

**REPUBLIC OF KENYA**  
**COUNTY ASSEMBLY OF MACHAKOS**  
**OFFICIAL REPORT**

**Wednesday, 22<sup>nd</sup> February, 2023**

The House met at 11.09 a.m.

*[The Speaker (Hon. (Mrs.) Kiusya) in the Chair]*

**PRAYERS**

**COMMUNICATIONS FROM THE CHAIR**  
**ISSUANCE OF BURSARIES**

**Hon. Speaker:** I have the following communications to make. Hon. Members, you do recall that last week we did have a meeting with H.E the Governor Hon. Wavinya Ndeti on several matters amongst which is the responses she committed to give later after two days. I have this morning had an engagement with her and I wish to state as follows: On issuance of bursaries. Hon. Members, further on the proposals given in the meeting by you, Hon. Members on issuance of the bursaries, I wish to inform you that H. E the Governor has agreed to the proposals.

*(Applause)*

Wait, do not celebrate yet. With a few amendments which will be communicated to you through the House leadership. Otherwise the same is quite positive.

**CAR LOANS, MORTGAGE AND REIMBURSEMENT FACILITIES**

Hon. Members, the relevant stakeholders on this matter have been engaged and I am happy to report that there is a positive progress. It is anticipated that all the required approvals will be done by the close of business today. Thank you, Hon. Members.

*(Applause)*

**MOTION**  
**REPORT ON ENQUIRY INTO REGULARIZATION PROGRAM**  
**FOR LAND UNDER EAST AFRICAN PORTLAND CEMENT COMPANY**

**Hon. Speaker:** May I now invite Hon. Daniel Ndwiki, Chairperson, lands and energy committee to proceed and move the motion.

**Hon. Daniel Ndwiki** (Mlolongo/Syokimau, WDM-K): Thank you, Madam Speaker, for this opportunity. I would like to request you to allow me read some parts of the report.

Hon. Speaker, that aware that Article 60 of the Constitution of Kenya, 2010 states that land in Kenya shall be held, used and managed in a manner that is equitable, efficient, productive and sustainable;

Further aware that, the Committee of Lands and Energy pursuant to the Second Schedule of the Standing Orders is mandated to deal with all matters related to County physical planning and development, land survey and mapping boundaries and fencing, electricity and gas reticulation and energy regulation;

Informed that East African Portland Cement Company (EAPCC) is a government corporation that was issued land by the government for a certain use for a predetermined amount of time before reverting the land from the government;

Aware that the said corporation was allocated land by the National Government for quarrying and cement production;

Cognizant that during a committee sitting held on 3<sup>rd</sup> November, 2022, Members raised concerns on several issues regarding land under the use by East Africa Portland Cement Company (EAPCC), in the Mavoko sub-county;

Aware that guided by the terms of reference set, the Committee on 7th November, 2022 held a meeting with the management of the Company and Chairpersons of the neighboring land societies for the purpose of interrogating them;

Hon. Speaker, I wish to move the Motion THAT this Hon. House adopts the report of the Committee on Lands and Energy on an inquiry into the regularization program for the parcels of land under the management of East African Portland Cement Company.

**Hon. Speaker:** Thank you, Hon. Ndwiki. I would suggest as you wanted to go through the report you just go through a bit and---

**Hon. Mbili Ndawa** (Matuu, MCCP): Point of information, Madam Speaker.

**Hon. Speaker:** Yes.

**Hon. Mbili Ndawa** (Matuu, MCCP): Thank you, Madam Speaker. It is normal practice that once a motion has been moved it has to be seconded.

**Hon. Speaker:** Before it can---

**Hon. Mbili Ndawa** (Matuu, MCCP): Before we proceed.

**Hon. Speaker:** Thank you, for that information.

**Hon. Daniel Ndwiki** (Mlolongo/Syokimau, WDM-K): Thank you, Madam Speaker. I call upon Hon. Dominic Maitha to second the motion. He is out? Deputy Minority Leader, you can second the motion.

**Hon. Francis Kavyu** (Kinanie, MCCP) seconded.

**Hon. Speaker:** Thank you, Deputy Minority Leader.

*(Question proposed)*

I call upon Hon. Ndwiki to come and read highlights on the report so that Members can familiarize themselves with the same and I would suggest that you go to the overview of land issues in Mavoko, background like that so that we can understand what it is. *Karibu* Hon. Member.

**Hon. Daniel Ndwiki** (Mlolongo/Syokimau, WDM-K): Thank you, Madam Speaker. As you have proposed, I will go through the selected parts of the report that we deem important for this House so that they get the true picture of the report.

### *INTRODUCTION*

Hon. Speaker, land is a valuable resource in Kenya. In many areas of Machakos, notably in the Machakos and Mavoko sub-counties, discussions and acts involving land have always caused a great deal of concern, sparked curiosity and stirred up feelings. Insecurity and restricted access to land have occasionally occurred, mostly as a result of invasions and encroachments. There have been instances of compromises that have violated the integrity of titles, particularly when specific people or groups claim ownership of someone else's property.

Since they are unable to access and use their properties, legitimate landowners are left defenseless and if this condition is not addressed, a lawless society could develop. It is high time that land issues are addressed and resolved with finality to restore law and order and spur development in our County, Machakos.

*(Hon. Dominic Maitha spoke off record)*

**Hon. Speaker:** Proceed, Hon. Member.

**Hon. Dominic Maitha** (Muthwani, WDM-K): Thank you, Madam Speaker. Madam Speaker, I need to be guided by you. Yesterday this House did receive a Petition on the same matter. I want to be guided; is it in order we discuss the report because the report says enquiry into the regularization program for the parcels of land under the management of East African Portland Cement Company.

Yesterday, this House yesterday received a Petition on the same. I would seek guidance because when a Petition comes and especially when it touches a matter that is before the House then the Petition supersedes everything. So it would be prudent enough Madam Speaker, if you guide us we prosecute the matter of the Petition at hand because it is a timely guided constitutional affair the we consolidate, amalgamate and give a detailed report on the same as well as we do responses to the Petitioners because yesterday we received a report on the same.

So maybe what you would guide is that the Chairman can try to give a brief highlight so that maybe he explains what the committee has done instead of going through the report and then we consider the Petition at hand. If possible you give guidelines because the report has covered almost 80 per cent of the Petition. So, with your guidance even the Petition can be handled in

less than a month and brought to this House to respond to the Petitioners. I seek your guidance, Madam Speaker.

**Hon. Speaker:** Thank you, Hon. Member. Can we have contributions on that matter? Mheshimiwa Deputy Minority Leader.

**Hon. Francis Kavyu** (Kinanie, MCCP): Thank you, Madam Speaker. Being the representative of the area under which the matter before the House lies in, I am rising to support what Hon. Dominic Maitha said but additionally, apart from inviting the Petitioners, we will also recommend that all the parties that are involved that include the East Africa Portland Cement, Kenya Commercial Bank and the current members of the community who are the *bona fide* members of the land to be invited before this House so that they can give their submissions.

Then from that the committee on land can now sit and deliberate and provide a detailed report to this House because Madam Speaker, this issue has dragged for long and as it stands now, even in terms of development, we are not able to do schools for our people in that area. There are no hospitals, there is no water for those people. These residents of Kinanie have to rely on buying water. They have to walk long distances to seek services that are guaranteed under the constitution just because some people want to benefit illegally from the land so I wish to support what Hon. Maitha has said.

**Hon. Speaker:** Give the way forward.

**Hon. Francis Kavyu** (Kinanie, MCCP): I would recommend the committee gets an opportunity to hear the Petitioners, hear their prayers and within a period of 14 or 21 days we can have the report and deliberate on the matter. Thank you, Madam Speaker.

**Hon. Speaker:** Thank you very much, Hon. Member. Majority Leader.

**Hon. Mbili Ndawa** (Matuu, MCCP): This is Minority Leader, Hon. Speaker.

**Hon. Speaker:** Minority Leader; I am sorry.

**Hon. Mbili Ndawa** (Matuu, MCCP): Thank you, Madam Speaker. I will start by welcoming you back in this House. Yesterday we had a very colorful sitting; the officer that you had assigned us did a wonderful job.

**Hon. Speaker:** Thank you. I am happy.

**Hon. Mbili Ndawa** (Matuu, MCCP): I request you continue doing that so that each and every Member here can get an opportunity to lead. I want to repeat what I said yesterday in your absence; one of the business we were transacting yesterday was the issue of Procedure and Rules committee and we approved the Members and we requested from what we saw yesterday, that was evident that each and every Member here can be assigned a task and do it perfectly.

So we requested yesterday the Members we approved the three of them because the Majority Leader is a leader elsewhere and the other Member is a chairperson we requested that Hon. Mbula who is also a Member and does not chair any committee, we requested when you sit

in that committee you assign her the Vice Chair position so that she can also be able to perform.

*(Applause)*

**Hon. Speaker:** I am happy with that report and I also watched the screen, I was on the screen second part and I was very happy with what I saw. Members, that will be done. Proceed.

**Hon. Mbili Ndawa** (Matuu, MCCC): Thank you, Hon. Speaker. Coming to the business before the House, Hon. Speaker, you are lawyer by profession and when a matter is before a court and a somebody comes in the court and requests to be enjoined in that matter is addressed to all affected parties, the court deals with the new person first. So as we were here yesterday, Hon. Speaker, we received a Petition and the Temporary Chair committed that petition to a certain committee. So if we proceed in discussing this we will not have done justice to the Petitioners.

So, it is my humble request that we defer reading of this report so that the committee, I believe the Chairperson comes from that area and Mheshimiwa comes from that area and even the Speaker of this House also comes from that area. The residents, what we call the rank and file or the common wananchi, is watching there to see what their leaders will do.

Hon. Speaker, there is what we call adverse possession when it comes to issues of land. If somebody has stayed on a particular piece of land for over 10 years, he or she is taken care by that we are calling adverse possession. You cannot kick someone out of that land and he has been there.

So Hon. Speaker, the other point I am making, reservation does not confer to ownership; if we say this is reserved for this does not confer to ownership. Those who were given that land to do mining, the land was not theirs and the land was supposed to be referred back to the owners.

Hon. Speaker when we go back to this retreats, we go to Mombasa, Nairobi, you will find a table reserved for Machakos County Assembly or Machakos County Government; does it mean that because it is reserved for Machakos we own that table?

*(Applause)*

Hon. Speaker, let us be serious with whatever we are doing and let whoever is pretending to kick out those residents, we as the Assembly we are going to stand with those residents and make sure nobody touches them.

*(Applause)*

So, Hon. Speaker it is my humble appeal that we defer this matter. Let us give the committee an opportunity and I would wish to advise the committee that when a court is dealing with issue, leave alone calling the members, the committee has a right to visit the disputed site so that they can be able to know that we are talking of this area from point A to point B to point C so that when we come to make a determination, we make that determination from a point of information. Thank you, Madam Speaker.

*(Applause)*

**Hon. Speaker:** Thank you very much, Hon. Members. Those are very important arguments brought forward and in addition to the fact that you received a Petition yesterday, I am also aware that there is one more coming this afternoon. The same subject matter so I understand that this particular report we are receiving today is work that has been going on since last year and a report has been given and I feel like.....so that we do not kill their morale, is their wish that we defer this particular report.

Where is the Chair? Is it your wish that we defer this particular report and amalgamate and have one piece of document together? Is it your wish?

**Hon. Daniel Ndwiki** (Mlolongo/Syokimau, WDM-K): Thank you, Madam Speaker, for the opportunity. As you know this matter is very weighty and I have gone through this report and there are some important matters which are not captured in this report. So, Madam Speaker, I also request that we have the other Petition; we go through it so that we make a more comprehensive report that touches everything.

*(Applause)*

Madam Speaker, when we read this report, it touches just one part of the Portland land which has several parts; it has different numbers but this one just touches just one part of that. So, Madam Speaker, if you allow, we can have all the report, we take all matters to do with Portland and other government lands that has issues and that the community want the report be comprehensive. So, I also agree we defer the matter and come up with more comprehensive report. Thank you, Madam Speaker.

*(Applause)*

**Hon. Speaker:** Thank you. Yes Mheshimiwa Ngunga, what is it? Is it about this because I think I have already made a ruling on it?

**Hon. Francis Ngunga** (Mua, MCCP): No. It is about this, Madam Speaker.

**Hon. Speaker:** You are adding your weight?

**Hon. Francis Ngunga** (Mua, MCCP): Yes, I am adding my weight and I want to change the course of the discussion, Madam Speaker, because I also sit in that committee, the committee on Lands and I think we were able to interact with the parties that we are talking about here up to including to the level that matters were before us.

So, Madam Speaker, the report that is before you is a report that is detailing details that were placed before the committee then but now that Madam Speaker you are saying that there are emerging issues, procedurally I am of the opinion that we needed to dispense off this matter because there is a report here and then as it was said yesterday that the Petitioners on their issues were also referred to the same committee. This committee is not tired, Madam Speaker.

We are still going to raise up the issues because some of the issues that we were able to see as the committee, the Members will need to hear them so that when a report has been concluded Madam Speaker now to defer it just because there are issues that have come up, in my

opinion that is, and I stand to be guided, I think we need to have dispensed this report so that this other matter that is coming up can be handled afresh.

I think time will be there for us as the committee to sit and look at the issues. We looked at the issues which were raised then, we did visit the same place, we able to interact with the said residents, we were even able to interact with Portland themselves and the issues were addressed by this report and I wish Madam Speaker we had time to listen to the report so that even the Members, the next time we will come with the other report we will be able to compare this and that. Anyway that is my opinion, Madam Speaker.

**Hon. Speaker:** It is your opinion and maybe I can be able to address that.

**Hon. Mbili Ndawa** (Matuu, MCCC): Point of Information.

**Hon. Speaker:** Okay.

**Hon. Mbili Ndawa** (Matuu, MCCC): Thank you, Madam Speaker. As you are aware, it is not a must that any report that comes before this House is agreed on so by any chance, if we proceed with this report and we disagree with the report, it can only see light of this House after six months. So that is why I am insisting there is no urgency; people are there they have not been evicted by anybody so let them stay there and nobody should touch them.

We handle every matter, every part because the issue is talking about that land and Mheshimiwa, the most able Chair has said the report captures only a part of it so who is going to handle the other part? Maybe the petition which came yesterday includes every part. So we do not want to be seen as if we are repeating ourselves.

**Hon. Speaker:** I wish to respond on that and bring this matter to an end.

*(Hon. Dominic Maitha spoke off record)*

**Hon. Dominic Maitha** (Kathiani Central, WDM-K): Madam Speaker, I was on a point of information. Now I want to contribute slightly. Madam Speaker, as a practicing lawyer, you know very well when a matter is before court and a fresh application is done, either to have being enjoined in the case as a interested party then the court grants leave to the same. The court goes back and considers that application whether it is valid. The matter at hand, Madam Speaker, let us be guided by precedence.

This matter has been lying before the committee for more than four months and if we read this report and then we go back again to listen and address the matters of the Petition that landed in this House yesterday, probably it will take almost more or less an equivalent of the same period and that is why we are saying Madam Speaker, this matter is touching almost 100 per cent on the same issues.

So that we can amalgamate both of them and we table a detailed report before this House as well as respond to the Petitioners by first according to the Petition that came to the House yesterday, there are some companies that have been mentioned like KCB for example. So it is the only entity that I can say that the committee never had an opportunity to meet. So that is why we are saying even within 14 or 21 days, we can be able to dispense this matter and the Petition

report will have more weight and then add more sugar or more icing on the existing report so that we give a one and full time report regarding the matter.

Madam Speaker, this matter is very emotive; I would be very honest. The reports we have to date is that we cannot allow these people to live as if they are expecting a date which will never come. Recently, the report people residing on the that land versus Portland Cement they were proceeding very well but right now the reports on the ground are very worrying. So that is why we want to invite all the interested parties so that as a committee we can give a full and comprehensive report that once it lands back to the Petitioners then it will give them the assurance of the deliberations of this House. Thank you, Madam Speaker.

**Hon. Speaker:** Thank you, Hon. Member. I want to give directions on this matter. First of all, I want to bring to your attention that I have gone through this report and like somebody who also resides in this area, I am aware there is very big part of it that is not included in this report. That is the truth of the matter. That being the truth of the matter, yesterday we received one of the petitions and I have reported may be Hon. Ngunga you had not arrived, I said that there is another one expected today in the afternoon on the same subject matter, same issues.

So to me I do not think it is proper at all to proceed with part of the subject matter, half of it leaving the other behind then we come again and come again, I mean we do not look organized and we do not look like organized.

**Hon. Francis Ngunga** (Mua, MCCC): Madam Speaker, we are properly-guided. I was just raising that issue but we are properly guided.

*(Applause)*

**Hon. Speaker:** Thank you. I know and I am alive to the fact that you did work as committee, you put a lot of your energy there, you put a lot of your resources there in terms of mental and all that but we are not demoralizing you; we just want to have one piece of report together, move together and bring this matter to an end. This is very emotive, land matter; bring this issue to a conclusion once and for all. So with those few remarks, I suggest we defer this report to a later date when we have had---

**Hon. Mbili Ndawa** (Matuu, MCCC): Point of information, if you allow me.

**Hon. Speaker:** Proceed.

**Hon. Mbili Ndawa** (Matuu, MCCC): Thank you, I just wanted to seek your guidance; if we say we have deferred and we leave it that way, it will not augur well. The best way is to send it back to the committee. Thank you.

**Hon. Speaker:** That is in order.

**Hon. Muoki Musila** (Ndithini, WDM-K): Point of Order.

**Hon. Speaker:** Mheshimiwa Muoki.



**Hon. Muoki Musila** (Ndithini, WDM-K): Thank you, Hon. Speaker. I want to get more information about it because our able Chair said there are more than two parcels of land and today we are told, yesterday we got the Petition. Madam Speaker is telling us this afternoon we are getting another Petition. What I wanted to ask may be the Chair is what I wanted to ask is how many more Petitions are we likely to get? Can we, because we are saying we defer the whole matter we discuss and dispense of it once, are we likely to get more than those two Petitions?

**Hon. Speaker:** We are not likely to get more Petitions on this subject matter because we are already aware of what we are expecting.

**Hon. Muoki Musila** (Ndithini, WDM-K): Will these two Petitions be touching on all East African Cement land completely so that we do not go back to it.

**Hon. Speaker:** We believe so.

**Hon. Muoki Musila** (Ndithini, WDM-K): Thank you.

**Hon. Speaker:** Thank you, we have finished with that matter. In fact, you are out of Order Mheshimiwa Muoki to have brought it up after I have made my directives. At this point I wish to refer this report back to the committee concerned and that is the directive.

### ADJOURNMENT

**Hon. Speaker:** There being no other business the House is adjourned to today, 22<sup>nd</sup> February, 2023 at 2.30 p.m.

The House rose at 11.44 a.m.