



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT OF KENYA AT NAKURU

COURT NAME: NAKURU LAW COURT

CASE NUMBER: ELCLPET/E004/2024

CITATION: BABOONPROJECTKENYA VS COUNTY GOVERNMENT OF NAKURU AND NAKURU WATER AND SANITATION SERVICES COMPANY LIMITED AND 1 OTHERS

## JUDGMENT

### INTRODUCTION

Baboon Project Kenya herein referred to as the petitioner has approached this court against the County Government Of Nakuru , Nakuru Water And Sanitation Services Company Limited, National Environment Management Authority In the Petition dated 18th April, 2024, seeking a declaration that the 1st Respondent is responsible under Section 3 (3) a to e and 87 of Environmental Management and Coordination Act for the refuse removal, refuse dumps and solid waste disposal of Plastics throughout Kenya.

She further seeks a declaration that the Respondents acts of abdicating responsibility contravene Article 3, 23 (3) b and e, 42, 70 (1), (2) (c) of the constitution and they be so cited for breach. Moreover, she seeks a mandatory order of injunction compelling the Respondents to find alternative disposal site for all toxic chemical and industrial wastes from the 1st Respondent other than Lake Nakuru basin.

The petitioner seeks an environmental restoration order be issued against the Respondents.

Last but not least, she seeks a Prohibitory injunction to the Respondents permanently restraining any further refuse disposal into the Lake Nakuru Basin. Plus costs of the petition.

### THE PETITIONER'S CASE

The Petition is supported by an affidavit sworn by Gichohi Simon Mbutia, the Petitioner's director, who deposed that the 1st and 2nd Respondent have permitted the continued dumping of both solid, liquid and toxic waste into the lake to the great harm of wildlife therein. He deposed that despite several warnings and articles between 2023-2024 including a report by the Kenya Marines and Fisheries Institute of the toxic nature of the water in Lake Nakuru which report is annexed, the disposal of waste has not been stopped by the 1st Respondent.

The Petitioner's director deposed that the baboons who form part of the populace within the Nakuru National Park still use and drink that polluted water. He further deposed that there is a disturbing increase in the failure to recycle, treat and process waste matter by the 1st Respondent to produce useful products instead no regard has been made to their rights as residents and users of this vital resource.

The Petitioner's director deposed that there is urgent need to ensure proper and efficient relocation



of waste matter to proper facilities manned by the 1st and 2nd Respondents, to forestall further harm and or injury to residents contrary to Article 42 of the constitution clogging basic services based on the unregulated and poorly managed waste flow.

He further deposed that the 3rd Respondent has the obligation to ensure sustainable, utilization, management and conservation of environment and natural resources and ensure the equitable sharing of the accruing benefits in a bid to achieving and maintaining of rivers and the attendant ecosystem devoid of destruction as evidenced by the failures of the Respondents herein. The Petitioner's director deposed that there is compelling need to establishing systems of environmental impact assessment, environmental audit and monitoring of the environment aimed at eliminating processes and activities that are likely to endanger the environment which he has been advised has not been discharged by the Respondents in the instant case.

The Petitioner's director deposed that unless this court intervenes and gives orders directing the enforcement of the litany of laws in waste management and utilization and conservation of the environment and natural resources for the benefit of the inhabitants of Kenya, the environment is in danger of failed protection and improper realization of its benefits for the present and future generations.

#### THE 2ND RESPONDENT'S CASE

The 2nd Respondent opposed the Petition through a Replying Affidavit dated 13th May, 2024 and sworn by James Ng'ang'a Gachathi, the Managing Director of the 2nd Respondent.

The Managing Director deposed that the 2nd Respondent does not in any way deal with industrial waste. He deposed that on the contrary, the company is a licensed water services provider under the Water Act of 2016 and its services includes the provision of services incidental to water storage and supply and includes the provision of sewerage services. He deposed that sewerage services in this instance means development and management of infrastructure for transport, storage and treatment of waste water originating from centralized and decentralized system.

The 2nd Respondent's Managing Director deposed that the issue of contention in this suit does not touch on the 2nd Respondent's mandate of dealing with water wastes from residential houses and installation. He deposed that the 2nd Respondent does not have any statutory mandate to permit or licence any person or entity to discharge from any commercial, industrial, institutional or any other premises effluents or industrial wastes into the environment including Lake Nakuru.

He further deposed that the 2nd Respondent, as a licensed water provider, only permits or licences persons and entities to discharge trade effluents or other waste matter from commercial, industrial, institutional or other premises into its sewers subject to the conditions set out in Section 108 of the Water Act, 2016 and Regulation 44 of the Water Services Regulations.

The 2nd Respondents Managing director further deposed that within its jurisdiction, there are not more that twenty commercial entities, institutions and industries that have been issued with permits and that most of the commercial entities and industries deal with either edible oils or confectioneries which ordinarily do not produce toxic wastes. The Managing director went on to stipulate the requirements that must be met before a person or an entity is allowed to discharge its waste into the sewer of the 2nd Respondent.

He deposed that any final discharge of waste water from the 2nd Respondent's Waste Water Treatment Plant into Lake Nakuru is safe and meets the required standards of waste discharge that should be allowed into the environment. He further deposed that it is impossible after this rigorous process to have solid wastes finding its way into the Lake. The 2nd Respondent's Managing Director further deposed that even if the 2nd Respondent discharges the final treated product to Lake Nakuru, the same is not done on a daily basis as insinuated by the Petitioner but it is only done occasionally when all ponds are filled and this can take more than a year.

The 2nd Respondent's Managing Director deposed that Lake Nakuru has no known outlet and thus the alleged high toxicity levels can be attributed to bio-accumulation and not any discharge of waste water by the 2nd Respondent. He further deposed that collection and disposal of solid waste is a preserve of the 1st Respondent.



He deposed that Article 35 (1) does not apply to corporations unless the same is proven to have a sole director who is a citizen or all directors who are citizens. He deposed that the Petitioner has not produced any document from the company registry to help this court ascertain whether it is a citizen under Section 2 of the Access to information Act. He also deposed that the 2nd Respondent denies ever receiving any request from the Petitioner requesting any information whatsoever.

The 2nd Respondent's Managing Director also deposed that the Petitioner has also failed to exercise all the available redress available in law as required by the Fair Administrative Act before approaching this Honourable Court. He deposed that there is for instance an internal dispute mechanism with the 2nd Respondent or approaching the Water Appeals Board.

He deposed that there is no extensive research done on this subject and there is no expert or scientific report that has been adduced by the Petitioner showing the levels of toxicity of the treated waste water that the 2nd Respondent discharges into Lake Nakuru.

The Deponent stated that the Petition is incoherent and disjointed and there is no nexus between the prayers sought and the arguments and evidence backing them. He deposed that allowing the Petition would set a precedent where public bodies operating within the confines of the law and providing essential services to the public would be held at a ransom by unscrupulous members of the public who want to use courts to meet their selfish gains.

#### 4TH RESPONDENT'S CASE

The 4th Respondent opposed the Petition and filed grounds of opposition dated 31st May, 2024. The 4th Respondent stated that the Petitioner has failed to demonstrate its involvement in the alleged discharge of toxic industrial waste into the Lake Nakuru water basin and its environs. The 4th Respondent stated that the orders/remedies sought by the Petitioner are legally unenforceable as against it. The 4th Respondent stated that there are bodies/entities established by law competent to address the Petitioner's concerns. The 4th Respondent stated that the Petition as drafted is defective and devoid of merit so far as it relates to the 4th Respondent. The 4th Respondent asked the court to dismiss the Petitioner's Petition dated 18th April, 2024 with costs to the 4th Respondent.

#### THE PETITIONER'S SUBMISSIONS

Counsel for the Petitioner submitted that there is no question that the Constitution of Kenya protects the right to a clean and healthy environment. Counsel relied on Articles 42 and 70 of the Constitution. The Petitioner submitted that from Article 70 (3) of the Constitution of Kenya, it is not necessary for one to demonstrate that they have suffered loss or injury for them to move the court when claiming that the right to a clean and healthy environment has been violated or is under threat of violation. The Petitioner further submitted that it is not a requirement for them to show that they have personally suffered or that the presence of the dumpsite has directly caused them any direct harm. It submitted that it is sufficient for them to point out that there is ongoing, or imminent threat of harm to the environment. The Petitioner submitted that having shown that the right to a clean and healthy environment does exist, they need to determine the obligation of the respondent under law in relation to waste disposal operations.

The Petitioner relied on Section 87, 88 and 89 of EMCA. It submitted that if one wishes to engage in the transportation of waste, one requires a license to do so. It also submitted that one also needs to procure a licence to operate a waste disposal site. The Petitioner submitted that the licenses to transport waste and to operate a waste disposal site are issued by the National Environmental Management Authority (NEMA). It submitted that Section 87 (5) creates an offence where there is contravention of these requirements.

The Petitioner submitted that it is not in doubt that the dumpsite in issue is a threat to a clean and healthy environment and its operations are indeed illegal. The Petitioner submitted that the operation of the facility by the 1st Respondent violates the rights of the petitioners and indeed the rights of the residents of Nakuru and of all persons' resident in Kenya, to a clean and healthy environment as provided for in Article 42 of the Constitution. The Petitioner relied on the judicial decisions of Festo Balenge & 794 Others vs Dar-es-Salaam City Council, High Court of Tanzania at Dar es Salaam, Misc Civil Cause No 90 of 1991, New Jersey vs City of New York, 283 US 473 (1931)



and Odando & another (Suing on their Own Behalf and as the Registered Officials of Ufanisi Centre) v National Environmental Management Authority & 2 others; County Government of Nairobi & 5 others (Interested Parties) (Constitutional Petition 43 of 2019) [2021] KEELC 2235 (KLR) (15th July, 2021)

The Petitioner submitted that this court is clothed with the powers and is mandated by Section 3 of EMCA to make orders, issue such writs or give directions it may deem appropriate to prevent, stop or discontinue any act deleterious to the environment. The Petitioner further submitted that the court may also compel a public officer to take measures to prevent or discontinue any act or omission deleterious to the environment or compel the persons responsible for the environmental degradation to restore the environment to the position it was in before the damage, and to provide compensation for any victim of pollution and the cost beneficial uses lost as a result of the act of pollution.

The Petitioner beseeched the court to help Kenyans safeguard and enhance the environment. It submitted that it is only proper that this court upholds the constitution and specifically Articles 42, 69 and 70 and protects the people of Nakuru from the actions of the Respondents in polluting and causing harm to its residents with their failure to adhere to laid down laws.

#### 2ND RESPONDENT'S SUBMISSIONS

The 2nd Respondent relied on Article 35 (1) and submitted that the Petitioner has not produced any document from the company registry to help this court ascertain whether it is a citizen under Section 2 of the Access to Information Act. The 2nd Respondent also relied on the case of Kenya Society for the Mentally Handicapped v Attorney General & Others Nairobi Petition No 155A of 2011 eKLR and submitted that there is nothing in the evidence of the Petitioner to show that they requested for such information and were denied by the 2nd Respondent.

The 2nd Respondent submitted that the Petitioner has also failed to exercise all the available redresses available in law as required by the Fair Administrative Act. Reliance was placed on the case of Republic v National Environment Management Authority Ex parte Sound Equipment Ltd, [2011] eKLR. The 2nd Respondent further submitted that the Petitioner has not explained why its issues cannot be handled by Ombudsman based on Article 35 of the Constitution of Kenya or the Water Appeals Board. Reliance is placed on the case of Speaker of the National Assembly v James Njenga Karume [1992] eKLR.

The 2nd Respondent submitted that there is no extensive research done on this subject and there is also no expert or scientific report that has been adduced by the Petitioner showing the levels of toxicity of the treated waste water that the 2nd Respondent discharges into Lake Nakuru. The 2nd Respondent submitted that there is no evidence that it discharges industrial effluents to Lake Nakuru and the said effluents can be directly linked to the pollution at Lake Nakuru.

The 2nd Respondent submitted that the court cannot suspend its operations as they are lawful. The 2nd Respondent submitted that it serves a critical purpose of supplying water to the people of Nakuru as well as offering sewerage services. It submits that if suspended, there shall be chaos and turmoil in Nakuru. The 2nd Respondent submitted that jurisdiction of the court is donated by Articles 162 and 165 of the Constitution of Kenya. The 2nd Respondent submitted that the court would only act within that ambit but not to assist the Petitioner carry out fishing in Lake Nakuru which has been categorized as an egregious and precarious venture. The 2nd Respondent asked the court to look at the Petitioners Exhibit GSM 1 that showed that fish from Lake Nakuru had heavy metals like chromium and lead.

The 2nd Respondent submitted that the Petition has not particularized the violations and the provisions of the law making it more difficult for the Respondents to respond to the Petition hence liable for sticking out. Reliance is placed on the Court of Appeal Case of Mumo Matemu vs Trusted Society [2013] eKLR.

The 2nd Respondent submitted that the Petition dated 18th April, 2024 does not disclose any violation of the Constitution of Kenya, laws or conventions. The 2nd Respondent submitted that the evidence provided confirms that fishing is dangerous in Lake Nakuru yet that is what the Petitioner



seeks from the Court; a licence to fish. The 2nd Respondent asked the court to dismiss the Petition with costs to the 2nd Respondent.

#### ANALYSIS AND DETERMINATION

The issue that arises for determination is whether the Petitioner is entitled to the orders sought in the Petition dated 18th April, 2024.

It is the Petitioner's case that there is deliberate and incremental discharge of toxic industrial waste into Lake Nakuru Basin with adverse consequences to the health of all wildlife downstream. It is also the Petitioner's case that the Respondents have contravened constitutional mandates by permitting and condoning the illegal discharge of toxic industrial waste hence gross harm to the Petitioners and the wildlife in need of water contained in Lake Nakuru.

It is also the Petitioner's case that the state has the obligation to ensure sustainable, utilization, management and conservation of environment and natural resources, instead this has been abdicated. It is the Petitioner's case that the Respondents are tasked with the duty to protect and enhance safety within the environment, a duty which has been breached with far reaching consequences to the Petitioner and inhabitants of Lake Nakuru National Park.

It is the 2nd Respondent's case that the Petition does not disclose any violation of the Constitution of Kenya, laws or conventions. It is the 2nd Respondent's case that the evidence provided confirms that fishing is dangerous in Lake Nakuru yet the Petitioners seeks from the court a licence to fish. It is the 2nd Respondents case that the Court cannot suspend its operations as they are lawful as it serves a critical purpose of supplying water to the people of Nakuru and offering sewage services.

In the Petition, the Petitioner describes the parties as follows: THAT the Petitioner is a company incorporated under the companies act and limited by guarantee and engaged in environmental conservation. THAT the 1st Respondent is the county government of Nakuru where Lake Nakuru, a large water body housed by the Nakuru National park, a major tourist attraction is situated. THAT the 2nd Respondent is a company incorporated under the companies act and its mandate is to provide Nakuru residents with climate resilient and sustainable water solutions. THAT the 3rd Respondent is a constitutional corporate body established under Section 7 of the Environmental Management and Co-ordination Act, Chapter 387, and whose mandate has been spelt out in Section 9 of the Act to include to exercise general supervision and co-ordination over all matters relating to the environment and to be the principal instrument of Government in the implementation of all policies relating to the environment. THAT the 4th Respondent is the Attorney General of the Republic of Kenya, and chief adviser to the Government of Kenya, mandated with constitutional protection of all citizens and legal persons.

In the Affidavit supporting the Petition dated 18th April, 2024 and sworn by Gichoni Simon Mbutia, the director of the Petitioner, he deposed that despite several warnings and articles between 2023-2024 including a report by the KENYA MARINES AND FISHERIES INSTITUTE of the toxic nature of the water in Lake Nakuru, the disposal of waste has not been stopped by the 1st Respondent. The Petitioner goes on to attach a bundle of the said articles.

Under the Constitution of Kenya (Protection of Rights and Fundamental Freedoms) Practice and Procedure Rules, 2013, a petitioner must disclose facts relied upon, constitutional rights and freedoms violated, nature of injury caused, capacity to bring the petition, details relating to related civil/criminal matter and the reliefs sought. Paragraph 31 to 50 of the Petition outlines the Constitutional basis for the Petition. At paragraph 50, the Petitioner avers that the 3rd Respondent being the Chief Legal Advisor to the Government has failed in his constitutional and statutory mandate to advise the Government on the blatant and clear violations of the petitioners rights. The Petitioner went on to seek seven key prayers.

In Meme -vs- Republic [2004] 1 E.A. 124, the court held a petitioner must set out with reasonable degree of precision the complaint and the manner in which the rights have been infringed with clear focus on fact, law and the Constitution. This was the same position in Mumo Matemu -vs- Trusted Society of Human Rights Alliance & Others [2013] eKLR and John Mbogua Getao -vs- Simon



Parkoyiet Mokare & 4 others [2017] eKLR.

Section 3 (3) of the Environmental Management and Co-ordination Act provides as follows:

If a person alleges that the right to a clean and healthy environment has been, is being or is likely to be denied, violated, infringed or threatened, in relation to him, then without prejudice to any other action with respect to the same matter which is lawfully available, that person may on his behalf or on behalf of a group or class of persons, members of an association or in the public interest may apply to the Environment and Land Court for redress and the Environment and Land Court may make such orders, issue such writs or give such directions as it may deem appropriate to:

- a. prevent, stop or discontinue any act or omission deleterious to the environment;
- b. compel any public officer to take measures to prevent or discontinue any act or omission deleterious to the environment;
- c. require that any on-going activity be subjected to an environment audit in accordance with the provisions of this Act;
- d. compel the persons responsible for the environmental degradation to restore the degraded environment as far as practicable to its immediate condition prior to the damage; and
- e. provide compensation for any victim of pollution and the cost of beneficial uses lost as a result of an act of pollution and other losses that are connected with or incidental to the foregoing.

This court finds that the claim from the 2nd Respondent that the Petitioner failed to exercise alternative redress mechanisms before approaching this court is not merited. The Petitioner is at liberty to exercise its constitutional rights and approach this court. Section 3 of Environmental Management and Co-ordination Act gives effect to the entitlement to a clean and healthy environment which is enshrined in Article 42 of the Constitution. Every person has a duty to safeguard and enhance the environment. That section empowers a person alleging that the right to a clean and healthy environment has been or is being denied, violated, infringed or threatened to apply to the Environment and Land Court (ELC) for redress. The issue as to the jurisdiction of the Environment and land court where there is alternative dispute resolution mechanism was dealt with by the Supreme court in *Nicholus v Attorney General & 7 others; National Environmental Complaints Committee & 5 others (Interested Parties) (Petition E007 of 2023) [2023] KESC 113 (KLR) (28 December 2023) (Judgment)* where it was held:-

"It was therefore sufficient that the appellant alleged that a right in the Constitution had been infringed or threatened with violation, making it clear that in light of the provisions of the Constitution and the ELC Act, the issues raised were within the original jurisdiction of the ELC. That is also why Section 3 of EMCA provides that, one of the general principles under the Act is the entitlement to a clean and healthy environment. That section provides: \"Entitlement to a clean and healthy environment(1)Every person in Kenya is entitled to a clean and healthy environment in accordance with the Constitution and relevant laws and has the duty to safeguard and enhance the environment."

109. Section 3 (3) of EMCA is even more instructive as it grants any person, who claims that their right to a clean and healthy environment has been violated, the right to apply to the ELC for redress by specifically stating: \"If a person alleges that the right to a clean and healthy environment has been, is being or is likely to be denied, violated, infringed or threatened, in relation to him, then without prejudice to any other action with respect to the same matter which is lawfully available, that person may on his behalf or on behalf of a group or class of persons, members of an association or in the public interest may apply to the Environment and Land Court for redress and the Environment and Land Court may make such orders, issue such writs or give such directions as it may deem appropriate to—(a)prevent, stop or discontinue any act or omission deleterious to the environment;(b)compel any public officer to take measures to prevent or discontinue any act or omission deleterious to the environment;(c)require that any on-going activity be subjected to an environment audit in accordance with the provisions of this Act;(d)compel the persons responsible for the environmental degradation to restore the degraded environment as far as practicable to its



immediate condition prior to the damage; and(e)provide compensation for any victim of pollution and the cost of beneficial uses lost as a result of an act of pollution and other losses that are connected with or incidental to the foregoing.”

110.As we stated earlier, there is nothing that therefore bars the appellant, reading the plain provisions of the law above, from filing a claim before the ELC as he had two options available to him once NEMA was unable to enforce the stop order against the 2nd and 3rd respondents. The first option was to appeal to the NET, as was rightfully held by the Court of Appeal. The other option was to file a claim before the ELC, which the appellant did, as against both NEMA and KPLC for the claim under the Energy Act. The ELC was thereafter obligated to interrogate his claims on merit and render a determination one way or the other. By not doing so, it fell into error which the Court of Appeal failed to rectify.”

Section 87 of the Environmental Management and Co-ordination Act provides as follows:

- 1) No person shall discharge or dispose of any wastes, whether generated within or outside Kenya, in such manner as to cause pollution to the environment or ill health to any person.
- 2) No person shall transport any waste other than:
  - a. in accordance with a valid licence to transport wastes issued by the Authority; and
  - b. to a wastes disposal site established in accordance with a licence issued by the Authority.
- 3) No person shall operate a wastes disposal site or plant without a licence issued by the Authority.
- 4) Every person whose activities generate wastes shall employ measures essential to minimize wastes through treatment, reclamation and recycling.
- 5) Any person who contravenes any provisions of this section shall be guilty of an offence and liable to imprisonment for a term of not more than two years or to a fine of not more than one million shillings or to both such imprisonment and fine.

The Environmental Management and Co-ordination Act defines precautionary principle as the principle that where there are threats of damage to the environment, whether serious or irreversible, lack of full certainty should not be a reason for postponing cost-effective measures to prevent environmental degradation.

In the case of Odando & another (Suing on their Own Behalf and as the Registered Officials of Ufanisi Centre) v National Environmental Management Authority & 2 others; County Government of Nairobi & 5 others (Interested Parties) (Constitutional Petition 43 of 2019) [2021] KEELC 2235 (KLR) (15 July 2021) (Judgment) the court was persuaded by the decision of Vellore Citizen Welfare Forum v Union of India (1996) 5 SCC 647 at 658 where the court declared that the precautionary principle involved three conditions. Firstly, that the State government and statutory authorities must anticipate, prevent and attack the causes of environmental degradation. Secondly, where there are threats of serious and irreversible damage, lack of scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation. Lastly, that the ‘onus of proof’ was on the actor or developer or industrialist to show that the actions were environmentally benign. The Petitioner has asked this court to issue a mandatory injunction compelling the Respondents to find alternative disposal site for all toxic chemical and industrial wastes from the 1st Respondent other than Lake Nakuru Basin. The 2nd Respondent on the other hand contends that it does not in any way deal with industrial waste and the issue of contention in this suit does not touch on its mandate of dealing with water wastes from residential houses and installations. The 4th Respondent contends that the Petitioner has failed to demonstrate its involvement in the alleged discharge of toxic industrial waste into the Lake Nakuru water basin and its environs.

Article 69 (1) (g) of the Constitution obligates the State to eliminate processes and activities that are likely to endanger the environment. The Oxford Advanced Learner’s dictionary defines ‘eliminate’ as to remove or get rid of something. The Constitution behoves the Respondents to remove or get rid of all the processes and activities that cause pollution of Lake Nakuru.

The Managing Director of the 2nd Respondent in a Replying Affidavit dated 13th May, 2024 deposed



that any final discharge of waste water from the 2nd Respondent's Waste Water Treatment Plant into Lake Nakuru is safe and meets the required standards of waste discharge that should be allowed into the environment. He further deposed that it is impossible after this rigorous process to have solid wastes finding its way into the Lake. In the case of Isaac Kipyego Cherop v State Ministry of Water & 142 others [2017] eKLR, the court affirmed that the right to clean water is intertwined with the right to a clean and healthy environment. Section 63 of the Water Act provides that every person in Kenya has the right to clean and safe water in adequate quantities and to reasonable standards of sanitation as stipulated by Article 43 of the Constitution. The right to clean and safe water is an implicit component of the right to adequate standard of living and the right to health. I have perused the final report on assessment of the fish species diversity and water quality in Lake Nakuru in Kenya and the Eco-toxicological study of the potential role of heavy metals in fish die off and do that the water quality in Lake Nakuru has degenerated due to organic pollution from domestic waste water, storm runoff and industries. Tis court comes to the conclusion that the Petition is merited as the Respondents bear a bigger responsibility in the management and protection of the environment (specifically Lake Nakuru), a responsibility they have abrogated. The arguments by the respondents that the lake is already toxic does not hold water because they are not justified to pollute the lake because by doing so, they make the environment unclean and unhealthy. I therefore issue the following orders:

- a. A declaration is hereby issued that that the 1st Respondent is responsible under Section 3 (3) a to e and 87 of Environmental Management and Coordination Act for the refuse removal, refuse dumps and solid waste disposal of Plastics in Nakuru County.
- b. A declaration is hereby issued that that the Respondents acts of abdicating responsibility contravene Articles 3, 23 (3) B and E, 42, 70 (1), (2) (c) of the constitution and they are hereby cited for breach.
- c. A mandatory order of injunction is hereby issued compelling the Respondents to find alternative disposal site for all toxic chemical and industrial wastes from the 1st Respondent other than Lake Nakuru basin.
- d. An environmental restoration order is hereby issued against the Respondents.
- e. A Prohibitory injunction is hereby issued to the Respondents permanently restraining any further refuse disposal into the Lake Nakuru Basin.
- f. There will be no order on costs.

It is so ordered.

JUDGMENT DATED, SIGNED AND DELIVERED ELECTRONICALLY ON THE 26TH SEPTEMBER, 2024.

SIGNED BY: HON. JUSTICE ANTONY O. OMBWAYO



THE JUDICIARY OF KENYA.  
NAKURU ENVIRONMENT AND LAND COURT  
ENVIRONMENT AND LAND COURT  
DATE: 2024-09-26 10:00:46+03

