**THE REPUBLIC OF UGANDA**

**IN THE HIGH COURT OF UGANDA AT KAMPALA (CIVIL DIVISION)**

**MISCELLANEOUS CAUSE NO. 127 OF 2016**

1. **XXX YYY**
2. **WWW ZZZ**
3. **AAA BBB :::::::::::::::::::::::: APPLICANTS**
4. **CCC DDD**
5. **EEE FFF**

**VERSUS**

**ATTORNEY GENERAL :::::::::::::::::::::::::::::::::::::::::::: RESPONDENT**

**NOTICE OF MOTION**

*[Under Art. 50 of the Constitution; Section 33 Jud Act, 98 CPA and all enabling laws]*

**TAKE NOTICE** that this Honourable Court will be moved on the ………….... day of...................... 2016 at .………………….. o’clock in the forenoon/afternoon or soon thereafter as counsel for the applicant can be heard on application for the following:

1. **A DECLARATION** that the absence of adequate procedure governing evictions is a violation of the right to life, right to dignity and the right to property, under Articles 22, 24 and 26 of the 1995 Constitution of Uganda Respectively;
2. **A DECLARATION** that delay, refusal or failure of the Government of Uganda to put in place clear and adequate procedural mechanisms to ensure respect and protection for human rights norms and standards before, during, and after land eviction and resettlement activities is in contravention of the core state obligations to respect, protect and fulfill the rights under the Covenant on Economic, social and Cultural Rights; and
3. **An ORDER** compelling the Government of Uganda to develop comprehensive guidelines governing land evictions before, during and after the fact.
4. **That COSTS** of this application be provided for.

**TAKE FURTHER NOTICE** that this application is based on grounds contained in the affidavits attached hereto, but briefly are:

1. **That** Twenty one (21) years after the promulgation of the Uganda Constitution (1995) and eighteen (18) years after the enactment of the Land Act (1998), the Government of Uganda has unjustifiably failed, ignored, neglected or otherwise refused to put in place clear measures or procedures consistent with the Constitution and universally accepted norms and standards for the regulation of eviction and resettlement of persons affected by development projects;
2. **That** The actions/omissions of the Government in failure to put in place proper procedural and institutional mechanisms governing land evictions has abetted the prevalence of human rights violations such as loss of property, inhuman and degrading treatment and loss of means of livelihood, caused by development induced displacement of persons across the country, contrary to articles 22, 24 and 26 of the 1995 Constitution of Uganda;
3. **That** the International Human Rights instruments including *inter alia* the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR) to which Uganda is signatory, enjoin government with three core obligations; the duty to respect, to protect and to fulfill human rights of persons; and
4. **That** in the interest of fostering Human Rights, and the constitutional vision of a socioeconomic and political order based on the bill of rights, social justice and progress, it is just and convenient for Court to allow this application and grant the reliefs hereby sought.

**DONE** at **KAMPALA** this…………………… day of …………………………………………. 2016

…….………………………………………………………

 **(COUNSEL FOR THE APPLICANT)**

**GIVEN** under my hand and seal of this Court this ……………day of…………………….2016

…………………………………..………………………..

**REGISTRAR**

**To be served on:**

**The Attorney General of Uganda,**

Attorney General’s Chambers,

Plot 1 Parliamentary Avenue,

P.O. Box 7183,

**KAMPALA.**

**Drawn & filed by:**

**ABC & Co. Advocates**

Econ HOUSE, Plot 1, ZYX Avenue

P. O. Box 111111

Kampala.

**THE REPUBLIC OF UGANDA**

**IN THE HIGH COURT OF UGANDA AT KAMPALA (CIVIL DIVISION)**

**MISCELLANEOUS CAUSE NO………………………... OF 2016**

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**VERSUS**

**ATTORNEY GENERAL ::::::::::::::::::::::::::::::::::::::: RESPONDENT**

**SUMMARY OF EVIDENCE**

At the hearing, the applicants will adduce evidence to show that whereas the Government of Uganda can afford to put in place requisite procedures to combat and/or eradicate human rights violations before, during and after eviction and resettlement processes, it has unjustifiably failed, refused or delayed to fulfill this duty.

**LIST OF WITNESSES**

1. XXX YYY.
2. WWW ZZZ
3. AAA BBB
4. CCC DDD
5. EEE FFF
6. JJJ LLL
7. VVV UUU
8. SSS TTT
9. Others with leave of Court

**LIST OF DOCUMENTS**

1. All annexure attached to the affidavit of EEE FFF
2. Others with leave of Court

**LIST OF AUTHORITIES**

1. 1995 Constitution of Republic of Uganda
2. The Land Acquisition Act, Cap 226
3. *Uganda National Roads Authority versus Asuman Irumba and Another*, Supreme Court Constitutional Appeal No2 of 2014
4. International Covenant on Economic, Social and Cultural Rights
5. General Comments No. 4 and No. 7 of the Committee on Economic, Social and Cultural Rights
6. Others with leave of Court

**DONE** at **KAMPALA** this…………………… day of …………………………………………. 2016

…….………………………………………………………

 **(COUNSEL FOR THE APPLICANT)**

**Drawn & filed by:**

**ABC & Co. Advocates**

Econ HOUSE, Plot 1, ZYX Avenue

P. O. Box 111111

Kampala.

**XXX YYY Affidavit**

**THE REPUBLIC OF UGANDA**

**IN THE HIGH COURT OF UGANDA AT KAMPALA (CIVIL DIVISION)**

**MISCELLANEOUS CAUSE NO………………………... OF 2016**

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**VERSUS**

**ATTORNEY GENERAL ::::::::::::::::::::::::::::::::::::::::::::::::::::::::: RESPONDENT**

**AFFIDAVIT IN SUPPORT OF MISCELLANEOUS APPLICATION**

I, **XXX YYY** of **M/s ABC & Co. Advocates,** Econ HOUSE, Plot 1, ZYX Avenue P. O. Box 111111 Kampala, do hereby take oath and state as follows:

1. **THAT** I am a male adult Ugandan Citizen of sound mind, a member of the Network of Public Interest Lawyers (NETPIL), with vast experience in the areas of human rights, health, gender and transitional justice in Uganda, I am the 1st Applicant herein, and I depone this affidavit in that capacity.
2. **THAT** I have had the benefit of reading the affidavits of AAA BBB, CCC DDD, EEE FFF, Dr. JJJ LLL, SSS TTT and VVV UUU and I agree with all the content and associate myself with all the affidavits.
3. **THAT** as a human rights advocate I strongly believe that it is in the interest of justice, and protection and promotion of human rights in Uganda that the orders sought herein be granted.
4. **THAT** I swear this affidavit in support of this Application.
5. **THAT** whatever I have stated herein is true and correct to the best of my knowledge and belief.

**SWORN** at Kampala by the said,

**XXX YYY** ………………………………………………

this ……… day of ……...…… 2016. **DEPONENT**

**BEFORE ME,**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**WWW ZZZ Affidavit**

**THE REPUBLIC OF UGANDA**

**IN THE HIGH COURT OF UGANDA AT KAMPALA (CIVIL DIVISION)**

**MISCELLANEOUS CAUSE NO………………………... OF 2016**

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5. **EEE FFF**

**VERSUS**

**ATTORNEY GENERAL ::::::::::::::::::::::::::::::::::::::::::::::::::::::::: RESPONDENT**

**AFFIDAVIT IN SUPPORT OF MISCELLANEOUS APPLICATION**

I, **WWW ZZZ** of **M/s ABC & Co. Advocates,** Econ HOUSE, Plot 1, ZYX Avenue P. O. Box 111111 Kampala, do hereby take oath and state as follows:

1. **THAT** I am a male adult Ugandan Citizen of sound mind, a member of the Network of Public Interest Lawyers (NETPIL), with vast experience in the areas of human rights, health, gender and transitional justice in Uganda, I am the 2nd Applicant herein, and I depone this affidavit in that capacity.
2. **THAT** I have had the benefit of reading the affidavits of AAA BBB, CCC DDD, EEE FFF, Dr. JJJ LLL, SSS TTT and VVV UUU and I agree with all the content and associate myself with all the affidavits.
3. **THAT** as a human rights advocate I strongly believe that it is in the interest of justice, and protection and promotion of human rights in Uganda that the orders sought herein be granted.
4. **THAT** I swear this affidavit in support of this Application.
5. **THAT** whatever I have stated herein is true and correct to the best of my knowledge and belief.

**SWORN** at Kampala by the said,

**WWW ZZZ** ………………………………………………

this ……… day of ……...…… 2016. **DEPONENT**

**BEFORE ME,**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

 **COMMISSIONER FOR OATHS**

**AAA BBB Affidavit**

**THE REPUBLIC OF UGANDA**

**IN THE HIGH COURT OF UGANDA AT KAMPALA (CIVIL DIVISION)**

**MISCELLANEOUS CAUSE NO………………………... OF 2016**

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**VERSUS**

**ATTORNEY GENERAL ::::::::::::::::::::::::::::::::::::::::::::::::::::::::: RESPONDENT**

**AFFIDAVIT IN SUPPORT OF MISCELLANEOUS APPLICATION**

I, **AAA BBB** of **M/s ABC & Co. Advocates,** Econ HOUSE, Plot 1, ZYX Avenue P. O. Box 111111 Kampala, do hereby take oath and state as follows:

1. That I am an adult Ugandan citizen of sound mind aged 55 years and a resident of Rwamutonga Village, Katanga Parish in Bugambe sub-county Hoima District and well conversant with matters pertaining to the application and depone hereto in such capacity.
2. That my parents DG and OO (both deceased) took occupancy of the land located in Rwamutonga Village, Katanga Parish in Bugambe sub-county Hoima District 1968 granted to them by the Muluka Chief a one MMM of Katanga Parish and the Mutongole Chief a one Luciano Obwon for the purpose of cotton growing.
3. That in 1972 the Asians that owned the Cotton Union left the country following the Asian expulsion by the Amin government leaving us in peaceful occupancy.
4. That in 1977 a one JMTN approached my parents requesting to be allowed to use a portion of the land for cattle grazing which request was granted with a feeder path being created as a boundary between the portions and JMTN allowed the portion close to River Rwamutonga.
5. That the different people that were left on the land built houses some with concrete others with mud and wattle as well as growing avocado, guavas, jack fruit and other food stuffs.
6. That with the passage of time, JMTN's cattle multiplied in number and in the process they began straying into other peoples portions of land.
7. That in 1997 I was elected LC 1 Chairperson for Rwamutonga village.
8. That in 2014 I together with others including MTA the Katanga Parish area Councilor, PRD, MZZ were chosen to on behalf of a number of other affected persons to seek court redress against the actions of JMTN and a matter was filed in the High Court Masindi Civil Suit No. 345 of 2012
9. That we were not able to see to the determination of the matter due to financial constraints and I am not certain whether the case is still pending.
10. That we later approached Mr. GAA LC III Chairman Bugambe sub-county for assistance who then wrote a letter to JMTN forbidding him from interfering with other people's land.
11. That JMTN heeded to the orders in the said letter until 2011 and he resumed the interference.
12. That when MCC an American company came looking for titled land amounting to 2000 acres to purchase, JMTN who held only 300 acres opened boundaries extending into other people's land in order to be able to sell to the company.
13. That BBT and MZZ who had earlier bought land amounting to 40 acres from RBTB in 2000 on the other hand acquired a land title of land measuring 260 acres.
14. That I together with others went to Masindi High Court in a matter of trespass to land against JMTN and RBTB.
15. That as the matter was underway in the Masindi High Court, the two JMTN and RBTB sought the intervention of the Deputy RDC Hoima a one TJ and District Police Commander (DPC) KBN
16. That JMTN and RBTB then entered into a consent judgment before the registrar of Masindi High Court where JMTN paid off RBTB UGX 200million and the purported land title of 260 acres handed over to JMTN.
17. That the court registrar then issued an eviction order in respect of the land in question which was later signed-off in certification by a one JYM purporting to work in State House Land desk.
18. That in the wee hours of the morning of 25th August 2014 at around 6:00am sporadic gun shots were heard only to see JMTN appearing in the company of the Deputy RDC, the DPC with army and police personnel and other muscled men on trucks.
19. That the mud and wattle houses found on the land were set ablaze, iron sheets were removed from the other houses and loaded on trucks together with people's goats and cattle. All this activity run on from 6am to 6pm.
20. That I personally lost iron sheets and cement meant to complete my four-roomed house, the structure was razed to the ground by a grader, and in addition 28 goats, 8 cattle, 18 sheep, two motor cycles, sofa seats, woofers amongst others were taken.
21. That that night at around 7:00pm members of the approximately 200 affected households went to TTO's home where we spent the night in a camp on a land measuring approximately 3 acres.
22. That on following day 26th August 2014, police together with other machinery returned to clear whoever had refused to leave the land and this they did by way of firing gun shots and beating, and a one PTK lost his life having been badly beaten on the head.
23. That on the 27th of August Global Rights Alert a Non- Governmental organization came to our rescue engaging stakeholders and together with the Chairman LC 5 got us emergency food supplies while Transparency International provided a tarpaulins, blankets, clothes, sauce pans and agricultural tools.
24. That to date we are still residing in a camp on TTO's land.
25. That life in the camp is difficult: a number of children in the camps have since ceased attending school as the parents can no longer afford school fees; the nearest health facility is in Buseruka which is quite a distance from the camp; the community sleeps on the ground; the community draws water from a water source for animals courtesy of Kolping.
26. That I swear this affidavit in support of this application.
27. That all that I have stated herein is correct to the best of my knowledge, and belief.

**SWORN** at Kampala by the said,

……………………………………………… **DEPONENT**

this ……… day of ……...…… 2016.

**BEFORE ME,**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

 **COMMISSIONER FOR OATHS**

**Drawn & filed by:**

**ABC & Co. Advocates**

Econ HOUSE, Plot 1, ZYX Avenue

P. O. Box 111111

Kampala.

**CCC DDD Affidavit**

**THE REPUBLIC OF UGANDA**

**IN THE HIGH COURT OF UGANDA AT KAMPALA (CIVIL DIVISION)**

**MISCELLANEOUS CAUSE NO………………………... OF 2016**

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5. **EEE FFF**

**VERSUS**

**ATTORNEY GENERAL ::::::::::::::::::::::::::::::::::::::::::::::::::::::::: RESPONDENT**

**AFFIDAVIT IN SUPPORT OF MISCELLANEOUS APPLICATION**

I, **CCC DDD M/s ABC & Co. Advocates,** Econ HOUSE, Plot 1, ZYX Avenue P. O. Box 111111 Kampala, do hereby take oath and state as follows:

1. That I am an adult male Ugandan citizen of sound mind aged 47 years and a resident of Natumkasikou Village, Nakadeli Parish in Rupa sub-county Moroto District and well conversant with matters pertaining to the application and depone hereto in such capacity.
2. **THAT** land evictions in the Karamoja region are historical and date as far back as the colonial times and have been perpetuated during the different regimes for example during the Idi Amin regime some young pastoralists who were neighbouring Moroto Army barracks were murdered and the communities in the neighbouring villages were evicted forcefully to allow the barracks occupy more land.
3. **THAT** during the Obote II regime in 1983 many people were displaced as a result of the burning of Matany and Kangole trading centers allegedly done by the UNLA, leaving many families displaced and to date many have not been able to reclaim their land, and only one family of John Lokutae was compensated by way of a reconstructed house in 2015.
4. **THAT** round 2013 a speculative investor by the name of LMJ Co. appeared in Moroto at Lotongir allegedly with a mining licence from the Ministry of Energy and Minerals together with heavy mining machinery and began excavations in Lotongir site but the communities demonstrated against the excavations in the area and following the local community leaders' intervention the company was forced to move to Lopetakwang.
5. **THAT** following the pressure in Lotongir, LMJ Co. with the help of UPDF personnel fenced off a large chunk of land of approximately 63km2 at Lopetakwang in Nakabat in view of it being a gold mining site in effect displacing a number of pastoralists who had kraals on the said land that was also a source of fruits, medicinal herbs and pasture for grazing their animals.
6. **THAT** the displaced communities moved to Nakiloro, Rata, Musupo and the lower parts of Rupa.
7. **THAT** LMJ Co went on to mount machinery and construct buildings on the mining site and installed high pressure water pumps for the mining on Nakilolo river; the massive drainage of the river reduced the water levels affecting the dry season irrigation and watering of the animals.
8. **THAT** members of the community were barred from accessing the mining site as they were considered unauthorized, the casual labourers employed were ferried in from other regions and the displaced were never compensated not even in view of their surface rights or royalties to the Local governments.
9. **THAT** at the beginning of 2015, the company's operations suddenly stopped, the site and the machinery thereon abandoned and to date it is guarded by UPDF personnel.
10. **THAT** on this Lopetakwang site my family and clan had a homestead of about nine households and at the time of the evictions we never allowed any time to plan for the migration so we found ourselves dispersed with me and my immediate family of six dependants settling at Acholi Inn approximately 20km from Lopetakwang , some relatives went to Nakilolo and others to Rata, and the rest to Musupo.
11. **THAT** displacement left me landless, without a house and had to purchase land from Tiyani popularly known as Magwayi at UGX 500,000 on which I re-constructed a semi-permanent house.
12. **THAT** my girl who was aged 14years and going to LGS S.S. a religious founded school dropped out of school for two(2) terms until a generous nun picked her up and sent her to MKN SS in Jinja; the 12year, 10year and 8year old children who were attending Municipal Primary School were shifted to Army Primary School as a result of the displacement.
13. **THAT** my current living conditions are unstable given that Lopetakwang was ideal grazing land for goats and yet Acholi Inn area has no grazing lands, we have to take the animals to a distance of 5kms to graze them where there are many animals and this has affected the value of the animals.
14. **THAT** displacement also affected our family ties and the social fabric of our community since the members of the homestead were dispersed to different places.
15. **THAT** the displacement has also caused me psychological trauma and stress stemming from the loss of my land and house without compensation as well as the loss of our family and clan ties.
16. **THAT** we have not been able to seek courts intervention in this matter given the legal intricacies that we could not traverse as a community.
17. **THAT** it is most important to first seek consent from the would be affected persons before the mining licenses are granted and more so before the evictions are enforced by the government and its agencies.
18. **THAT** I swear this affidavit in support of this application.
19. **THAT** whatever is stated hereinabove is correct and true to the best of my knowledge.

**SWORN** at Kampala by the said,

……………………………………………… **DEPONENT**

this ……… day of ……...…… 2016.

**BEFORE ME,**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

 **COMMISSIONER FOR OATHS**

**Drawn & filed by:**

**ABC & Co. Advocates**

Econ HOUSE, Plot 1, ZYX Avenue

P. O. Box 111111

Kampala.

**EEE FFF Affidavit**

**THE REPUBLIC OF UGANDA**

**IN THE HIGH COURT OF UGANDA AT KAMPALA (CIVIL DIVISION)**

**MISCELLANEOUS CAUSE NO………………………... OF 2016**

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4. **CCC DDD**
5. **EEE FFF**

**VERSUS**

**ATTORNEY GENERAL ::::::::::::::::::::::::::::::::::::::::::::::::::::::::: RESPONDENT**

**AFFIDAVIT IN SUPPORT OF MISCELLANEOUS APPLICATION**

I, **EEE FFF** of **ABC & Co. Advocates,** Econ HOUSE, Plot 1, ZYX Avenue P. O. Box 111111 Kampala, do hereby affirm and state as follows do solemnly affirm and state as follows:

1. That I am an adult Ugandan citizen of sound mind aged (1977) years and a resident of Kago Zone Village, Mbuya I Parish in Nakawa Division Kampala District and well conversant with matters pertaining to the application and depone hereto in such capacity.
2. That on the 9th day of November 2009, I entered into a sale agreement for a plot of land with a two roomed rental house located in Kago Zone Village, Mbuya I Parish in Nakawa Division, Kampala District from YSG at UGX 1,850,000, part of the land he had inherited from his father (deceased). (Sale agreement marked Annexure 'A').
3. That I took possession immediately and embarked on construction of a four roomed residential house which was completed by mid-2010 (Photograph of the House marked Annexure 'B') as well as two single-room rentals (Photographs of the rentals marked annexure 'C').
4. That at a time between 2012 and 2013 officials from Uganda Railways approached us the occupants of land along the railway and informed us that they needed the land for development; the land was surveyed and Survey IDs issued (Copy of Survey ID attached marked annexure 'D').
5. That the Railway officials informed us that we were to receive compensation for our land and developments and that we were not to proceed with any further developments as these would not be compensated.
6. That there were no further developments on the proposals by Uganda Railways officials until July 2014 when Kampala Capital City Authority (KCCA) published a notice purportedly branded 'Final Notice to Remove Illegal Developments in the Railway Reserve' dated 1st July 2014 in the New Vision and Bukedde newspapers. (Copy of Notice attached marked annexure 'D').
7. That upon receipt of the notice, the community members together with the Local Council II Parish authorities sought for administrative interventions by way of three letters to: the President of the Republic of Uganda copied to a number of authorities who were deemed vital at the time dated 11th July, 2014; the other to the Executive Director KCCA dated 11th July, 2014 and receipt of the letters acknowledged; and to the Speaker of Parliament dated 12th July, 2014. (Copies of letters are attached marked annexure 'E', 'F', 'G' respectively).
8. That the Executive Director called for a meeting which I attended and in which she handed us over to one of her deputies M/s KLM who gave us assurance that the demolition would not be executed within the stipulated time to allow the affected families plan accordingly especially for the school going children some of whom were candidates awaiting to sit their final exams.
9. That the President in response to our appeal reportedly agreed with the Kampala Councillors in a meeting held in Rwakitura to halt the evictions which was published in the New Vision Newspaper of Tuesday 15th July 2014 (Copies of publication attached marked annexure 'H')
10. That to further guarantee our stay on the land we sought court's intervention in Miscellaneous Application No. 466 of 2014 in the High Court at Nakawa from which an order issuing a certificate of Urgency to hear the Miscellaneous Application No. 465 arising out of Civil Suit No. 286 of 2014 was issued on 23rd July 2014. (Copy of the order attached marked annexure 'I')
11. That in spite the above order KCCA personnel accompanied by Afande SSS MMM and BKK RRR and other police personnel with the use of graders went ahead and started to carry out demolitions beginning on the 26th of July 2016 at around 11:00pm into the wee hours of the morning of 27th of July 2014 which was Idd day and the demolishing continued until 29th of July 2014 (Copy of the photographs of demolitions attached marked annexure 'J').
12. That in the course of the demolitions the community was not allowed time to secure their property, and even the little that they managed to carry out of the houses was stolen by some on lookers.
13. That police used tear gas to disperse the community and one of the residents FRS's daughter lost her eyes and it is believed that it was a result of the tear gas.
14. That some members of the community lost their lives including MYR as a result of hypertension occasioned by the loss of property.
15. That on the 29th of July 2014 the Assistant Registrar, High Court at Nakawa Her Worship MMM FFF issued an interim order restraining KCCA and her agents from any further demolitions until the application was heard on 4th August 2014. (Copy of the order attached marked annexure 'K')
16. That KCCA disregarded the said interim order and continued with the demolitions into the month of August.
17. That still on the 12th of August 2014 the Assistant Registrar, High Court at Nakawa Her Worship MMM FFF extended the interim order restraining KCCA and her agents from any further demolitions until the application was disposed of. (Copy of the order attached marked annexure 'L')
18. That the High Court at Nakawa sent us for Mediation which venture yielded no positive results.
19. That to date the court has not set a date for the hearing of the matter to address our grievances in spite of our request to have a date fixed. (Copy of the letter requesting for fixing of hearing attached marked annexure 'M')
20. That my home which comprised a residential house and rentals from which I was earning a living was razed to the ground.
21. That at the critical time of the demolitions I had five dependants: a wife, and four children aged 12years, 3½years and twins aged 1year.
22. That my wife together with the twins had to relocate back to her parents; the 12year old was sent to my mother in Kamuli - Kireka; the 3½years was sent to my brother in Kawempe; and I had to find lodgings with a friend in Kalerwe zone something that affected our life as a family.
23. That the majority of the affected families that had no quick alternatives to residence camped at Kulembera Masijid Mosque in Kalerwe Zone and others at Life Line Church in Kinawataka.
24. That Bright Future Academy owned by DBD DCG to which my 12year old and 3½year old went to school was demolished, its operations were halted for almost a year until alternative premises were found and my children spent the rest of the year out of school. (Copy of the photograph of the school before demolition attached marked annexure 'N')
25. That I was only able to reunite with my family in July 2015 after a whole year.
26. That life in Mbuya is no longer what it used to be given that many people lost their jobs and sources of income and were forced to relocate to other places.
27. That I swear this affidavit in support of the application.
28. That all that I have stated herein is correct to the best of my knowledge, and belief.

**SWORN** at Kampala by the said,

**EEE FFF** ……………………………………………

this ……… day of ……...…… 2016. **DEPONENT**

**BEFORE ME,**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

 **COMMISSIONER FOR OATHS**

**Drawn & filed by:**

**ABC & Co. Advocates**

Econ HOUSE, Plot 1, ZYX Avenue

P. O. Box 111111

Kampala.

**Legal Practitioner's Affidavit**

**THE REPUBLIC OF UGANDA**

**IN THE HIGH COURT OF UGANDA AT KAMPALA (CIVIL DIVISION)**

**MISCELLANEOUS CAUSE NO………………………... OF 2016**

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**VERSUS**

**ATTORNEY GENERAL ::::::::::::::::::::::::::::::::::::::::::::::::::::::::: RESPONDENT**

**AFFIDAVIT IN SUPPORT OF MISCELLANEOUS APPLICATION**

I, **VVV UUU** of **C/o VVV Advocates**, ETN Building, 5th Floor, Ring Road, P. O. Box 22222, Kampala, do hereby take oath and state as follows:

1. That I am a male adult Ugandan Citizen of sound mind, an advocate of the High Court and all subordinate Courts, and I depone this affidavit in that capacity.
2. That by virtue of my scholarly engagements and litigating of land related matters, I have over time amassed vast and valuable knowledge, expertise and experience both in the area of land law and human rights.
3. That I am aware that Uganda has had a checkered history of relations over land between landlords and tenants dating as far back as the colonial times and regulating these relationships called for the need to choose or strike a balance among protection of rights, promotion of land use for development and also assertion of political leverage.
4. That I am also aware that to date there are a number of cases cited in Uganda, in which hundreds of people have been evicted from their land perpetuated by the powerful highly placed international companies or investors, government or local governments and individuals against the less powerful individuals.
5. That I know that among the most significant historical laws of Uganda with contemporary significance is the Land Reform Decree of 1975 which ipso facto banned individual ownership of all land, by vesting it in the state but which status quo is challenged by post 1975 constitutional and legal regimes.
6. That I also know that the Constitution of Uganda Article 26 guarantees the right to own property either individually or in association with others and forbids compulsory deprivation of property or any interest in or right over property of any description unless it is necessary for public use or in the interest of defence, public safety, public order, public morality or public health and only after prompt payment of fair and adequate compensation.
7. That the Constitution of Uganda Article 237 (1) and (2) reinstated individual ownership of land by allowing Ugandans to own land, under any of the recognized land tenure systems which include: customary; freehold; mailo; and leasehold.
8. That I also know that the Constitution article 237(8) makes a general provision that guarantees security of occupancy for lawful or bonafide occupants on mailo land, freehold, leasehold.
9. That I am also aware that Parliament has gone ahead to exercise its constitutional mandate under Article 237 (9) to pass The Land Act Cap. 227 a law that inter alia regulates the relationship between the landlord and the lawful and bonafide occupants on land, and also processes through which the occupants could acquire registrable interests in land.
10. That I am well aware that the Land Act (as amended) provides for protection of a lawful and a bonafide occupant against eviction by making provision for payment of nominal ground rent determined the rent on the Land Board and approved by the minister or set by the Minister if the Board does not do so within six months and in case of for nonpayment of rent without valid justifiable cause, then the tenancy can be terminated following due process of law.
11. That the Land Acquisition Act, Cap. 226 was enacted, and according to its long title, the Act is meant to make provision for the compulsory acquisition of land for public purposes and any other matters that are incidental to and connected therewith and that it does not provide for or emphasize compensation before compulsory acquisition of the land.
12. That I have addressed my mind to the court's decision in the case of *Advocates for Natural Resources & 2 Others Vs. AG Constitutional Petition No. 40/2013* in which it was held that although the Land Acquisition Act existed before the 1995 Constitution, its provisions have to be read in the context of Article 274 and 26 (2) of the Constitution, in which case it is subjected to necessary modifications and qualifications in order to afford land owners prior compensation before their land is compulsorily acquired.
13. That the legal framework on compulsory land acquisition and compensation in Uganda is relatively weak, obscure and does not adequately uphold the rights of persons that may be adversely affected by compulsory taking by government.
14. That I am also aware that in February, 2013 the Government launched a National Land Policy after a wide consultative process some of whose objectives include: Harmonize and streamline the complex tenure regimes in Uganda for equitable access to land and security of tenure; Reform and streamline land rights administration to ensure efficient, effective and equitable delivery of land services; Harmonize all land related laws, and strengthen institutional capacity at all level of Government and cultural institutions for sustainable management of land resources.
15. That under the National Land Policy, the State in exercise of the power of compulsory acquisition is expected to prescribe a set of regulations and guidelines outlining the roles and responsibilities of the central government, local governments and different state organs and agencies in the exercise of its power.
16. That I am aware that there have been numerous and massive evictions in Albertine Graben in the districts of Hoima, Buliisa and Kibaale where most of the land is held by customary owners and yet under the National Land Policy, the state is excepted to protect the land rights and land resources of customary owners, individuals and communities owning land in areas where mineral and petroleum deposits exist or are discovered
17. That I am also aware that there have been gaps in the information flow before evictions are carried out and yet under the National Land Policy, the state is expected to adopt an open policy on information to the public and seek consent of communities and local governments concerning prospective and mining of the resources
18. That I also know that the law allows for acquisition for land for investment and the National Land Policy mandates the state to protect the land rights, including rights of citizens in the face of investments with measures for clear procedures and standards for local consultation; mechanism for appeal and arbitration amongst others.

1. That I am also aware that whereas some evictions may be justifiable, such as in the case of persistent nonpayment of rent or of damage to rented property without any reasonable cause, it is incumbent upon the relevant authorities to ensure that they are carried out in a manner warranted by a law which is compatible with the Covenant and that all the legal recourses and remedies are available to those affected that should *inter alia*,
2. Streamline the modus operandi of carrying out evictions so that the victims are not treated like refugees in their own country.
3. Provide for detailed due process and legal steps to avoid exploitation of the disadvantaged.
4. Ensure that the individuals rights like the right to property, fair hearing and association that are trumped upon in the process of eviction.
5. That many of the evictions whether done lawfully of unlawfully are characterized by the disregard for land rights of landowners that are displaced; and a failure to heed to international standards that require stake holder inclusion and full disclosure of information about the deals.
6. That I know that Uganda's legal and policy framework on land is robust, but beyond the on-the-paper stipulations, they have not, thus far, been able to provide sufficient bar to evictions from land and sufficient protection of other rights during evictions.
7. That I believe to plug the gaps in the legal and policy framework, guidelines governing land evictions would come in handy in fostering the protection and promotion of the rights of all persons involved.
8. That some aspects that the guidelines may cover can be borrowed from the UN Committee on Economic, Social and Cultural Rights (CESCR) General Comment 7 to include: (a) an opportunity for genuine consultation with those affected; (b) adequate and reasonable notice for all affected persons prior to the scheduled date of eviction; (c) information on the proposed evictions, and, where applicable, on the alternative purpose for which the land or housing is to be used, to be made available in reasonable time to all those affected; (d) especially where groups of people are involved, government officials or their representatives to be present during an eviction; (e) all persons carrying out the eviction to be properly identified; (f) evictions not to take place in particularly bad weather or at night unless the affected persons consent otherwise; (g) provision of legal remedies; and (h) provision, where possible, of legal aid to persons who are in need of it to seek redress from the courts.
9. That it is in the interest of justice, and protection and promotion of human rights in Uganda that the orders sought herein be granted.
10. That I swear this affidavit in support of this Application.
11. That whatever I have stated herein is true and correct to the best of my knowledge and belief.

**SWORN** at Kampala by the said,

**VVV UUU**   **DEPONENT**

this ……… day of ……...…… 2016.

**BEFORE ME**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

 **COMMISSIONER FOR OATHS**

**Drawn & filed by:**

**ABC & Co. Advocates**

Econ HOUSE, Plot 1, ZYX Avenue

P. O. Box 111111

Kampala.

**Human Rights Expert's Affidavit**

**THE REPUBLIC OF UGANDA**

**IN THE HIGH COURT OF UGANDA AT KAMPALA (CIVIL DIVISION)**

**MISCELLANEOUS CAUSE NO………………………... OF 2016**

1. **XXX YYY**
2. **WWW ZZZ**
3. **AAA BBB :::::::::::::::::::::::: APPLICANTS**
4. **CCC DDD**
5. **EEE FFF**

**VERSUS**

**ATTORNEY GENERAL ::::::::::::::::::::::::::::::::::::::::::::::::::::::::: RESPONDENT**

**AFFIDAVIT IN SUPPORT OF MISCELLANEOUS APPLICATION**

I, **JJJ LLL** of **C/o ABC & Co. Advocates,** Econ HOUSE, Plot 1, ZYX Avenue P. O. Box 111111 Kampala, do hereby take oath and state as follows:

1. **THAT** I am a female adult Ugandan Citizen of sound mind, a doctor and scholar of human rights at Makerere University, and the Director of the CENTER for Human Rights at Makerere University, with vast experience in the areas of human rights, health, gender and transitional justice in Uganda, and I depone this affidavit in that capacity.
2. **THAT** by virtue of my scholarly engagements in the area of human rights, I have over time amassed vast and valuable knowledge, expertise and experience both in the area human rights and gender both with a National and International perspective.
3. **THAT** as a human rights advocate and lecturer of law, I have carefully studied and paid keen interest to the process of land evictions in Uganda and I am an ardent believer in the need to protect and promote human rights for all affected persons irrespective of sex, race, colour, ethnic origin, tribe, birth, creed or religion, social or economic standing, political opinion or disability.
4. **THAT** I am aware that Uganda is a party to a large body of international and regional conventions, treaties and declarations dealing with human rights issues and it is thus mandated to fulfill its obligations, uphold the standards set and respect the principles under the numerous instruments it has signed to.
5. **THAT** I know that the Universal Declaration of Human Rights (UDHR) which is the principal contemporary articulation of human rights has laid down one of the basic principles of the human rights framework as that of Universality which is to the effect that human rights are inalienable, self-evident and applicable to all human beings, without exception and thus all people are entitled to these rights simply by virtue of being human.
6. **THAT** I also know that another of the basic principles of the human rights framework is the principle of Indivisibility which is to the effect that human rights are indivisible and interdependent, which means that in order to guarantee civil and political rights, a government must also ensure economic, social and cultural rights (and vice versa) and in essence the violation of one of the rights affects the enjoyment of the other rights.
7. **THAT** I am also aware that among the state obligations under human rights law is that the State itself must refrain from forced evictions but also ensure that the law is enforced against its agents or third parties who carry out forced evictions.
8. **THAT** I also know that the Constitution of Uganda guarantees a wide range of rights in the Bill of Rights and Article 20 (2) mandates all organs and agencies of Government and all persons to respect, uphold and promote the rights and freedoms of the individual and groups enshrined in the Bill of Rights.
9. **THAT** the International Covenant on Civil and Political Rights (ICCPR) Article 2 (1) requires States parties to use "all appropriate means", including the adoption of legislative measures, to promote all the rights protected under the Covenant and Uganda ratified this Covenant in on 21 June 1995.
10. **THAT** the International Covenant on Economic, Social and Cultural Rights (ICESCR) Article 2 (1) mandates State Parties to the Covenant to undertake to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the Covenant by all appropriate means, including particularly the adoption of legislative measures and Uganda ratified this Covenant in on 21 January 1987.
11. **THAT** I also know that in a bid to stem forced evictions the UN Committee on Economic, Social and Cultural Rights (CESCR) has published *General Comment No. 7: The right to adequate housing (Art.11.1): Forced Evictions* in which it has been recognized that appropriate procedural protection and due process are essential aspects of all human rights but are especially pertinent in relation to a matter such as forced evictions which directly invokes a large number of the rights recognized in both the International Covenants on Human Rights.
12. **THAT** the CESCR has gone ahead in paragraph 15 of the said General Comment to highlight some of the procedural protections which should be applied in relation to forced evictions to include:

 (a) an opportunity for genuine consultation with those affected;

 (b) adequate and reasonable notice for all affected persons prior to the scheduled date of eviction;

 (c) information on the proposed evictions, and, where applicable, on the alternative purpose for which the land or housing is to be used, to be made available in reasonable time to all those affected;

 (d) especially where groups of people are involved, government officials or their representatives to be present during an eviction;

 (e) all persons carrying out the eviction to be properly identified;

 (f) evictions not to take place in particularly bad weather or at night unless the affected persons consent otherwise;

 (g) provision of legal remedies; and

 (h) provision, where possible, of legal aid to persons who are in need of it to seek redress from the courts.

1. **THAT** I am also well aware that the UN has published *Basic Principles and Guidelines on Development based Evictions and Displacement* in which it is emphasized in paragraph 21 that evictions require full justification given their adverse impact on a wide range of internationally recognized human rights and that any eviction must be:

(a) authorized by law;

(b) carried out in accordance with international human rights law;

(c) undertaken solely for the purpose of promoting the general welfare;

(d) reasonable and proportional;

(e) regulated so as to ensure full and fair compensation and rehabilitation; and

(f) carried out in accordance with the present guidelines.

1. **THAT** the *Basic Principles and Guidelines on Development based Evictions and Displacement* efforts have been made to detail some procedural protections prior to, during and after the justifiable evictions, during and I strongly believe that such protective measures if adopted with the necessary modifications can go a long way in protecting and promoting the individual rights of the persons affected by the evictions.
2. **THAT** the *Basic Principles and Guidelines on Development based Evictions and Displacement* articulate the steps that States should take prior to taking any decision to initiate an eviction some of which include:

(a) that the relevant authority should demonstrate that the eviction is unavoidable and is consistent with international human rights commitments;

(b) that any decision relating to evictions should be announced in writing in the local language to all individuals concerned sufficiently in advance stating the justification for the decision;

(c) that alternatives and where no alternatives exist, all measures taken and foreseen to minimize the adverse effect of evictions;

(d) that due eviction notice should allow and enable those subject to the eviction to take an inventory so as to assess the value of their properties that may be damaged during evictions and most importantly that evictions should not result in individuals being rendered homeless or vulnerable to other human rights violations;

(e) there must be resettlement measures in place before evictions can be undertaken

1. **THAT** the *Basic Principles and Guidelines on Development based Evictions and Displacement* go further to lay down the conditions to be undertaken during evictions to include:

(a) that there must be mandatory presence of Governmental officials or their representatives on site during eviction;

(b) that neutral observers should be allowed access to ensure compliance with international human rights principles;

(c) that evictions should not be carried out in a manner that violates the dignity and human rights to life and security of those affected;

(d) that evictions must not take place at night, in bad weather, during festivals or religious holidays, prior to elections, during or just prior to school exams and at all times the State must take measures to ensure that no one is subjected to indiscriminate attacks.

1. **THAT** in addition the *Basic Principles and Guidelines on Development based Evictions and Displacement* provide what ought to happen after the eviction:

(a) that the person responsible must provide just compensation for any damage incurred during eviction and sufficient alternative accommodation and must do so immediately upon evictions;

(b) at the very minimum, the State must ensure that the evicted persons have access to essential food, water and sanitation, basic shelter, appropriate clothing, education for children and childcare facilitates.

1. **THAT** I am aware that the African Commission on Human and Peoples Rights and in its 48th Ordinary Session adopted the Principles and guidelines on the Implementation of Economic, Social and Cultural Rights in the African Charter on Human and People's Rights and the African Commission on Human and Peoples' Rights has gone on to hold in its judgment in *The Social Economic Rights Centre & Centre for Economic and Social Rights vs Nigeria, Com. No.155/96 (2001)* that:

 “Individuals should not be evicted from their homes nor have their homes demolished by public or private parties without judicial oversight. Such protection should include providing for adequate procedural safeguards as well as a proper consideration by the Courts of whether the eviction or demolition is just and equitable in the light of all relevant circumstances. Among the factors a Court should consider before authorising forced evictions or demolitions is the impact on vulnerable and disadvantaged groups. A Court should be reluctant to grant an eviction or demolition order against relatively settled occupiers without proper consideration or the possibility of alternative accommodation being provided. Forced evictions and demolitions of people's homes should always be measures of last resort with all other reasonable alternatives being explored, including mediation between the affected community, the landowners and the relevant housing authorities”

1. **THAT** I know that forced evictions constitute gross violations of a range of internationally recognised human rights, including the human right to adequate housing, food, water health, education, family, work, security of the person, security of the home, freedom from cruel, inhuman and degrading treatment and freedom of movement.
2. **THAT** I have also had opportunity of studying the decision of the High Court Of Kenya at Nairobi in the case of *Satrose Ayuma & 11 others v Registered Trustees of the Kenya Railways Staff Retirement Benefits Scheme & 3 others Petition 65 of 2010*, where court noted that wherever and whenever evictions occur, they are extremely traumatic; they cause physical, psychological and emotional distress and they entail losses of means of economic sustenance and increase impoverishment.
3. **THAT** I strongly believe that evictions should not result in individuals being rendered homeless or made vulnerable to violation of other human rights and in instances where those affected are unable to provide for themselves, the State should take all appropriate measures to the maximum of its available resources to ensure that adequate alternative housing or resettlement, as the case may be, is available.
4. **THAT** the High Court Of Kenya in the case of *Satrose Ayuma* case *(supra)*, went further to emphasize that it does not matter that the persons to be evicted do not hold title to the land in question or that they are occupying shanties, the state is duty bound to respect their right to adequate housing as well as their right to dignity.
5. **THAT** I have had the benefit of reading the affidavits of AAA BBB, CCC DDD and EEE FFF in support of this application and I associate myself with the experiences shared and issues raised as typical of what ensues in the course of evictions whether lawful or unlawful.
6. **THAT** I am also aware that the experiences of AAA BBB, CCC DDD and EEE FFF are a reflection of the numerous evictions across the country perpetuated by international companies or investors, government or local governments and individuals against the less powerful individuals.
7. **THAT** I believe that Uganda being a member of the United Nations (UN) and a signatory to the ICCPR and the ICESCR amongst other International Instruments is bound to practise the principles enumerated above and is bound to fulfill the state parties' mandate enshrined in the various instruments that have been agreed on as international standards.
8. That it is in the interest of justice, and protection and promotion of human rights in Uganda that the orders sought herein be granted.
9. That I swear this affidavit in support of this application.
10. That whatever I have stated herein is true and correct to the best of my knowledge and belief.

**SWORN** at Kampala by the said,

……………………………………………… **DEPONENT**

**JJJ LLL**

this ……… day of ……...…… 2016.

**BEFORE ME,**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

 **COMMISSIONER FOR OATHS**

**Drawn & filed by:**

**ABC & Co. Advocates**

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