

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

**MISCELLANEOUS CAUSE NO. 127 OF 2016**

- 1. MUHINDO JAMES**
- 2. MUHUMU MARTINE**
- 3. TOPOTH CHARLES**
- 4. KIBERU ALI ::: APPLICANTS**

**VERSUS**

**ATTORNEY GENERAL ::: RESPONDENT**

**BEFORE HON. JUSTICE SSEKAANA MUSA**

**RULING**

The applicants filed an application for Enforcement of rights seeking the following declaratory orders;

- a) A declaration that the absence of adequate procedure governing evictions is a violation of the right to life, right to dignity and property, under Articles 22, 24 and 26 of the 1995 Constitution of Uganda;
- b) A declaration that the 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 fulfil the rights under the Covenant on Economic, Social and Cultural rights;
- c) An Order compelling the Government of Uganda to develop comprehensive guidelines governing land evictions before, during and after the fact.

d) That Costs be provided for.

The main grounds upon which this application is premised are that;

1. That 21 years after the promulgation of the Uganda Constitution (1995) and 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 the Articles 22, 24 and 26 of the 1995 Constitution.
3. That the International Human Rights instruments including inter alia the International Covenant on Civil and Political rights (ICCPR) and 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 fulfil 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 that the court allows this application and grants the orders sought.

This application was supported by several affidavits but the most relevant ones were those of Latim Alex, Topoth Charles, Kiberu Ali, Dr Zahara Nampewo of HURIPEC , Joseph Nsereko and David Ssempala. The sum effect of all the affidavits

is that there are gross violations of rights in Uganda arising from forceful evictions in Uganda from both Public and private land since 1970.

KIBERU ALI (4<sup>th</sup> Applicant) stated that he bought land in Mbuya from Yusuf Sentogo in 2009 and took possession of the same and constructed thereon his house. Uganda Railways needed land for development and thus surveyed it and that he awaited compensation. No development took place until 2014 when an eviction notice was published in papers.

However, KCCA demolished houses of community members including that of the 4<sup>th</sup> Applicant on 26<sup>th</sup> July 2016 about 11:00pm. People were not allowed time to save their property and the little they saved was stolen. That there was indiscriminate use of tear gas, which led to loss of some lives.

That they applied for and got interim orders which were disregarded; mediation yielded no results; to date no date is fixed to hear their case. That he has suffered loss of earnings and descent income; dependents rights have been violated, families have been scattered as a result of the displacement of people and causing social insecurity. A school was demolished and the community has been denied access to education as a result.

LATIM ALEX –stated that his parents took occupancy of land located in Rwamutonga village, Katanga Parish in Bugambe Sub-county, Hoima District in 1968 after a Muluka Chief and a Mutongole chief gave them land for purpose of cotton growing. After the Asians left, they occupied the land peacefully.

In 1977, a one Tibagwa Joshua approached his parents requesting to be allowed to graze cattle with a feeder path created as boundary between the portions of Tibagwa towards River Rwamutonga. Various people settled on the land too and built both permanent and semi permanent houses. That McAlester an American company came looking for titled land amounting to 2000 acres, Tibagwa who owned only 300 acres opened boundaries extending to other peoples' land. A case of trespass was reported; politicians intervened and the two parties entered into a Consent Judgment.

On 25<sup>th</sup> August 2014 at 6 am gunshots were heard, Tibagwa in presence of RDC, Police and Army evicted whole villages leading to loss of property, over 200 people were affected. People were beaten, lives were lost, people's livelihoods were affected and turned to displaced persons living on relief and in camps; children stopped going to school, access to health care, clean water and food have been affected as a result.

TOPOTH CHARLES-3<sup>rd</sup> Applicant states that Land evictions in Karamoja are historic. In 1983, Uganda National Liberation Army (UNLA) displaced many people; in 2013, an Investor Jan Magal & Co. Ltd came with an exploration license from Ministry of Energy and Minerals and started excavations in Lotongir site. When people demonstrated, Jan Magal & Co. with the help of UPDF personnel fenced off 63 square kilometers at Lopetakwang in Nakabat where many people were displaced, they installed high pressure pumps for mining leaving massive drainage of rivers affecting livelihoods of people, locals denied of employment; mining was stopped in 2015 but the place is still guarded by the army.

That his family and clan were evicted and never allowed to plan for movement of families thus causing the family to be displaced and scattered, loss of land, gender concerns of girls dropping out of schools; breakage of family ties and social fabric of communities took place leading to psychological trauma and to date no one has been compensated.

The other witnesses also acknowledge that there is the National Land policy whose objectives are to streamline/harmonize the complex land tenure regime in Uganda for equitable access to Land and security of tenure; reform/streamline land rights administration, ensure efficient, effective, equitable delivery of land services; harmonize all land related laws under the land policy. The state is meant to prescribe a set of regulations and guidelines outlining the roles and responsibilities of Central government and other organs in acquiring land, which is not done. There are information gaps before evictions are carried out which requires the state to adopt an open policy on information to public and seek consent of communities and local governments on mining of resources as required by the National Land Policy. The state should protect the land rights of

citizens in the face of investments with measures for clear procedures and standards for local consultation, appeals and arbitration but this is not being done.

The other expert witnesses noted that there are justified evictions but must be carried out in a manner warranted by law, and which is compatible with all laws and covenants which provide (a) modus operandi of carrying evictions; victims should not be treated as refugees in their country; provide for detailed due process and legal steps to avoid exploitation of disadvantaged; (c) individual rights to property, fair hearing, association and other related rights are not covered. Land evictions, though lawful or unlawful are conducted in disregard of the Land and other rights of landowners that are displaced, and a failure to heed to international standards.

To fill the gaps in the legal and policy framework, guidelines governing land evictions are proposed to draw from the United Nations **Basic Principles and Guidelines on Development-Based Evictions and Displacement** to cover among others:

- a) 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 proposed eviction or alternative purpose for which land/house is required be made available in reasonable time to affected persons
- d) Where groups of people are involved, government officials and representatives to be present during evictions
- e) Persons carrying out evictions be properly identified
- f) Evictions not to take place in particularly bad weather or night hours unless consented to by the affected persons.
- g) Provision of legal remedies

h) Provision of legal aid to seek redress in courts of law.

That evictions of those without rights to land involve use of force, brutality, demolition of structures, destruction of plantation and other developments, creating economic impact, their human rights are violated/ their developments are most often not valued or compensated which shouldn't include value of Land.

That Uganda being a signatory to various international instruments like the Universal Declaration of Human Rights, and the Ugandan Constitution guaranteeing a wide range of rights in the bill of rights, like Article 20(2) thereof; the International Convention on Civil and Political rights (ICPR); the International Convention on Economic, Social and Cultural Rights (ICESCR) should protect all peoples rights. Most of the other witnesses have largely concurred with these averments.

The respondent in reply or opposition to this application filed an affidavit by Josephine Kiyingi of Attorney General Chambers briefly stated that the issues raised are capable of being resolved in a private suit. Further, that our legal system gives remedies to persons who have been unlawfully dispossessed of property or have suffered unlawful eviction. The defendant argued that there are safety legal guarantees and remedial steps that can be resorted to by an aggrieved persons or evictees in our justice system and that our Land Amendment Act specifically outlaws evictions that are carried out without a court order.

I wish to note that the respondent's affidavit does not satisfactorily respond to the concerns raised in the notice of motion. Either the respondent did not understand the applicant's complaint or they never had any meaningful answer to give and that is why they avoided giving the specific response.

At the hearing of this application court directed the parties to file written submissions which the parties filed.

The applicants were represented jointly by Counsel: Candia Emmanuel, Eron Kiiza and Tegulle Gawaya while the respondent was represented by Ms Harriet Nalukenge Kavuma. The following issues were discussed in the submissions;

**ISSUE 1: Whether the application is properly before this court.**

The gist of the preliminary objection is that the application is *res judicata* and it seems it was never canvassed in the evidence laid by the respondent and it is coming as an afterthought.

The respondent failed to appreciate the nature of the case presented by the applicants and probably that is why in their opinion this matter is *res judicata*.

In absence of any evidence or citation of the case which was determined before or attachment of any ruling/judgment, this court cannot make any finding that the matter is *res judicata*.

The case before this court seeks a declaration that there is no comprehensive procedure governing evictions in Uganda which has caused violations of the right to life, right to dignity and the right to property contrary to Articles 22, 24 and 26 of the 1995 Constitution of Uganda. The averments and evidence laid before this court cannot permit the applicants to go without appropriate remedies which this court has inherent powers to grant.

**ISSUE TWO: Whether 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 and binding international human rights law and standards.**

The applicants submitted that the Government of Uganda has NOT put in place adequate and human rights compliant measures, guidelines and procedures to regulate land evictions; and resettlement of persons affected by development projects;

That this has led to problematic, painful, prevalent and pervasive human rights violations such as loss of property; inhuman and degrading treatment; loss of life and property; and loss of means of livelihoods, destruction and loss of only homes - across the country - contrary to the dignity of Ugandans, and violation and threat to the fundamental human rights and freedoms espoused in Articles 20; 22, 24, 26, 27 and 45 of the 1995 Constitution of Uganda. These problems are pervasive.

The 1995 Uganda Constitution in Article 20(2) as well as 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 obligate government to respect, to protect and to fulfill human rights of persons.

It was further submitted that the haphazard land eviction indiscriminately jeopardizes and prejudices the rights to life, property, welfare and dignity of all Ugandans but more so – and disproportionately – poor, vulnerable and marginalized individuals, families and groups of people including ethnic minorities, women, children, indigenous people, and the disabled are the worst victims.

Government of Uganda's failure to put in place clear and adequate procedural mechanisms or guidelines to guarantee orderly development induced and other evictions, and to ensure respect for and protection of human rights norms and standards before, during, and after land eviction; and resettlement activities is in contravention of the core Uganda's obligations to respect, protect and fulfill the fundamental human rights and freedoms under the Covenant on Economic, social and Cultural Rights.

International human rights law recognizes a right to adequate housing. The International Covenant on Economic, Social and Cultural Rights ("ICESCR") upholds "the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions."

The obligation of States to refrain from, and protect against, forced evictions from home(s) and land arises not only from several international legal instruments that protect the human right to adequate housing and other related human rights including the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights (art. 11, para. 1), the Convention on the Rights of the Child (art. 27, para. 3), the non-discrimination provisions found in article 14, paragraph 2 (h), of the Convention on the Elimination of All Forms of Discrimination against Women, and article 5 (e) of the International Convention on the Elimination of All Forms of Racial Discrimination. Article 17 of the International Covenant on Civil and Political Rights states that "[n]o one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence", and further that "[e]veryone has the right to the protection of the law against such interference or attacks". It is also envisioned by Articles 27, 28 and 45 of the 1995 Uganda Constitution.



The absence of such eviction guidelines – the mere absence – is in breach of Article 20(2) obligations to respect, protect and promote human rights and freedoms enumerated in chapter Four of the Constitution especially 22, 24, 26, 27 & 45 of the 1995 Uganda constitution that is incapable of justification envisioned in Article 43. Evictions in violation of these basic human rights and freedoms are innumerable in Uganda as shown in the Applicants affidavit evidence, and as desirable to take judicial notice of given the scale and scope of problematic evictions in Uganda.

The respondent counsel in her submission contended that there is adequate procedure governing evictions and that land laws are in place to spell out the rights and remedies for persons whose land rights are violated.

It was her case that Lawful land evictions are governed by the law and unlawful land evictions have remedies under the law.

### ***Determination***

It is imperative to appreciate that there is no legal framework existent in Uganda guiding evictions and demolitions. This unpleasant position could not have been better expressed than by **Lenaola, J** in **Satrose Ayuma & 11 Others vs. Registered Trustees of the Kenya Railways Staff Retirement Benefits Scheme and 3 Others Petition 65 of 2010** in which the learned Judge lamented:

**“...the widespread forced evictions that are occurring in the country coupled with a lack of adequate warning and compensation which are justified mainly by public demands for infrastructural developments such as road bypasses, power lines, airport expansion and other demands. Unfortunately there is an obvious lack of appropriate legislation to provide guidelines on these notorious evictions. I believe time is now ripe for the development of eviction laws and the same sentiments were also expressed by Musinga J. (as he then was) while considering the issues in this matter at an interlocutory stage, where he stated as follows;**

**“The problem of informal settlements in urban areas cannot be wished away, it is here with us. There is therefore need to address the issue of forced evictions and develop clear policy and legal guidelines relating thereto”.**

It should be noted from the onset that the Government of Uganda has indeed acknowledged that there is need to provide protection and regulate the rampant

evictions in Uganda. To this end the ministry of Lands, Housing and Urban Development is developing guidelines on Evictions. This court also takes judicial notice of the recent notice issued by the Minister for Lands to all Resident District Commissioners and Police not to allow any evictions during the December festive season in 2018.

Likewise, the Judiciary also acknowledged the problem of forced evictions and issued a Practice Direction in 2007 which provided guidelines for a fair and smooth operation of orders in respect of registered land which affect or have an impact on tenants by occupancy.

Under guideline 5(b) it was stated that; **A court when ordering the eviction of an illegal occupant of registered land, should determine a just and equitable date on which the occupant shall vacate the land and remove the illegal structure, and to determine the date on which a demolition and an eviction order may be carried out if the illegal occupant has not removed himself or herself, and his or her structure, or otherwise vacated the land as ordered.**

The Judiciary, through the Civil Justice Reform Committee has also embarked on making guidelines to specifically regulate the eviction process upon court issuing an order of eviction or order of demolition. The same may be issued soon as a Practice direction to all judicial officers and other stakeholders or through an amendment to Order 22 of the Civil Procedure Rules.

Evictions normally result in severe human rights violations, particularly when they are accompanied by use of force. The victims of the forced evictions are put in life and health threatening situations and often lose access to food, education, healthcare and other livelihood opportunities. Indeed, forced evictions often result in losing the means to produce or otherwise acquire food or in children's schooling being interrupted or completely stopped.

Forced evictions usually result in people being pushed into extreme poverty and as such pose a risk to the right to life. This could further tantamount to cruel,

inhuman and degrading treatment, particularly when carried out with violence as it was in the case of Lusanjja in 2018.

In **Social and Economic Rights Action Centre (SERAC) & Another vs Nigeria (2001) AHRLR 60 (ACHPR 2001)** it was held that the wanton destruction of property during evictions violates the right to housing and when housing is destroyed, property, health and family life are adversely affected.

Even if court has ruled in favour of an eviction or issued an eviction order in accordance with the law, the situation may necessitate the need to have a smooth process of effecting such an order. On the other hand evictions or forced evictions from land may still be effected without a court order or the use of any physical force through harassment, threats or intimidation. Such scenarios need to be regulated through guidelines in order to protect the people.

The Constitution enjoins the state to provide protection to all people in order to safeguard the fundamental rights guaranteed under it. It is this duty that is vested in the state that creates an obligation to ensure that everyone enjoys the protection of the law against being arbitrarily displaced from housing and land.

In Uganda, the Land tenure system acknowledges that there are people who have settled on either public land or private land and indeed deserve protection especially after such period of time and this has become their home. The protection of such people should not in any way be linked to whether they have any proprietary interest in the land or they are squatters/trespassers.

**Furthermore, as was held in case of *Port Elizabeth Municipality vs Various Occupiers (2005) (1) SA 217 (CC) 55;***

**“It does not matter that the Applicants do not hold title to the suit premises and even if they had been occupying shanties, the 1st Respondent was duty bound to respect their right to adequate housing as well as their right to dignity. 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. In this case, I must therefore agree with the Petitioners that their eviction from the suit premises without a plan for their resettlement would increase levels of**

**homelessness and this Court must strive to uphold the rights of the Petitioners and especially the right to be treated with dignity.**

It is the duty of the State to bridge the gap between the “haves” and “have nots” in the society in order to avoid situations where people who live in intolerable conditions are not tempted to invade the lands of others so as to enable them eke a living. The government is under a duty not only to protect property but also to take proactive steps to ensure that social and economic rights of the people are given meaning and not to merely to adopt a position of non-interference.

The obligation to protect from forced evictions is of immediate effect and requires States to prevent third parties from interfering with the enjoyment of human rights, including any rights jeopardised by forced evictions. In this context, specific legislation or measures need to be adopted to ensure that private actors-such as landlords, property developers, landowners and various types of business enterprises-are compliant with human rights. States should, for instance, adopt legislation regulating the housing, rental and land markets, such tenancy laws that protect tenants’ due process, prevent discrimination and ensure human rights compliant procedures if evictions are unavoidable. ***(See UN Habitat-Forced Evictions Fact Sheet No. 25/Rev.1-2014)***

The Constitution under the National Objective and Directives of State Policy XIV provides;

The State shall endeavor to fulfill the fundamental rights of all Ugandans to social justice and economic development and shall in particular ensure that-

- (a) All development efforts are directed at ensuring the maximum social and cultural well-being of the people; and
- (b) All Ugandans enjoy rights and opportunities and access to education, health services, clean and safe water, work, decent shelter, adequate clothing, food security and pension and retirement benefits.

In my view, where the State allows people to occupy land be it government or private for a considerable period of time so that the people consider the said land to be their homes, it would be inhuman for the State or the private developer to suddenly evict them forcefully therefrom without affording them an opportunity to seek alternative mode of accommodation/decent shelter.

It must always be remembered that under Article 20, it is a fundamental duty of the State and every State organ to observe, respect, protect, promote and fulfil the rights and freedoms of the individual and groups and is therefore mandated to take legislative, policy and other measures, including the setting of standards, to achieve the progressive realisation of the rights guaranteed under the Constitution. It should be noted that the obligations under article 20 also extends to private actors and therefore the state has the responsibility to protect people even in circumstances where the eviction is being carried out by a private developer.

In the case of Social Economic Rights Centre & Centre for Economic and Social Rights vs Nigeria, Com. No.155/96 (2001), the Commission stated that;

“Governments have a duty to protect their citizens, not only through appropriate legislation and effective enforcement but also by protecting them from damaging acts that may be perpetrated by private parties. This duty calls for positive action on the part of governments in fulfilling their obligation under human rights instruments”.

1. The case further observes in paragraph 63 regarding forced evictions *“wherever and whenever they occur, forced evictions are extremely traumatic. They cause physical, psychological and emotional distress; they entail losses of means of economic sustenance and increase impoverishment. They can also cause physical injury and in some cases sporadic deaths. Evictions break up families and increase existing levels of homelessness. In this regard, all persons should possess a degree of security of tenure which guarantees legal protection against forced eviction, harassment and other threats.”* Individuals should therefore 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.”

All persons threatened with or subject to forced evictions have the right of access to a timely remedy, including a fair hearing and or due process of law. Any eviction needs to be suspended as long as the case is pending before any court of law. In many cases, houses are destroyed without a court order or without giving the evictees enough time to appeal against the decision to evict.

This court is alive to the fact that there are potential land grabbers who encroach or settle on other peoples land without any colour of right and immediately after taking possession continue to claim or demand for compensation from the State or the private owner. This must equally be discouraged by clear sanctions under the land law regime in order to avoid lawlessness in Uganda.

Persons affected by land grabbers ought to be protected just like those who may be affected by land evictions through lawful means and the Court Orders granted against such persons ought to be enforced in accordance with the law.

In the case of *Kepha Omondi Onjuro & others v Attorney General & 5 others* [2015] eKLR court observed that;

“In so deciding this Court ought not to be understood to be encouraging the culture of land invasion. Far from it. People who take it upon themselves to invade other people’s private lands ought not to benefit from such invasions. However genuine landless people have a right and a legitimate expectation that the State will provide them with adequate housing and shelter.

The Supreme Court of South Africa in South African Constitutional Court in *Government of the Republic of South Africa and Others vs. Grootboom and Others* (CCT11/00) [2000] ZACC 19; 2001 (1) SA 46; 2000 (11) BCLR 1169 the Court held as follows;

**“This judgment must not be understood as approving any practice of land invasion for the purpose of coercing a state structure into providing housing on a preferential basis to those who participate in any exercise of this kind. Land invasion is inimical to the systematic provision of adequate housing on a planned basis. It may well be that the decision of a state structure, faced with the difficulty of repeated land invasions, not to provide housing in response to those invasions, would be reasonable. Reasonableness must be determined on the facts of each case.”**

The evidence before this court in the three affidavits shows there have been forced evictions in diverse areas of the country and people have been affected partly due to lack of clear guidelines on how evictions are to be carried out.

It has been summarized by the **UN Habitat Fact Sheet No. 21/ Rev. 1** that: In general, international human rights law requires Governments to explore all feasible alternatives before carrying out any eviction, so as to avoid, or at least

minimize, the need to use force. When evictions are carried out as a last resort, those affected must be afforded effective procedural guarantees, which may have a deterrent effect on planned evictions. These include:

- a) An opportunity for genuine consultation;**
- b) Adequate and reasonable notice;**
- c) Availability of information on the proposed eviction in reasonable time;**
- d) Presence of Government officials or their representatives during an eviction;**
- e) Proper identification of persons carrying out the eviction;**
- f) Prohibition on carrying out evictions in bad weather or at night;**
- g) Availability of legal remedies;**
- h) Availability of legal aid to those in need to be able to seek judicial redress.**

Any legal use of force must respect the principles of necessity (i.e, force should be used only if there is no other effective means of achieving a legitimate and pressing objective) and proportionality (i.e the use of force should be proportionate to the legitimate objective to be achieved).

Measure should be taken to protect the evictees against all assaults or threats. The use of force and firearms and any other national or local code of conduct should be consistent with the Constitution, international law and human rights standards.

The applicants' contention is valid to the extent that the absence of Eviction guidelines is a threat to possible violation of rights enshrined in the Constitution.

#### **WHETHER THE APPLICANTS ARE ENTITLED TO THE REMEDIES PRAYED FOR.**

**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.**

There was no evidence led to prove the specific evidence provided by the applicants regarding the violations they individually suffered during various evictions partly due to the nature of procedure adopted for this case. I also note from the submissions and orders sought by the applicants that the intention of the case was not to seek compensation for the individual people that provided affidavits, but rather to highlight a major legal and policy omission that leads to various human rights violations.

However as I indicated earlier, there has been judicial notice of the fact that evictions in Uganda have always resulted in various human rights violations, and the state has also acknowledged this fact through various actions. I also base on the broad wording of article 50(1) of the constitution that allows for a human rights case to be brought where one alleges that a right “...has been infringed or threatened...” to partly allow this order and declare that the absence of adequate procedure governing evictions is a threat to, and can lead 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.

**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 of human rights norms and standards before, during, and after land evictions 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.**

While I acknowledge that Uganda is bound by its obligations under the international human rights instruments it has ratified, the order sought in this case is too broad because it does not specifically refer to the rights and obligations violated under the International Covenant on Economic, Social and Cultural Rights. Allowing this order as it is without indicating the specific rights and obligations violated under the ICESCR would suggest that the state is in contravention of all its obligations with regards to all the rights under the ICESCR, which is not the case under the current circumstances.

I therefore disallow this order.

3. An order compelling the Government to develop comprehensive guidelines governing land evictions before, during and after the fact.

The court is satisfied to grant this order in the circumstances and the government should expedite the process of developing and implementing the eviction guidelines. Due to the gravity of the consequences resulting from the absence of such Guidelines from a human rights perspective, I would want to make a further



order that the Government embarks on this process and report back on progress to court within seven months from the date of handing down this judgment. The process of developing the Eviction Guidelines should be consultative and participatory, although the state should refer to the UN Basic Principles and Guidelines on Development-Based Evictions and Displacement for guidance on best practices.

I wish to note that although the guidelines are to be made, the government should come up with a clear legislation with sanctions that would address the current problem of illegal land evictions in Uganda by both the state and private actors.

4. Costs:

This being a public interest litigation case, I decline to award any costs.

I so Order.

**SSEKAANA MUSA**  
**JUDGE**  
**25<sup>th</sup>/01/2019**