THE REPUBLIC OF UGANDA

IN THE CONSTITUTIONAL COURT OF UGANDA

AT KAMPALA

CONSTITUTIONAL PETITION NUMBER 40 OF 2013.

1. **ADVOCATES FOR NATURAL RESOURCES GOVERNANCE AND DEVELOPMENT**
2. **IRUMBA ASUMANI :::::::::::::::::::::::::::: PETITIONERS**
3. **PETER MAGELAH**

VERSUS

1. ATTORNEY GENERAL

2. UGANDA NATIONAL ROADS AUTHORITY :::::::::::::::::::::::::::: RESPONDENTS

CORAM: HON MR. JUSTICE REMMY KASULE, JA
HON.MR.ELDAD MWANGUSYA, JA
HON. LADY JUSTICE FAITH E.K. MWONDHA, JA
HON. MR. JUSTICE KENNETH KAKURU, JA
HON. MR. JUSTICE GEOFREY KIRYABWIRE, JA

JUDGMENT OF THE COURT

This petition was brought jointly by three petitioners namely;

1. Advocates for Natural Resources Governance and Development
2. Irumba Asuman
3. Peter Magelah

It is stated in the petition that it was brought under ***Article 137 of the Constitution of the Republic of Uganda*** and also under the ***Constitutional Court (Petitions and References) Rules Statutory Instrument Number 19 of 2005***.

We must state from the onset that the petition is not well drafted to say the least. It is not very clear to me what the petitioners sought to achieve. It also has a number of grammatical and clerical errors. In this Petition volumes of materials were filed in Court that required a lot of time to read and analyse. It later turned out that they were all irrelevant. They were never referred to in court by any of the Advocates. All I can say is that the advocates involved should have been more diligent.

The sub articles under which the petition was brought are not stated. We will assume it was brought under ***Article 137(1) (2) (3) of the Constitution.***

Article 137(3) stipulates as follows;

> ***3.*** "***A person who alleges that:***
>
> ***a. An Act of parliament or any other law or anything in or done under the authority of any law or***
>
> ***b. Any act or omission by any person or authority is inconsistent with or in contravention of a provision of this Constitution may petition the Constitutional Court for a declaration to that effect and for redress where appropriate."***

Where therefore, as in this case, the petitioners or any one of them is not a natural person, that petitioner in our view required to satisfy this court, that, that petitioner is a person within the meaning of Article 137. The petition describes the first petitioner in this petition as follows;

(1) ***"That the first petitioner is a Non Governmental Organization duly registered under the laws of Uganda and is engaged in and carrying out independent public policy research and advocacy, capacity building and lobbying to ensure respect for human rights , development, good governance and transparency and accountability in Uganda's natural resource sector."***

The affidavit in support of the first petitioner's case is sworn by one Nyadoyi Esther and is dated 1st September 2012. The affidavit says nothing about the capacity of the first respondent to bring this petition. One would have expected to find attached thereon it's Non Governmental Organisation Registration Certificate and if a company limited by guarantee, its certificate of incorporation and

registration. It cannot be ascertained from the petition and the accompanying affidavit whether or not the first respondent is a person capable of bringing this petition. We are alive to the fact that the capacity of the first respondent was not put in issue by any of the respondents in their pleadings. However, that does not mean that the capacity of the first respondent is admitted or has been proved. That was incumbent upon the petitioner to prove.

We would follow the holding of the Court of Appeal in the ***Management Committee of Rubaga Girls School vs. Bwogi Kanyerezi (Civil Application Number 34 of 1999)*** in which lady ***Justice A.E Mpagi- Bahigeine JA*** (as she then was) stated as follows;

"I think, I should first make a remark on the lack of an affidavit by the respondent though Mr. Masembe Kanyerezi did not seem keen to reply to it. That failure to file an affidavit in reply by the respondent means acceptance of the applicants' averments is a curious proposition. It is well stated that it is always for the applicant to make out his case and if he does not, his opponent need not file an affidavit at all. Even assuming that the affidavit of Mr. Bwengye and his clerk Mr. Kasujja are weak in making out the applicant's case still it would be impossible for me to say that any affidavit in reply or in answer would make out the applicants case for him."

The fact that the respondents did not challenge the capacity of the first petitioner to bring this petition does not mean that the capacity was proved. We find that the capacity of the first petitioner to bring this petition as a person has not been proved. We accordingly strike out the first petitioner as a party to this petition. This however, does not in any way affect the other petitioners or the petition itself.

The 2nd petitioner contends that he is a person effected by the actions of the 2nd respondent and seeks declarations to that effect.

The 3rd petitioner is a public interest lawyer and has brought this petition in public interest.

At the hearing of this petition, Mr. Francis Tumusiime appeared for the petitioners while Mr. George Kalemera, Senior State Attorney, appeared for the first respondent and Mrs. Olivia Kyalimpa Matovu appeared together with Mr. Martin Kakuru for the 2nd respondent. At the commencement of the hearing, Mr. Tumusiime learned counsel for the petitioner with consent of the court withdrew grounds 13 and 14 of the petition:- Twelve grounds therefore remain.

The following issues were agreed upon by the parties with the consent of the court. They are;

1. ***Whether Section 7(1) of the Land Acquisition Act is inconsistent with Article 26 (2)(c) of the Constitution***
2. ***Whether the various acts of the 2nd respondent complained of in the petition violated the 2nd respondent's rights guaranteed under Article 26(2) c of the Constitution.***

The brief background to this petition as set out by the parties in their conferencing notes and oral submissions as is as follows;

That the Government of Uganda commissioned a project to upgrade the Hoima-Kaiso- Tonya road, Hoima District, in order to ease and facilitate the oil exploration and exploitation activities in the area. The project is being implemented by the 2nd respondent, a Government agency. The process of upgrading the road, it seems, required or necessitated acquiring more land. The government then proceeded to compulsorily acquire land from the people affected by the project under the Land Acquisition Act. The 2nd respondent is one of the people affected by the project. His main complaint is that his land situate at Kyeharo – Kabwoya was expropriated without prior prompt payment of compensation. He is not complaining in this petition about the value of the land as assessed or the quantum of the award.

The 2nd petitioner contends that the respondents' act of taking over and acquiring his land prior to payment of compensation was in contravention of his right as enshrined under ***Article 26 of the Constitution.***

The 2nd and 3rd petitioners contend that the respondent purported to act under ***Section 7(1) of the Land Acquisition Act*** which law they argue is inconsistent with **Article**

26 of the Constitution and therefore null and void. For the respondents it was contended rather half heartedly that the impugned **Section 7(1) of the Land Acquisition Act** is still good law. That it is not in any way inconsistent with **Article 26** of the Constitution. Mr. Kalemera argued that the Constitution must be looked at as a whole and that no one Article of the Constitution ought to be interpreted in isolation of the rest of the Constitution. That in this regard court ought to take into account the fact that the right to property as set out under **Article 26** of the Constitution is not absolute. That it is subject to the limitations set out in ***Article 43(2) (c)*** of the Constitution and therefore, he went on to argue, ***Section 7(1)*** is one of the limitations envisaged under ***Article 43(2) (c).*** He contended that interpreting **Article 26** restrictively would hamper government projects. He also argued that land may be acquired by government in emergency situations that would render it practically impossible to strictly comply with the provisions of **Article 26** of the Constitution, to wit: - Prompt prior payment for land before it is compulsorily acquired by government.

We will not dwell on submissions made in respect of ground 2 above because the resolution of ground 1 will also determine ground 2.

The principles of Constitutional interpretation have long been established and followed by this court. We will only reproduce some of them here for emphasis not that they are in issue. We have reproduced them exactly as they were set out by this court in the case of ***Advocates Coalition for Development and Environment and 40 others vs. Attorney General & another (Constitutional Petition Number 14 of 2011) (unreported,)*** in that petition this court set out the said principles as follows:-

> *"We consider the following to be the relevant principles of Constitutional interpretation on the matter before court.*
>
> ***1.*** *The principles which govern the construction of statutes also apply to the construction of the constitutional provisions* ***see the Republic Vs. Elman [1969] E.A 357***
>
> (i) *The widest construction possible in its context should be given according to the ordinary meaning of the words used and each general*

word should be held to extend to all auxiliary and subsidiary matters. In certain contexts, a liberal interpretation of the Constitutional may be called for

(ii) *A constitutional provision containing a fundamental right is a permanent provision intended to cater for all times to come and therefore should be given a dynamic progressive and liberal flexible interpretation keeping in mind the ideals of the people and their social economic and political cultural values so as to extend fully the benefit of the right to those it is intended for:* ***(South Dakota Vs. North Carolina 192, US 2681940 LED 448)***

(iii) *The entire Constitution has to be read together as an integrated whole and with no one particular provision destroying the other but rather each sustaining the other. This is the rule of harmony, completeness and exhaustiveness, the rule of paramouncy of the written Constitution****(Paul K. Semwogerere & 2 others Vs. Attorney General Supreme Court Constitutional Appeal Number 1 of 2002)***

(iv) *No one provision of the Constitution is to be segregated from the others and be considered alone but all provisions bearing upon a particular subject are to be brought into view and be interpreted as to effectuate a greater purpose of the instrument.*

(v) *Judicial power is derived from the people and shall be exercised by the courts established under the Constitution in the name of the people and in conformity with the law and with the values, norms and aspirations of the people and courts shall administer substantive Justice without undue regard to technicalities* ***(Article 126 (1) and (2) (e) of the Constitution of Uganda 1995)***

(vi) *The Constitution is the Supreme law of the land and forms the standard upon which all other laws are judged. Any law that is inconsistent or in contravention of the Constitution is null and void to the extent of that inconsistency* ***Article 2 (1) and (2) of the Uganda Constitution 1995***

(vii) *Fundamental rights and freedoms guaranteed under the Constitution are to be interpreted having general regard to evolving standards of human dignity.* ***See the case of Uganda Law Society Vs. Attorney General ;Constitutional Petition Number 18 of 2005"***

Bearing the above principles in mind, we now proceed to determine the issues as framed.

The impugned ***Section 7(1) of the Land Acquisition Act cap 226*** stipulates as follows;

"*7(1)* <u>Taking possession</u>

Where a declaration has been published in respect of any land, the assessment officer shall take possession of the land as soon as he or she has made his or her award under Section 6; except that he or she may take possession at any time after the publication of the declaration if the Minister certifies that it is in the public interest for him or her to do so"

The Land Acquisition Act commenced on the 2nd July 1965, thirty years before the coming into force of the current Constitution. It therefore falls under the provisions of ***Articles 274*** of the Constitution which relates to "<u>existing law</u>". ***Article 274*** stipulates as follows;

1. ***"Subject to the provisions of this Article , the operation of the existing law after the coming into force of this Constitution shall not be affected by the coming into force of this Constitution but <u>the existing law</u> shall be construed with such a modification , adaptations, qualifications and exceptions as may be necessary to bring it into conformity with this Constitution"***

Since the Land Acquisition Act pre-dates the 1995 Constitution, it ought in my view to be construed in conformity with the Constitution. The Land Acquisition Act as already noted came into force on 2nd July 1965. It was therefore enacted under the 1962 independence Constitution. Under that Constitution, ***Article 22*** thereof provided as follows;

22(1) "No property of any description shall be compulsorily taken possession of, and no interest in or right over property of any description shall be compulsorily acquired, except where the following conditions are satisfied that is to say;

a) The taking of possession or acquisition is necessary in the interest of defence, public safety, public order, public morality, public health, town and country planning or the development or utilisation of any property in such a manner as to promote the public benefit; and

b) the necessity therefore is such as to afford reasonable justification for the causing of any hardship that may result to any person having an interest in or right over the property; and

c) ***provision is made by a law applicable to that taking of possession or acquisition,***

(i) for the prompt payment of adequate compensation";

The Article goes on, but I will stop here since the rest of the provisions do no concern this petition. This Article was reproduced in 1966 interim Constitution. It was again reproduced word by word as ***Article 13 of the 1967 Republican Constitution.*** However, it was substantially changed in ***Article 26 of the 1995 Constitution*** which now provides as follows;

"26. Protection from deprivation of property.

(1) Every person has a right to own property either individually or in association with others.

(2) No person shall be compulsorily deprived of property or any interest in or right over property of any description except where the following conditions are satisfied-

a) the taking of possession or acquisition is necessary for public use or in the interest of defence, public safety, public order, public morality or public health; and

b) the compulsory taking of possession or acquisition of property is made under a law which makes provisions for-

(i) prompt payment of fair and adequate compensation, prior to the taking of possession or acquisition of the property; and

(ii) a right of access to a court of law by any person who has an interest or a right over the property."

Clearly the 1995 Constitution departs from the earlier Constitutions in respect of right to property and specifically on the powers of government to acquire land compulsorily. The 1995 Constitution is very restrictive in this regard, it specifically provides for prior payment of compensation before taking possession or acquisition.

We are inclined to think that this apparent modification of the right to property in the 1995 Constitution was guided by the preamble to the Constitution itself which provides as follows;

"WE THE PEOPLE OF UGANDA:

RECALLING our history which has been characterised by political and Constitutional instability;

RECOGNIZING our struggles against the forces of tyranny, oppression and exploitation;

COMMITTED to building a better future by establishing a social economic and political order through a popular and durable national Constitution based on the principles of unity, peace , equality, democracy , freedom, social Justice and progress;"

The history of this country was characterized by compulsory acquisition of property without prior payment of compensation. Most notably compulsory acquisition by government of properties belonging to the Kabaka of Buganda and the government of Buganda in 1965 to 1966, the nationalization of foreign companies in 1969 in what came to be known as The Nakivubo Pronouncements and the expropriation of Asians (citizens and non citizens) properties in 1972 to 1973 by the military government at the time. I am inclined to think that in **Article 26(2)**, the Constitution intended to put that history to rest and to firmly assert the people's rights to property.

The 1995 Constitution first and foremost limits the instances in which property can be compulsorily acquired by government, to the following;

a) Public use

b) In the interest of defence
c) Public safety
d) Public order
e) Public morality
f) Public health

In every such instance where government acquires or takes possession of any persons property such an act has to be made in a law which provides for**,**

"Prompt payment of fair and adequate compensation; prior to the taking of possession or acquisition of property"

In this case it is common ground that the government indeed has taken over the second respondent's property under ***Statutory Instrument Number 5 of 2013, The Land Acquisition (Hoima- Kaiso -Tonya road) Instrument*** issued under ***Section 3 of the Land Acquisition Act Cap 226,*** and dated 8th February 2013.

The issue in this petition is whether **Section 7 (1)** of the Land Acquisition Act Cap 226 is a law that is in conformity with **Article 26(2)** of the Constitution. We have already set out the provisions of **Section 7(1)** of the Land Acquisition Act above. Clearly that Section does not provide anywhere for prior payment of compensation before government takes possession or before it acquires any person's property.

To that extent therefore I find that **Section 7(1)** of Land Acquisition Act Cap 226 is inconsistent with and contravenes **Article 26 (2) (b)** of the Constitution.

We do not think however that this means that **Section 7(1)** of the Land Acquisition Act ceases to exist. In my view, the impugned Section is saved as an existing law under **Article 274** of the Constitution which i have already set out above. The requirement under that Article is that the laws that pre-date the 1995 Constitution ought to be construed with such modifications, adaptations, qualifications and exceptions as may be necessary to bring them into conformity with the Constitution.

The Constitution clearly envisages that existing laws would in one way or the other be inconsistent with its provisions. It is therefore not necessary that every time a law is found to be inconsistent with the Constitution, recourse is made to this court. Some of the inconsistencies such as the impugned **Section 7 (1) of the Land Acquisition Act** are too obvious and require no interpretation by this court. The purpose of

Article 274 of the Constitution was to avoid a situation where each and every provision of the old laws, those that pre-date the 1995 Constitution, found to be inconsistent with the Constitution had to end up in this court, for interpretation and for declarations to that effect. All courts of law have the power to do that. To enforce and put into effect **Article 274** of the Constitution. This court has applied the provisions of **Article 274** in the case of ***Pyarali Abdu Rassaul Ismail vs. Adrian Sibo; Constitutional Petition Number 9 of 1997.***

In that petition each of the five Justices of this Court wrote a separate Judgment, all in agreement as to the result of the petition. We will only reproduce here excerpts from the Judgment of BERKO, JA which summed up the petition and orders as follows;

> *"At the trial one of the issues framed for determination was:-* ***"Whether the Expropriated Properties Act , Act 9 1982 to the extent that it nullifies the sale of the suit property to the defendant and accordingly deprives him of his proprietary interest therein contravenes the Constitution of the Republic of Uganda and is thereby null and void."***
>
> ***It was that issue which was referred to this court, the matter raised there in seems to be that the nullification of sales and purchases or dealings of expropriated properties under Act 9 of 1982 return the expropriated properties to their original owners. The objective of the Act was to correct the historical wrong that was done to the Asian community in Uganda by the infamous Military Regime and in a way to prevent the endless mischief or injury .Under the Constitution of 1967 and 1995 the people who purchased expropriated properties and have to lose them under the Act are entitled to fair adequate and prompt compensation. Mr. Lule who appeared for the respondent concedes that the Expropriated Properties Act 9 of 1982 complied with all the Constitutional requirements that deprivation of property must be accompanied by compensation. His complaint however is that though the Act provides for compensation, it didn't provide for reasonable compensation as required under the 1967 Constitution or for prompt fair and adequate compensation under the 1995 Constitution and to that extent the Act is unconstitutional. I do not subscribe to this view since the act complies with the Constitutional requirement***

that deprivation of property under the article must be accompanied by compensation then it cannot be said to be inconsistent with the Constitution, the question whether the compensation provided for is prompt, fair and adequate is a matter for enforcement of a right under the Constitution that can be dealt with by any competent court.

That is not a matter for interpretation of the Constitution and therefore does not belong to this court*".*

The above decision requires no further explanation. Suffice it to say that every court, tribunal or administrative body is required to apply and enforce the provisions of ***Article 274*** which was ***Article 273*** before the amendment of the Constitution. His Lordship Justice Egonda -Ntende (J) (as he was then) did exactly that in the case of ***Osotraco Limited Vs Attorney General: High Court Civil Suit Number 1380 of 1996*** *in his Judgment dated 20th March 2002*.

This ground breaking Judgment was unanimously upheld by the ***Court of Appeal in Court of Appeal Civil Appeal Number 32 of 2002 Attorney General vs. Osotraco Limited*** in which the Court of Appeal observed as follows;

"This Court has applied Article 273 in a number of cases. In Pyarali Abdu Rassaul Ismail versus Adrian Sibo; (Constitutional Petition No. 9 of 1997), this court directed the trial Judge to construe and modify Section 11(4) 9(b) of the Expropriated Properties Act No. 9 of 1982 which was prescribing unfair and inadequate compensation for compulsorily acquired property. Section 11(4) (b) was adapted and qualified so as to conform to article 26 (2) (b) (1) of the Constitution providing for prompt payment of fair and adequate compensation for the property. The matter had been referred to the Constitutional Court under article 137 (5). This course of action was found not to have been necessary. The Judge should have moved under article 273 without wasting any time and applied the Constitutional provisions."

We agree entirely with that decision that the object of **Article 274** was to allow courts and other judicial bodies to construe the old laws that predate the 1995 Constitution in conformity with it. The petitioner in this matter should have filed a suit in any competent court and requested that court to construe **Section 7(1)** of the Land

Acquisition Act in such a way as to bring it into conformity with the Constitution as provided for under **Article 274**. This would have simply required court to read into that Section, the phrase "prior payment".

Be that as it may, since the matter is before this court, we are required to resolve it. We clarify that both the 2nd and 3rd petitioners are not seeking compensation or enforcement of any orders in this petition. All the orders sought in this petition are declaratory. Any parties or other persons effected by the actions of the respondents are at liberty to seek redress from a competent court under **Article 50** of the constitution or any other relevant law.

Although the 2nd petitioner was aggrieved by the actions of the respondents as complained of in the petition, nonetheless as already noted, he only sought declaratory orders. The third petitioner on the other hand is petitioning in the cause of public interest. Clearly therefore this petition was brought in public interest.

As to costs, a practice has evolved in this and other courts that parties who seek to enforce in courts of law fundamental human rights enshrined in the bill of rights in this country's Constitution should not seek legal costs. This is a good practice that was adopted in this very petition.

The rationale for this is that no one should be seen to be profiting from a matter in which he or she has no interest beyond that of other members of the public.

Secondly in every constitutional petition or reference, the Attorney General is a statutory respondent, representing a Government elected by the people. Whenever costs are awarded against the Attorney General they are paid out of public funds. A person who brings a public interest action would then be requiring the same public to pay him or her costs. In the event that a public interest petitioner or litigant is unsuccessful and is condemned to pay costs, that too would be unfair. One individual would be have to pay costs in a matter that he or she has no interest beyond that of the other members of the public. This would create a chilling effect and stifle the enforcement of rights and the growth of constitutionalism.

Articles 50 and **137** of the Constitution threw open Court doors for public interest litigation. The courts ought not to close them by condemning parties to costs except where circumstances dictate that a Court in the exercise of its discretion awards costs to a

party against another for the sake of advancing the cause of Justice. In our humble view awarding costs in public interest litigation would be against the spirit of the Constitution as enshrined in **Articles 50, 126** and **137**.

Even in some matters where litigants have had personal interest courts have declined to grant costs on account of the public interest of the matter.

This issue of costs was discussed by the Supreme court in **Presidential Election Petition No. 1 of 2001, Col (RTD) Besigye Kizza versus Museveni Yoweri Kaguta and Electoral Commission**, where it was unanimously agreed that each party bears its own costs.

In that petition Odoki (CJ) (as he then was) stated as follows:

> ***"It is well settled that costs follow the event unless the court orders otherwise for good reason. The discretion accorded to the court to deny a successful party costs of litigation must be exercised judicially and for good cause. Costs are an indemnity to compensate the successful litigant the expenses incurred during the litigation. Costs are not intended to be punitive but a successful litigant may be deprived of his costs only in exceptional circumstances. See Wambugu vs. Public Service Commission [1972 {E.A. 296)].***
>
> ***In awarding costs, the courts must balance the principle that justice must take its course by compensating the successful litigant against the principle of not raging poor litigants from accessing justice through award of exorbitant costs.***
>
> ***In the present petition, I am of the considered opinion that the interest of justice require that the Court exercise its discretion not to award the costs to the Respondents. I agree with Mr. Balikuddembe that this was a historic and unprecedented case in which a presidential candidate who is a serving President was taken to court to challenge his election. The petition raises important legal issues, which are crucial to the political and constitutional development of the country. In a sense, it can be looked at as public interest litigation. It promotes culture of peaceful resolution of disputes.....***
>
> ***In several cases of significant political and constitutional nature, this Court has ordered each party to bear its own costs. This was done in the case of <u>Prince J. Mpuga Rukidi v Prince Solomon Iguru and others – C.A. 18/94 (SC)</u> where***

right of the King of Bunyoro to succeed to the throne was unsuccessfully challenged. In the case of Attorney General vs. Major Gen. David Tinyefuza, 51. App. No. 1 of 1997 (SC) the court agreed that each party bears their costs.

Hon. Justice A. Karokora (JSC) had this to say:

"In order to encourage people like the petitioner to come to court and help in the development of our legal, historical and Constitutional development in Uganda such people should be encouraged. Costs should not be awarded by way of penalizing them so that they should get scared from coming to Court"

And Justice Mulenga (JSC) held as follows:

"In the case of Major Gen. D. Tinyefuza Constitutional Appeal No. 1 of 1997 (SCU) (unreported) this court ordered each party to bear its costs although the appeal was dismissed. The court reasons for doing so, were that in order to encourage constitutional litigation parties who go to court should not be saddled with the opposite party's costs if they lose. If potential litigants know that they would face prohibitive costs of litigation, they would think twice before taking constitutional issues to court. Such discouragement would have adverse effect on development of the exercise of the court's jurisdiction of judicial-review of the conduct of authorities or individuals, which are unconstitutional. It would also stifle the growth of our Constitutional jurisprudence. The culture of constitutionalism should be nurtured, not stunted in this Country, which prohibitive litigation costs would do if left to grow unchecked. I agree with the principles in the decision. In my view they should equally apply to the instant Petition".

The above is the correct proposition of the law in this regard and in our view it ought to be respected and followed.

Wherein public interest petitions cases and costs are awarded, the actual amounts taxed and allowed should be nominal in respect of professional fees, the rest should simply be awarded only in respect of disbursements.

This petition therefore succeeds. In the result we make the following declarations.

1. That **Section 7(1)** of the Land Acquisition Act is hereby nullified to the extent of its inconsistency with **Article 26(2)** of the Constitution. That is to say, to the

extent that it does not provide for prior payment of compensation, before government compulsorily acquires or takes possession of any person's property.

2. It is hereby declared that, the acts of the 2nd respondent complained of in the petition, to wit:-taking possession of the 2nd respondents land prior to payment of compensation contravened his right to property as enshrined in **Article 26(2)** of the 1995 Constitution.
3. No order is made as to costs.

Dated at Kampala this.....**08th** ....day of **...November....2013**.

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HON. MR. JUSTICE REMMY KASULE
JUSTICE OF APPEAL/CC.

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HON. MR.JUSTICE ELDAD MWANGUSYA
JUSTICE OF APPEAL/CC.

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HON. LADY JUSTICE FAITH E.K. MWONDHA
JUSTICE OF APPEAL/CC.

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HON. MR. JUSTICE KENNETH KAKURU
JUSTICE OF APPEAL/CC.

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HON. MR. JUSTICE GEOFREY KIRYABWIRE
JUSTICE OF APPEAL/CC.