procedural fairness and proportionality. The courts have not hesitated to find that failure to comply renders the eviction unconstitutional and where necessary the courts have pronounced declaratory, injunctive, and compensatory remedies.

F. Analysis and Determination

38. Arising from the pleadings, the affidavits and the submissions, the court distills two issues for determination;

- Whether the Petitioners were unlawfully evicted by the Respondents
- Whether the Petitioners are entitled to any remedies

39. It is common ground that the Petitioners do not own the land in question. It is also not in dispute that the 1st Respondent required the land for the construction of the missing link No 15B Ring Road Parklands. Both parties also concur that there was a Resettlement Action Plan which the 1st Respondent avers that the Court had in the year 2015 directed should be fully implemented. It is equally not in dispute that the Petitioners herein moved the court in the year 2018 seeking conservatory orders which were declined. On 1st October 2021 the Petitioners or at least some of them, were violently evicted in the night in the rain. This is not disputed by any of the Respondents herein.



40. The Supreme Court in the case of *Mitu Bell Welfare Society versus Attorney General* settled with finality the question of whether a person who is not an owner of a property deserves procedural safeguards in case of eviction. The apex court stated... *“the country has yet to develop legislation and guidelines for eviction of persons occupying land for which they are not legally entitled to occupy. However, as a member of the international community and a signatory to various United Nations treaties and conventions, it is bound by such international guidelines as exist that are intended to safeguard the rights of persons liable to eviction. Article (2) (5) and (6) of the Constitution make the general rules of international law and any treaty or convention that Kenya has ratified part of the laws of Kenya. Consequently, the state, state organs and all persons, in carrying out evictions should do so in accordance with the United Nations Guidelines as enunciated by the United Nations Office of the Commissioner for Human Rights in General Comment no 7...”*

41. Key elements of lawful eviction under the foregoing guidelines include;
- a. appropriate notice to all potentially affected persons that eviction is being considered and that there will be public hearings on the proposed plans and alternatives;
 - b. effective dissemination by the authorities of relevant information in advance, including land records and proposed comprehensive resettlement plans specifically addressing efforts to protect vulnerable groups;



- c. a reasonable time period for public review of, comment on, and/or objection to the proposed plan;
- d. opportunities and efforts to facilitate the provision of legal, technical and other advice to affected persons about their rights and options; and
- e. holding of public hearing(s) that provide(s) affected persons and their advocates with opportunities to challenge the eviction decision and/or to present alternative proposals and to articulate their demands and development priorities.

42. In the instant case it is evident from the documents produced in the supplementary list of documents by the Petitioners that the 1st Respondent duly notified the Petitioners that the road construction would take place. It is also clear that discussions took place on resettlement of the Project Affected Persons (PAPs). Equally it is clear that the court in **ELC 425 of 2015** directed the Resettlement Action Plan be fully implemented.

43. That is as far as the consensus on the chain of events go. The Petitioners have produced evidence in the form of minutes and letters which clearly indicate that while the discussions did not bear fruit and that even before the Resettlement Action Plan could be fully implemented, the Petitioners were evicted after being issued with a thirty-minute verbal notice. Given that discussions on resettlement had been ongoing can this verbal thirty-minute verbal notice be considered to be adequate?

44. Section 152C-152E of the Land Act provide the parameters for notice for eviction to be;



- Be in writing, published in the gazette and a local daily
- Be served personally, posted on the land and to local administration
- Specify reasons for eviction, date and intended steps for resettlement
- The notice should also provide avenues for redress or challenge

45. The verbal notice issued in this case fell far short of the required standard. At the very least given that the parties had been having discussions a letter or notice should have been formally written to the Petitioners notifying them that they would be forcefully removed. This would have enabled them to salvage some of their belongings.

46. It is the Petitioners uncontroverted evidence that not only were they not given notice but they were evicted at night and in the rain. This is in contravention of the prohibition that the eviction should not take place at night and in bad weather or result in undue destruction of property or force.

47. The affidavits by Everline Sande Ngulamu, Mary Wambui Njoroge and George Njoroge Njoki detail the trauma that the Petitioners went through. The affidavits also confirm that although the residents of Deep Sea were at all times ready to engage with the 1st Respondent on an amicable resettlement, there was no genuine effort made by the 1st Respondent to address their concerns.



48. There is no evidence adduced by the 1st Respondent that the local administration or the county was involved in the process of eviction. It is essential that a multi -agency approach be adopted to ensure that evictions to the largest extent possible protect the rights of citizens on whose behalf all public officers exercise their authority.
49. It is my finding that the evictions failed to meet all standards of a lawful eviction and hence were clearly unlawful no matter how well intentioned the construction of the road is.
50. On the culpability of the Respondents, the 1st Respondent (KURA) as the implementing agency bears primary responsibility for the unlawful eviction. The 2nd Respondent the Attorney General is liable as the legal representative of the National Government.
51. There was no evidence adduced that the 3rd Respondent National Consultative Coordination Committee was involved in the approval or implementation of the eviction. Similarly, I am also satisfied that the 8th Respondent the Kenya National Commission of Human Rights took immediate action once the matter was brought to their attention and hence are not culpable.
52. The 5th and 6th Respondent cannot escape culpability as they bear vicarious liability for the actions of the officers who carried out the unlawful evictions.



53. On the second issue of the remedies if any, there is no doubt that the Petitioners suffered as a result of the violation of their rights. This country belongs to all of us. The road in question is one that will benefit the people of Kenya. The inhabitants of Deep Sea are citizens of this country who are entitled to all Constitutional safeguards and to equal protection of the law.

54. In similar circumstances the Supreme Court in the case of *Mitubell* had this to say; *the right to housing over public land crystallizes by virtue of a long period of occupation by people who have established homes and raised families on the land. This right drives from the principle of equitable access to land under article 60 (1) (a) of the Constitution. Faced with an eviction on grounds of public interest, such potential evictees have a right to petition the court for protection. The protection, need not necessarily be in the form of an order restraining the state agency from evicting the occupants given the fact that, the eviction may be entirely justifiable in the public interest. But under article 23(3) of the Constitution, the court may craft orders aimed at protecting that right, such as compensation, the requirement of adequate notice before eviction, the observance of humane conditions during eviction (UN Guidelines), the provision of alternative land for settlement, etc.*

55. In the case of **Jamlick Muchangi Miano versus Attorney General** the court stated; *when exercising this constitutional jurisdiction the court is concerned to uphold, or vindicate, the constitutional right which has been contravened. A declaration by the court will articulate the fact of the violation, but in most cases more will be required than words. If the*

person wronged has suffered damage, the court may award him compensation. The comparable common law measure of damages will often be a useful guide in assessing the amount of this compensation. But this measure is no more than a guide because the award of compensation under is decretionary and, moreover, the violation of the constitutional right will not always be coterminous with the cause of action in law.

An award of compensation will go some distance towards vindicating the infringed constitutional right. How far it goes will depend on the circumstances, but in principle it may well not suffice. The fact that the right violated was constitutional right adds an extra dimension to the wrong. An additional award, not necessarily of substantial size, may be needed to reflect the sense of public outrage, emphasise the importance of the constitutional right and the gravity of the breach, and deter further breaches. All these elements have a place in helping the court arrive at a reasonable award. The court must consider and have regard to all the circumstances of the case.

56. It is my finding that the Petitioners have a right to be compensated for the violation of their rights. It is not easy to quantify compensation for violation of fundamental rights but I have considered that earlier, a figure of Kshs 20,000 had been agreed upon by the parties as a “ Kipanguza machozi” which is loosely translated as a token. I have also considered that a long-term solution must be found for the resettlement of the residents which will also require far greater resources. I hereby award Kshs 50000 each to the 647 Residents on whose behalf the petition was filed.



57. Equally important, I find that it is imperative that the 1st Respondent implement the Resettlement Action Plan which is yet to be implemented. It is unfortunate that even after the earlier court decision, the violation of the Petitioners rights continued.

58. It is incumbent that this court gives directions on implementation of the Resettlement Action Plan as follows;

- a. The 1st Respondent shall, within 45 days, convene consultation with all affected households to discuss the way forward. A record of the meetings shall be maintained.
- b. The 1st Respondent shall ensure that all relevant stakeholders are involved in the deliberations.
- c. The 1st Respondent (KURA) shall prepare and publish a complete resettlement plan with detailed information on the beneficiaries, valuation criteria, compensation rates, and relocation timeline. The Plan shall be published and filed in Court.
- d. The resettlement plan shall prioritize the needs of vulnerable persons namely; children, the elderly and persons with disabilities.
- e. A minimum of ninety (90) days' written notice shall be issued to each affected household before relocation.
- f. The County Government shall provide welfare support at the resettlement site and shall support resettlement efforts.
- g. A Grievance Redress Committee, including representatives of the affected persons, shall be established and its membership filed in Court.



- h. The Court shall retain supervisory jurisdiction under Article 23(3) of the Constitution to ensure ongoing compliance.
- i. KURA and NLC shall file joint progress reports every two months on implementation status.
- j. KNCHR shall file independent monitoring reports verifying compliance with human rights standards.

59. This being a public interest litigation the court makes no orders as to costs.

G. Final Orders

- a. A declaration is hereby issued that the eviction which took place on the 1st of October 2021 was illegal and unjust as the 1st Respondent had not provided any notice whatsoever to the residents of Deep Sea. Neither did the personnel in charge of the demolition identify themselves, provide alternative settlement or take heed of the mandatory eviction procedure or adhere to the basic and fundamental principles of human rights.
- b. A declaration is hereby issued that any further forcible, violent and brutal eviction through demolition of homes of the Petitioners and any other residents of the Deep Sea Informal Settlement, without according them alternative shelter and/or accommodation leaving them to live in the open exposed to the elements and vagaries of nature is a violation of their fundamental right to life guaranteed by Article 26 (1) and (3) of the Constitution of Kenya, 2010 and Article 11 of the ICESCR.
- c. A declaration is hereby made that any forcible, violent and brutal eviction through demolition of homes of the Petitioners and other residents of the



Deep Sea Informal Settlement, without according them alternative shelter and/or accommodation leaving them to live in the open exposed to the elements and vagaries of nature by the Respondents is unconstitutional and contravenes the nation values and principals of governance that include human dignity, equity social justice and need to protect the marginalized as enshrined in Article 10 (2) of the Constitution of Kenya, 2010.

- d. A declaration is hereby issued that any forcible, violent and brutal eviction through demolition of homes of the Petitioners and other residents of the Deep Sea Informal Settlement, without any warning, court orders, any of reasonable notice in writing or availing them information regarding the evictions and without according them alternative shelter and/or accommodation and leaving them to live in the open exposed to the elements and vagaries of nature is a violation of their fundamental rights to inherent human dignity and the security of the person guaranteed by Articles 28 and 29 (c), (d) and (f) of the Constitution of Kenya, 2010.
- e. A declaration is hereby issued that any forcible, violent and brutal eviction through demolition of homes of the Petitioners and other residents of the Deep Sea Informal Settlement, without warning, any or reasonable notice in writing or availing them information regarding the evictions is a violation of their fundamental right of access to information guaranteed by Article 35(1) of the Constitution of Kenya, 2010.
- f. A declaration is hereby issued that any forcible, violent and brutal eviction through demolition of homes of the Petitioners and other residents of the Deep Sea Informal Settlement, and the destruction of the



- building materials and their household goods in the process, without court orders/s and without according them an opportunity to salvage any of their belongings is a violation of their fundamental right to protection of property guaranteed by Article 40 (1), (3) and (4) as read with Article 21 (3) of the Constitution of Kenya.
- g. A declaration is hereby issued that any forcible, violent and brutal eviction through demolition of homes of the Petitioners and other residents of the Deep Sea Informal Settlement, without according them alternative shelter and or accommodation and leaving them to live in the open exposed to the elements and vagaries of nature is a violation of their fundamental rights to accessible and adequate housing, reasonable standards of sanitation, health care services, freedom from hunger and the right to clean and safe water in adequate quantities guaranteed by Article 43 (1) read with Articles 20 (5) and 21 (1), (2) and (3) of the Constitution of Kenya 2010.
- h. A declaration is hereby issued that any violent and brutal eviction through demolition of homes of the Petitioners and other residents of the Deep Sea Informal Settlement, without any court order/s, warning any or reasonable notice in writing or availing them information and reasons regarding the demolitions and evictions is a violation of their fundamental right to fair administrative action guaranteed by article 47 of the Constitution of Kenya 2010.
- i. A declaration is hereby issued that any forcible, violent and brutal eviction through demolition of homes of the Petitioners and other residents of the Deep Sea Informal Settlement, without according them



alternative shelter and/or accommodation and leaving to live in the open exposed to the elements and vagaries of nature is a violation of their fundamental rights to physical and mental health, and the fundamental right to physical and moral health of the family under Articles 16 and 18 of the ACHPR read with Article 2 (6) of the Constitution of Kenya 2010.

- j. A declaration is hereby issued that any forcible, violent and brutal eviction through demolition of homes of the Petitioner without according their children alternative shelter and/or accommodation and leaving the children to live in the open exposed to the elements and vagaries of nature is a violation of the fundamental rights of children to basic nutrition, shelter and healthcare and protection and to basic education guaranteed by Article 53 (1) (b), (c), (d) and (2) read together with Article 21 (3) of the Constitution of Kenya 2010 and Article 28 of the ACHPR read with Article 2 (6) of the Constitution of Kenya 2010.
- k. General Damages is awarded of Kshs 50000 each for the violation of the Rights of 647 Petitioners on whose behalf this Petition is brought
- l. A structural interdict is hereby issued for the Respondents to file reports within a period of 90 days indicating the status of compliance with the courts orders as outlined in paragraph 58 above.



m. The matter shall be mentioned for compliance review on a date to be given by the court.

n. There are no orders issued as to cost.

Ruling Signed dated and delivered via Microsoft teams this 6th day of November 2025



JUDY OMANGE

JUDGE

In the presence of

Court Assistant Catherine

Ms Sitawa holding brief for Kinama for 2nd Interested Party