REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT VIHIGA

ELC CONSTITUTIONAL PETITION NO. _____ OF 2026

IN THE MATTER OF ARTICLES 2(1), 3(1), 10, 19, 20, 21, 22, 23, 27, 35, 40, 42, 43, 47, 60, 61, 62, 63, 64, 65, 66, 67, 69, 70, 159, 162(2)(b), 174, 232, 258 AND 259 OF THE CONSTITUTION OF KENYA, 2010

AND

IN THE MATTER OF PART VIII (SECTIONS 107-133) OF THE LAND ACT, 2012 COMPULSORY ACQUISITION OF LAND, AND THE COMMUNITY LAND ACT, 2016

AND

IN THE MATTER OF SECTIONS 34, 36, 37, 38, 95, 120 AND 152-157 OF THE MINING ACT, 2016

AND

IN THE MATTER OF MINING LICENCE APPLICATION NO. ML/2024/0200 (GAZETTE NOTICE DATED 1 AUGUST 2025) BY SHANTA GOLD KENYA LIMITED OVER LAND IN RAMULA, MUNUNGO AND MWIBONA, SIAYA AND VIHIGA COUNTIES AND THE MINING LICENSE EMANATING THEREFROM.

AND

IN THE MATTER OF THE UNITED NATIONS GUIDING PRINCIPLES ON BUSINESS AND HUMAN RIGHTS, THE PRINCIPLE OF FREE, PRIOR AND INFORMED CONSENT, AND ARTICLE 35 OF THE CONSTITUTION OF KENYA, 2010 ON ACCESS TO INFORMATION

BETWEEN

KENYA HUMAN RIGHTS COMMISSION. .... 1ST PETITIONER

SILAS ASETIBA

CHARLES OMONDI

JOSEPH AYWA SIAMBE

CRISTINE OTIENO

ROSE OLUM

PHILLISTER OBURA

PAUL OPICHA

ERNESTO LACTAR

GEORGE SIAMBE

ODERO ZACHARY

BENERD OPEYWA

JAVAN OPEYWA

GEORGE OCHILO

BEATRICE ATIENO

GERSHOM M. MANGA

MILDRED A. OWINO

JOSEPH O. ODERA

WERE OWITI

JOYCE AGUNDA

JOANES AGOH... **..... 2ND PETITIONERS**

(Suing on their own behalf, as registered and customary landowners and occupiers objecting to the Mining License and Mining activities within the Ramula-Munungo-Mwibona Community)

HAKI MADINI KENYA...3RD PETITIONER

AND

CABINET SECRETARY, MINISTRY OF MINING, BLUE ECONOMY AND MARITIME AFFAIRS .... 1ST RESPONDENT

HON. ATTORNEY GENERAL... 2ND RESPONDENT

NATIONAL LAND COMMISSION .... 3RD RESPONDENT

NATIONAL ENVIRONMENT MANAGEMENT

AUTHORITY... 4TH RESPONDENT

AND

COUNTY GOVERNMENT OF VIHIGA.....................1ST INTERESTED PARTY

COUNTY GOVERNMENT OF SIAYA........ .... 2ND INTERESTED PARTY

LAW SOCIETY OF KENYA ....3RD INTERESTED PARTY

SHANTA GOLD KENYA LIMITED ....4TH INTERESTED PARTY

CONSTITUTIONAL PETITION

(Brought under Articles 22 and 23 of the Constitution of Kenya, 2010, the Constitution of Kenya (Protection of Rights and Fundamental Freedoms) Practice and Procedure Rules, 2013, and Section 13 of the Environment and Land Court Act, Cap. 8D)

To
The Deputy Registrar
Environment and Planning Division
Environment and Land Court
VIHIGA.

A. INTRODUCTION

1. This Petition concerns the lawfulness of the process by which land in Ramula, Munungo and Mwibona straddling Siaya and Vihiga Counties is being made available, to the 4th Interested Party, Shanta Gold Kenya Limited, in connection with its application for a Mining Licence, Application No. ML/2024/0200, gazetted on 1st August 2025.

2. The Petitioners bring this Petition principally against the State organs responsible for regulating and safeguarding that process; the Cabinet Secretary responsible for mining (the licensing authority), the Attorney General (as constitutional respondent for the national government), the National Land Commission (the constitutional trustee of community land and the sole body empowered to compulsorily acquire land), and the National Environment Management Authority (the EIA licensing authority).

3. The central legal question raised is whether the State has lawfully discharged, or can lawfully discharge, its own constitutional obligations in respect of the land in question, irrespective of what the 4th Interested Party may itself wish to do.

4. This Petition is filed in this Honourable Court at Vihiga because a substantial part of the land, the community and the 2nd Petitioners affected by Application No. ML/2024/0200 lies within, or is administered from, Vihiga County (Mwibona), and because this Court has jurisdiction under Article 162(2)(b) of the Constitution and section 13 of the Environment and Land Court Act over disputes relating to land, its title, tenure and compulsory acquisition, wherever situated within its geographical jurisdiction.

5. This Petition raises a distinct and narrower question not determined in that suit: whether, and by what lawful legal mechanism, land may be taken from private and community owners in Ramula, Munungo and Mwibona for the Project at all, given that neither a completed, lawful private-consent process under section 37 of the Mining Act, 2016, nor a lawful compulsory acquisition process under Article 40(3) of the Constitution and Part VIII of the Land Act, 2012, has been undertaken.

B. THE PARTIES

6. The 1st Petitioner, the Kenya Human Rights Commission (KHRC), is a national human rights institution with a long-standing mandate and practice in natural resource governance, environmental justice, and community land rights, and has previously appeared as an interested party in compulsory-acquisition litigation before Kenyan courts and tribunals. It brings this Petition in the public interest pursuant to Article 22(2)(c) and (d) of the Constitution.

7. The 2nd Petitioners are registered and customary landowners and occupiers of land within the area gazetted under Application No. ML/2024/0200, being the persons who, on 10 September 2025, formally lodged written objections to the 1st Respondent against the grant of the said Mining Licence, as more particularly set out in the Schedule annexed to the Supporting Affidavit filed herewith, and who sue on their own behalf, on behalf of the wider Ramula-Munungo-Mwibona community, and in the public interest.

8. The 3rd Petitioner, Haki Madini Kenya, is a civil society organisation with expertise in extractives governance in the Project area and is joined to assist the Court.

9. The 1st Respondent, the Cabinet Secretary, Ministry of Mining, Blue Economy and Maritime Affairs, is the authority responsible for receiving, gazetting and

determining Application No. ML/2024/0200 under the Mining Act, 2016, and is sued in that capacity.

10. The 2nd Respondent, the Hon. Attorney General, is sued as the principal legal adviser to the Government and the constitutional respondent representing the national government under Article 156 of the Constitution.

11. The 3rd Respondent, the National Land Commission, is the body established under Article 67 of the Constitution with, among other functions, the exclusive constitutional and statutory mandate under section 107 of the Land Act, 2012 to compulsorily acquire land on behalf of the national or county government, and with obligations under Article 63(3) of the Constitution in respect of unregistered community land held in trust by county governments. It is sued in that capacity.

12. The 4th Respondent, the National Environment Management Authority, is the authority that issued an EIA Licence to the 4th Interested Party on or about 2 May 2025 without, on the Petitioners' case, satisfying itself that lawful land tenure and access had been or could be secured, and is sued in that capacity.

13. The 1st and 2nd Interested Parties, the County Governments of Vihiga and Siaya, are joined in their capacity as the constitutional trustees of unregistered community land within their respective counties under Article 63(3) of the Constitution, and in respect of any approval under section 36(2)(d) of the Mining Act.

14. The 3rd Interested Party, the Law Society of Kenya (LSK), is a body corporate established under section 3 of the Law Society of Kenya Act, No. 21 of 2014, whose statutory objects under section 4 of that Act include the promotion of the rule of law and the protection and assistance of the public in Kenya in matters relating to the law

15. The 4th Interested Party, Shanta Gold Kenya Limited, is the applicant for the Mining Licence and the entity whose activities are the subject of the underlying dispute; it is joined as an Interested Party, and not as a Respondent, because the primary relief sought concerns the lawfulness of State conduct and process, though its rights and interests are directly affected by the outcome of this Petition and it is entitled to be heard.

C. FACTS

16. Application No. ML/2024/0200 by the 4th Interested Party for a Mining Licence over land in Ramula, Munungo and Mwibona was gazetted by the 1st Respondent on 1 August 2025. The Principal Secretary in the Ministry of Blue Economy is quoted as indicating that a Mining License may have been already issued on this project.

17. By a letter dated 10 September 2025 addressed to the 1st Respondent, over 180 individually named landowners and occupiers from Ramula (Siandha, Obwanda, Nyangulu and Naya villages), Munungo-Mwibona (Ebutsimi and Munungo villages) and Uranga (Nyandiwa village) being the 2nd Petitioners herein lodged formal written objections to the grant of the said Mining Licence, enclosing duplicate objection letters, copies of their national identity cards for verification, and a list of objectors from the gazetted footprint area. A schedule identifying, among the objectors, those who hold more than one registered title within the footprint (in one instance as many as six titles) was also submitted, going directly to the scale of private registered land affected.

18. The Petitioners are not aware of any response by the 1st Respondent to the said objections, of any determination of them under section 34(4) of the Mining Act, 2016, or of any indication of how, if at all, the 1st Respondent proposes to resolve the fact that a substantial number of landowners and occupiers within the gazetted footprint have formally and individually objected to the Project.

19. Notwithstanding the said objections, the Petitioners are informed, and verily believe, that the 4th Interested Party and/or persons acting on its behalf have continued to engage individual landowners directly to solicit signatures on documents described as consent forms, in a process the Petitioners aver is neither transparent nor demonstrably free of inducement or coercion, as further particularised in the Supporting Affidavit filed herewith and in the material annexed thereto, including a Petition to the County Assembly of Siaya dated 29 October 2023 recording allegations that attendance at company meetings was documented principally through lists of cash payments rather than through any genuine record of informed agreement.

20. The land in question falls into at least three distinct categories:

(a) privately registered land held under freehold or leasehold title by individual landowners, a few of whom hold multiple parcels within the footprint, as shown in the schedule referred to hereinabove;

(b) unregistered ancestral/customary land held by families and clans without formal title, in respect of which the ESIA prepared for the 4th Interested Party's own project itself records that *formal succession processes and title deeds are often lacking*; and

(c) land which, to the extent it is unregistered community land within the meaning of Article 63(2) of the Constitution, is held in trust by the 1st and 2nd Interested Parties on behalf of the community pursuant to Article 63(3).

21. The Petitioners are not aware of, and aver that there has not been, any application by the 1st Respondent or any County Executive Committee Member to the 3rd Respondent for the compulsory acquisition of any part of the land in question, any notice of intention to acquire published under section 107 of the Land Act, 2012, any inquiry under section 112, any award of compensation under sections 113-119, or any prompt payment in full of just compensation under section 111 of the Land Act and Article 40(3)(a)(i) of the Constitution.

22. The Petitioners are further not aware of, and aver that there has not been, any resolution of the community land management committee or documented community assembly decision under the Community Land Act, 2016, nor any resolution of the 1st and 2nd Interested Parties as trustees, authorising the use or acquisition of unregistered community land for the Project, as would be required under Article 63(3) of the Constitution.

23. The Petitioners plead that the public participation process preceding the ESIA relied upon by the 4th Respondent was itself materially deficient at the outset: only eight barazas were held between February and August 2024, each confined to a three-kilometre radius of four villages in Siaya and Vihiga Counties, while meetings involving national and county officials, non-governmental organisations and faith-based organisations were instead convened at hotels in Kisumu, away from the affected villages, and no baraza, focus group discussion or notification workshop was held in Isulu, Bushiangala or Ikolomani (Kakamega County) notwithstanding that the ESIA itself identifies "Isulu-Bushiangala" as part of the same West Kenya Project.

24. The Petitioners further plead that a Petition to the County Assembly of Siaya dated 29 October 2023 records that the community had, over a year earlier, already and unanimously resolved to reject the 4th Interested Party's operations at two public barazas attended by approximately 350 and 250 residents respectively, communicated that rejection to the 4th Interested Party by a demand letter dated 22 September 2023 that went unanswered, and alleged that certain company-community engagements were documented only through lists of cash payments used to represent attendees as having accepted the company's proposals, rather than through any genuine record of informed consent.

25. The Petitioners plead that the Project area is host to artisanal and small-scale miners (ASMs) whose operations and livelihoods stand to be directly displaced by the grant of a large-scale Mining Licence over the same land, and that neither the 1st Respondent nor the 4th Interested Party has disclosed whether any artisanal mining permits or applications exist within the licence area under sections 92-98 or 128 of the Mining Act, 2016, nor what mechanism, if any, is proposed for their formalisation, co-existence, transition or compensation.

26. The Petitioners aver that this omission is a significant gap in a Project of this scale, given the Africa Mining Vision's emphasis on inclusive mining and Kenya's own policy commitments to regulate and formalise artisanal and small-scale mining, and that it creates a foreseeable risk of conflict and loss of livelihood for ASM operators who have not been meaningfully consulted or accounted for in the licensing process.

27. The Petitioners plead that the Ramula-Munungo-Mwibona community are indigenous, land-dependent occupants of ancestral land held under customary tenure across multiple generations, whose relationship to the land encompasses subsistence farming, grazing, burial grounds, sacred sites and cultural practice, including the Tero Buru rites, and whose land rights are protected not only under Articles 63 and 64 of the Constitution but under the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) and the principle of Free, Prior and Informed Consent (FPIC) it embodies.

28. The Petitioners aver that FPIC is not a ceremonial signature but one that requires that affected communities receive full and accessible information before any decision is made, that they are free from coercion or inducement, that consent is obtained before implementation begins rather than to legitimise steps already taken, and that those who sign understand the consequences of what they are approving. Given the widespread allegations of coerced, payment-induced or forged consent, and the incomplete succession affecting much of the ancestral land in question, as the 4th Interested Party's own ESIA itself concedes, the Petitioners plead that the FPIC standard has not been met in respect of a substantial part of the Project area.

D. THE LEGAL QUESTION: CAN A PRIVATE MINING COMPANY COMPULSORILY ACQUIRE THIS LAND?

29. The Petitioners plead that the answer is no, and that this is not a matter of interpretation but of the plain constitutional and statutory scheme.

30. Article 40(3) of the Constitution provides that the State shall not deprive a person of property unless the deprivation results from an acquisition of land in accordance with Chapter Five, is for a public purpose or in the public interest and is carried out in accordance with an Act of Parliament that requires prompt payment in full of just compensation and allows a right of access to court.

31. This is a power reposed in the State, exercised, under Part VIII of the Land Act, 2012, exclusively by the 3rd Respondent, and only upon the initiating request of a Cabinet Secretary or County Executive Committee Member (section 107(1) and (2), Land Act) as elaborated in see ***Patrick Musimba v National Land Commission & 4 others [2016] eKLR***, which sets out the full statutory sequence: request, diligent inquiry by the 3rd Respondent into the acquiring body and the necessity and public character of the acquisition, gazetted notice of intention to acquire, survey and inspection, a further inquiry under section 112 to determine interests and compensation, an award, and prompt payment in full before or promptly after possession is taken.

32. A private company such as the 4th Interested Party has no power under Kenyan law to compulsorily acquire land, whether directly or by proxy. The definition of *compulsory acquisition* in section 2 of the Land Act, 2012 is expressly confined to *the power of the State* to deprive or acquire title or interest in land for a public purpose. Commentary on the doctrine of eminent domain in Kenya is equally clear that private land cannot be compulsorily acquired to benefit purely private commercial interests; the public purpose or public interest relied upon must be genuine, necessary, and not remote or fanciful, and is subject to the 3rd Respondent's own power to reject a request that does not meet that threshold (section 107(3), Land Act).

33. This constitutional position is mirrored in the structure of the Mining Act, 2016 itself. Parliament did not give holders of mineral rights any power to compulsorily acquire the land on which those rights are to be exercised. Instead, section 37 of the Mining Act requires the *express and unequivocal consent* of the owner before a mineral right may be exercised on private land; a private, negotiated, voluntary model, not an expropriatory one.

34. Where such consent cannot be obtained, the Mining Act does not authorise the licence holder to take the land regardless; the only lawful avenue by which land needed for a mining project may be compulsorily taken is for the Cabinet Secretary (not the company) to request the 3rd Respondent to exercise its Article 40(3)/Part VIII powers, upon a proper showing of public purpose, followed by prompt and full compensation which the Petitioners aver that the process that has not been undertaken here.

35. Applying this framework to the facts pleaded above, the Petitioners aver that what is presently occurring in Ramula, Munungo and Mwibona is neither a lawful private consent process under section 37 of the Mining Act (given the more than 180 formal, individually signed objections lodged on 10 September 2025, the disputed and in some instances forged or deceased-person consents, and the allegations of payment-induced attendance being treated as consent) nor a lawful compulsory acquisition under Article 40(3) and Part VIII of the Land Act (given that no request, notice, inquiry, award or compensation process has ever been initiated by the 1st Respondent or the 3rd Respondent).

36. The land access said to underlie Application No. ML/2024/0200 accordingly rests on no lawful legal foundation known to Kenyan law, and the 1st Respondent ought not to have been granted and the 4th Respondent could not lawfully have licensed the ESIA underlying, a Mining Licence premised upon it.

37. In respect of unregistered community land specifically, Article 63(3) of the Constitution requires that such land *shall be held in trust by county governments on behalf of the communities for which it is held* and that any such land, and any transaction in respect of it, shall be subject to... ***consent of the community concerned***. No lawful trustee consent process; whether by the 1st or 2nd Interested Parties as trustees, or by a community land management committee constituted under the Community Land Act, 2016 has been shown to have occurred.

38. The Petitioners further aver that, insofar as the 3rd Respondent has taken no steps at all in relation to the land the subject of Application No. ML/2024/0200; neither certifying a public purpose, nor declining to do so, nor exercising any oversight of the private consent process being conducted by the 4th Interested Party and the 3rd Respondent has failed to discharge its constitutional mandate under Articles 62(2), 67 and 63(3) of the Constitution to protect and manage land, including community land, on behalf of the people of Kenya.

E. FURTHER CONSTITUTIONAL AND STATUTORY VIOLATIONS

39. Article 2(1) provides that the Constitution is the supreme law of the Republic and binds all persons and all State organs at both levels of government. This is the provision that makes every other argument in the Petition possible. The Respondents' conduct is defended, in substance, by reference to the Mining Act's own procedures (ss.34-38, 152-157) and to EMCA's licensing regime.

40. Article 2(1), read with Article 2(4) (any law inconsistent with the Constitution is void to the extent of the inconsistency), is what allows the Petitioners to say that even full compliance with the Mining Act's own internal dispute-resolution machinery cannot cure a process that falls short of Articles 40, 47 and 63. It is the anchor for the proposition, central to Part D of the Petition, that a private company's consent-based access under s.37 of the Mining Act cannot be dressed up as, or substitute for, the constitutionally distinct and more demanding process of compulsory acquisition.

41. Article 3(1) provides that every person has an obligation to respect, uphold and defend this Constitution. Article 3(1) is the textual root of the standing and public-interest arguments developed under Articles 22 and 258 below: it explains why a national human rights institution such as KHRC, and a broad group of landowners suing partly on behalf of a wider community, are not *strangers* to this dispute but are discharging a constitutional obligation in bringing it. It also operates against the Respondents; the Cabinet Secretary, NEMA and the National Land Commission are themselves bound by this obligation, so their silence in the face of 182 documented objections is not a neutral omission but arguably a failure of a constitutional duty actively to defend the very safeguards the Constitution places around land and property rights.

42. Article 19(3)(a) clarifies that the property, land and environmental rights the Petitioners assert are not privileges extended by the Mining Act or by NEMA's licensing discretion, but pre-existing rights the licensing process must accommodate, not the other way round. The framing of rights herein is inherent rather than State-granted informs how administrative bodies must exercise statutory discretion and, in this case, bringing into question how NEMA and the Cabinet Secretary must exercise their licensing discretion here.

43. Article 20(3) supplies the interpretive instruction the Petition needs when it argues that the Mining Act's silence on what happens when S.37 consent cannot be obtained must not be read as silent permission for a private company to proceed regardless. Where the statute is ambiguous or incomplete, Article 20(3) requires the Court to prefer the reading that most protects the landowners' rights under Article 40 which therefore means that silence means recourse must be had to the constitutionally prescribed compulsory-acquisition route, not that the company may simply proceed on disputed consent.

44. Article 21 provides that it is a fundamental duty of the State and every State organ to observe, respect, protect, promote and fulfil the rights and fundamental freedoms in the Bill of Rights. We plead this article against the 1st, 3rd and 4th Respondents specifically: it is what converts the National Land Commission's inaction (no audit, no certification of public purpose, no exercise of its Article 63(3)/67 oversight) from a mere gap in administrative practice into a positive constitutional default. The same applies to NEMA's issuance of the EIA Licence without requiring proof of lawful land access, and to the Cabinet Secretary's silence on 182 unresolved objections: Article 21 is the provision that makes those omissions, not just the Respondents' affirmative acts, actionable.

45. Article 22(2) is the direct source of standing for both Petitioners: sub-paragraph (b) covers the 2nd Petitioners suing collectively on behalf of the wider Ramula-Munungo-Mwibona community, and sub-paragraph (c) covers KHRC acting in the public interest. It also matters that the threat, not only the completed, but violation is also actionable.

46. Article 23 grants this Court the authority to uphold and enforce the Bill of Rights. This is the source of the specific menu of remedies the Petition and the accompanying Notice of Motion ask for declarations, conservatory orders restraining the Cabinet Secretary and Shanta Gold, and orders directing the National Land Commission to act. Because the Environment and Land Court has status equal to the High Court and jurisdiction under Article 162(2)(b) over land and environment matters, Article 23's remedial powers are available in this Court as much as in the High Court proper.

47. Article 27 supports two distinct threads in the wider case; first, the disparate impact of a coerced or informal consent process on widows and women land users, whose customary land interests are often undocumented or mediated through male relatives, meaning any consent process not independently verified by the National Land Commission risks systematically disadvantaging them; and second, the equal protection of the law due to all 182 objectors regardless of the size of their landholding as seen in the schedule showing some objectors hold multiple titles is relevant precisely because Article 27 requires that the scale of a person's registered interest not determine whether their objection is taken seriously.

48. Article 40(3) is the single most important provision in this Petition and it is the entire basis of Part D's argument that Shanta Gold, being a private company, has no power to compulsorily acquire land, and that the land access said to underlie Application No. ML/2024/0200 satisfies neither the private-consent nor the compulsory-acquisition track the Constitution recognises. Article 40(4) is separately significant for the customary/ancestral landholders among the 2nd Petitioners

49. Article 42 underwrites the Petition's challenge to the EIA Licence issued to Shanta Gold on 2 May 2025; an ESIA that does not adequately assess dewatering, tailings containment, or cumulative impacts on the Yala River system, and that is issued without confirming lawful land tenure, does not discharge the State's obligation under this article, which is engaged independently of whether the land-tenure question (Article 40/63) is resolved. The same is underpinned by the finding in

Save Lamu & 5 others v NEMA & Amu Power Co. Ltd, NET Appeal No. 196 of 2016 (2019), upheld ELC Malindi (2025)

50. Article 43 is invoked because the harms pleaded are not confined to title and tenure: groundwater dewatering affecting drinking-water sources, and displacement without a completed Resettlement Action Plan, engage the socio-economic rights to water and housing directly, independently of whether the land question is ultimately resolved in the Petitioners' favour on Article 40/63 grounds alone.

51. Article 47 is the provision that makes the Cabinet Secretary's silence on the 182 objections independently actionable, quite apart from the land-tenure arguments: an administrative decision-maker who receives individually verified, identity-documented objections from affected landowners and neither responds to them nor gives reasons is not acting lawfully, reasonably or procedurally fairly, regardless of what is ultimately decided on the merits of Application No. ML/2024/0200.

52. In ***Judicial Service Commission v Mbalu Mutava & another [2015] eKLR*** the Court of Appeal held,

> *Article 47(1) marks an important and transformative development of administrative justice for, it not only lays a constitutional foundation for control of the powers of state organs and other administrative bodies but also entrenches the right to fair administrative action in the Bill of Rights. The right to fair administrative action reflects some of the national values in article 10 such as the rule of law, human dignity, social justice, good governance, transparency and accountability. The administrative actions of public officers, state organs and other administrative bodies are now subjected by article 47(1) to the principle of constitutionality rather than to the doctrine of ultra vires from which administrative law under the common law was developed.*

This is precisely the standard the Cabinet Secretary and NEMA must meet in responding to the objections here.

53. Article 60 is the framing provision for the entire land-tenure section of the Petition: it is what the Court is asked to hold the licensing process to, over and above the narrower question of whether the Mining Act's own procedural boxes were ticked. The principles of *security of land rights* and *transparent... administration of land* are directly engaged by the absence of any NLC-led process and by the unresolved objections; the principle of eliminating gender discrimination in land is engaged by the vulnerability of women and widows in an informal, unverified consent process.

54. Article 61 is the taxonomy the Petition relies on to plead, hereinabove, that the Project footprint straddles at least three legally distinct categories of land (private registered land, unregistered ancestral/customary land, and unregistered community land held in trust), each of which attracts a different constitutional protection regime (Articles 64, 63 and 63(3) respectively). Without Article 61's classification, the Respondents could treat the footprint as a single undifferentiated block; with it, the Petitioners can insist on category-specific safeguards for each.

55. Article 62(1)(f) is significant because it explains precisely what is, and is not, already *public* in this dispute: the minerals themselves vest in the national government, but the surface land on which they lie does not thereby become public land it remains private or community land, held by individuals or in trust. This distinction is the fulcrum of the Petition's argument that a mining right over the minerals does not, without more, confer any right over the surface, which must independently be secured by consent or compulsory acquisition.

56. Article 63(3)'s trust obligation on the county governments is the direct constitutional basis for the declaration sought that the 3rd Respondent and, derivatively, the 1st and 2nd Interested Parties as county trustees have failed to discharge its mandate over the unregistered community land in the Project area. It also supplies the consent standard for community consent, not merely individual landowner consent that must be met for any land falling within this category.

57. In **Mohamed** ***Hussein Haji v Issa Kuno & 4 others, Environment & Land Petition 1 of 2018*** the Court confirmed that for unregistered community land held in trust, the county government's consent, given on the community's behalf, is a legal precondition to any dealing in the land and is directly analogous to the Ramula/Munungo/Mwibona land in this case.

58. Article 64 is the constitutional foundation for the rights of the registered titleholders among the 2nd Petitioners including those shown in the objection schedule to hold multiple parcels and is what makes section 37 of the Mining Act's consent requirement a constitutional, not merely statutory, protection: Parliament could not lawfully have made private land available to a mining licensee on any lesser standard than Article 64 read with Article 40 permits.

59. Article 66 matters here chiefly by way of contrast: it is the provision that permits the State to regulate how land is used, for example, through EIA licensing conditions without paying compensation, because regulation does not transfer title. The Petition's argument depends on keeping this distinct from Article 40(3) compulsory acquisition, which does transfer title and does require compensation. If the Respondents attempt to characterise the land access here as mere *regulation* under Article 66, the Petitioners' answer is that what is actually occurring is physical occupation and use of privately and communally owned land by a private company for its own commercial extraction and is a deprivation of property, not a regulatory limitation, and Article 66 cannot be stretched to cover it.

60. Article 67 is the direct source of the 3rd Respondent's mandate and, therefore, of its default: an NLC that has taken no steps at all in relation to the land the subject of Application No. ML/2024/0200, neither exercising its oversight function, nor its role under Article 63(3), nor being approached under section 107 of the Land Act is not merely inactive but is failing a constitutionally assigned function, which is precisely what the Petition and prayers are designed to establish and remedy.

61. Article 69(1)(a)'s *equitable sharing of... benefits* language is the constitutional hook for the Community Development Agreement/benefit-sharing gaps identified in the earlier Civil Society Memorandum, while Article 69(1)(d)'s public-participation obligation reinforces Article 10 and Article 47 arguments in the licensing context. Article 69(2)'s precautionary and preventive principles *implicit in 'eliminate processes... likely to endanger the environment* support the challenge to the EIA Licence for its inadequate treatment of dewatering and tailings risk. The Petitioners rely on ***Save Lamu & 5 others v NEMA & Amu Power Co. Ltd (2019, upheld 2025)*** whereas above, ties defective public participation and an inadequate ESIA directly to a breach of the Article 69 framework, sufficient on its own to void an EIA licence.

62. The proponent's obligations under Regulation 17 of the Environmental (Impact Assessment and Audit) Regulations, 2003 including publicising the project via posters in strategic public places, a notice published for two successive weeks in a nationwide newspaper, radio announcements in official and local languages on a nationwide station (at least weekly for two consecutive weeks), at least three public meetings with one week's prior notice, and a qualified coordinator to record comments Regulation 17(2)(a)(ii): newspaper notice, 2 consecutive weeks, nationwide circulation.

63. No mention anywhere in the 892-page report of a newspaper name, publication date, or nationwide circulation figure. The only reference is a generic list of documentation 'types' *letters, emails, and News Paper advertisement* offered *as appropriate* a category label, not evidence a newspaper notice was ever placed.

64. The Petitioners plead, in the alternative and in addition to the grounds set out above, that the EIA Licence issued by the 4th Respondent to the 4th Interested Party on or about 2 May 2025 is independently unlawful for failure to meet the public participation standard mandated by section 58 of the Environmental Management and Coordination Act and Regulations 17 and 20 to 23 of the Environmental (Impact Assessment and Audit) Regulations, 2003, as authoritatively restated in ***Okiya Omtatah Okoiti v Ministry of Lands, Public Works, Housing and Urban Development & 18 others, ELC LC Petition E052 of 2025 [2026] (Environment and Land Court at Nairobi, 29 May 2026).***

65. The Petitioners plead that the ESIA report relied upon for the EIA Licence contains no evidence that any newspaper notice, radio announcement, or dated poster notice was ever placed in respect of the Ramula-Mwibona Project: the report's only references to these methods are generic descriptions of documentation 'types' offered 'as appropriate', without a single newspaper name, publication date, radio station, broadcast date, or photograph of an actual posted notice being produced or referenced.

66. The Petitioners plead that the 4th Respondent's own record shows that, as early as 24 July 2023, its officials expressly briefed the 4th Interested Party's consultants that the required public participation process for the Project included *placement of advertisement in the Kenya Gazette, radio stations, [and] local vernacular stations... factoring a public hearing in case there are adverse public comments*. Notwithstanding this express notice of what the law required, no part of the ESIA report or the record available to the Petitioners demonstrates that a Gazette notice, radio announcement, or vernacular-language broadcast was ever made in respect of the ESIA Study Report submitted on 17 October 2024, the public hearing convened on 2 April 2025, or the EIA Licence issued on 2 May 2025.

67. The Petitioners plead that Regulations 20 to 23 of the Environmental (Impact Assessment and Audit) Regulations, 2003 impose separate and independent obligations on the 4th Respondent itself to circulate the ESIA Study Report to lead agencies for comment within fourteen days of receipt (Regulation 20); to invite public comment within fourteen days by Gazette notice, nationwide newspaper publication for two consecutive weeks, and radio announcements in official and local languages (Regulation 21); to convene public hearings with equivalent publicity where warranted (Regulation 22); and, before issuing any licence, to take into account the validity and adequacy of the ESIA report, the comments of lead agencies, and the outcome of any public hearing (Regulation 23). The Petitioners aver that no evidence of compliance with any of these four Regulations has been produced or is known to exist.

68. The Petitioners plead that the public hearing which the 4th Respondent's records show was convened on 2 April 2025 was, on the 4th Respondent's own account in related proceedings, advertised only through the MyGov portal and direct invitations to stakeholders, a materially different and lesser form of publicity than the Gazette notice, nationwide newspaper publication, and radio announcements in official and local languages that Regulations 21 and 22 mandate, and one which excludes the very rural, ancestral-land-dependent population most affected by the Project.

69. The Petitioners plead that the EIA Licence was issued on 2 May 2025, approximately one month after the public hearing of 2 April 2025 and less than three weeks after the Petitioners' advocates had, by letters dated 25, 26 and 27 March 2025, formally and expressly demanded that the hearing be halted pending resolution of unaddressed consent and land-tenure disputes a compressed timeline that, applying the reasoning in ***Okiya Omtatah Okoiti (paras 319-320)***, warrants this Honourable Court's close scrutiny of whether the objections raised were genuinely considered or merely noted and set aside.

70. The Petitioners plead that the public participation process the ESIA report documents was, in any event, geographically and temporally deficient:

a) all eight recorded barazas (February to August 2024) were confined to a three-kilometre radius of four villages in Siaya and Vihiga Counties, and none were held in Isulu, Bushiangala or Ikolomani, Kakamega County, notwithstanding that the ESIA itself identifies 'Isulu-Bushiangala' as part of the same West Kenya Project; and

b) the community had, as pleaded in the Petition to the County Assembly of Siaya dated 29 October 2023, already resolved unanimously to reject the Project at two public barazas held in September and October 2023, and had formally communicated that rejection to the 4th Interested Party in a demand letter dated 22 September 2023 that went unanswered meaning the 2024 ESIA public participation process the 4th Respondent relies upon was conducted more than a year into a documented, unresolved community rejection of the Project, precisely the sequence the Court in ***Okiya Omtatah Okoiti*** held could not satisfy the constitutional and statutory standard, since *once... foundational activities have commenced, the decision-making process has, to a large extent, already crystallized, thereby substantially diminishing the efficacy and meaningfulness of any subsequent consultations*.

71. The Petitioners plead that the Petition to the County Assembly of Siaya dated 29 October 2023 specifically alleges that certain company-community engagements were documented only through *lists of payments... to force the hands of those who attend them to be seen as having accepted the company's overtures* an allegation as to the authenticity and reliability of the participatory record directly analogous to the finding in ***Okiya Omtatah Okoiti*** (para 319) undermined the integrity of the public participation record relied upon by the respondents in that case.

72. The Petitioners plead that, applying the principle affirmed in *Okiya Omtatah Okoiti (paras 341, 346)*, that a public body may only do what the law empowers it to do, and that a subsequently issued EIA licence cannot retrospectively regularise or sanitise a public participation process that did not meet the mandatory statutory threshold at the time it was conducted, the EIA Licence issued to the 4th Interested Party on 2 May 2025 is invalid and liable to be quashed.

73. Article 70(3) is significant procedurally: it dispenses with the need for the Petitioners to show individualised loss on the environmental limb of the case, which matters because the environmental harms pleaded such as dewatering, tailings risk, downstream water-quality effects are anticipated and threatened rather than, in every instance, already realised. This lowers the evidentiary bar for the conservatory relief sought in the Notice of Motion insofar as it rests on environmental as opposed to land-tenure grounds.

74. Article 174 supports the Petition's insistence that county governments herein the 1st and 2nd Interested Parties cannot be bypassed in decisions over land within their counties, including their Article 63(3) trustee role and any section 36(2)(d) Governor approval under the Mining Act; devolution's equitable-resource-sharing object is also the underlying constitutional value behind the benefit-sharing/Community Development Agreement concerns raised earlier in this matter.

75. Article 232 is pleaded against the Cabinet Secretary, NEMA and the National Land Commission collectively: the failure to respond to 182 documented objections, the compressed one-month gap between the public hearing of 2 April 2025 and the EIA Licence of 2 May 2025, and the absence of any public information on whether a compulsory acquisition process exists, are each, independently of the land-tenure arguments, failures of the transparency, accountability and public-involvement values this article establishes for every public officer and State organ involved.

76. Article 258 is broader than Article 22 in one important respect: it is not confined to Bill of Rights violations but extends to any contravention of the Constitution, including the structural/land provisions in Chapter Five that are not, strictly speaking, part of the Bill of Rights. It is this article, more than Article 22 alone, that lets the Petition combine the Bill of Rights claims under Articles 27, 40, 42, 43, 47 with Chapter Five land-governance claims under Articles 60-67 and Chapter Fifteen NLC claims under Article 67 in one proceeding.

77. Article 259 is the interpretive instruction the Petition relies on whenever it asks the Court to read a gap or silence in the Mining Act or the Land Act against, rather than in favour of, the Respondents for example, treating the absence of an explicit statutory bar on informal private *consent-gathering* in place of compulsory acquisition as an implicit gap to be filled purposively in favour of the landowners' Article 40 protection, rather than as a licence for the practice to continue unchecked.

78. The Petitioners plead that Application No. ML/2024/0200 was gazetted on 1 August 2025, and that the 182 objectors' written objection dated 10 September 2025 was lodged within, or at the very edge of, the 42-day objection window section 34 of the Mining Act, 2016 allows for a mining licence application, such that the objection was timely and engaged the 1st Respondent's statutory duty to resolve it before determining the application.

79. The Petitioners plead that the Mining (Licence and Permit) Regulations, 2017 expressly provide that *the support of community leaders shall not substitute the need for community consent*, such that the attendance of chiefs, elders or the Member of County Assembly at barazas recorded in the ESIA cannot satisfy the individual, informed consent section 37 of the Mining Act requires from each private landowner, including the 182 objectors.

80. The Petitioners plead, in the further alternative to the grounds already pleaded under Part D above, that to the extent the 1st Respondent or the 4th Interested Party contend that section 40 of the Mining Act, 2016 permits land to be compulsorily acquired for the Project because consent has been *'unreasonably withheld'* or because withholding consent is said to *be contrary to the national interest*, section 40 is, to that extent, unconstitutional and void under Article 2(4) of the Constitution, as being inconsistent with Article 40(3) as it makes a private party's failure to negotiate consent, rather than an independent and verifiable public purpose, the trigger for compulsory acquisition; it vests the trigger decision in the Cabinet Secretary responsible for promoting mining investment rather than in the National Land Commission under Article 67; and it does not expressly guarantee prompt payment in full of just compensation, nor a prior right of access to court, before land ceases to be excluded from prospecting or mining.

81. The Petitioners plead that the 4th Interested Party has, to date, been the holder only of Prospecting Licences and a prospecting-stage EIA Licence, and that its Mining Licence application, No. ML/2024/0200, which may have been determined; and that the *voluntary consent* and compensation the 4th Interested Party claims to have obtained relates, on its own account, only to exploration-stage access, and is legally distinct from, and cannot substitute for, the consent, compensation and environmental preconditions that attach specifically to the grant of a Mining Licence for large-scale, permanent open-pit extraction.

82. The Petitioners plead that they are not aware of any disclosure by the 1st Respondent or the 4th Interested Party as to whether any minerals have been extracted and sold under section 100 of the Mining Act otherwise than in accordance with the distinct prospecting/mining licensing scheme and reserve the right to seek further and better particulars or disclosure on this point.

83. The Petitioners plead that the 1st Respondent's consideration of Application No. ML/2024/0200 under section 103 of the Mining Act cannot lawfully be, or have been, concluded without taking into account the 182 outstanding objections, the disputed consents, the absence of any compulsory acquisition process, and the environmental and social heritage preconditions under section 176, and that a grant of the Mining Licence without demonstrably weighing these matters would violate section 103 and Article 47 of the Constitution.

84. The Petitioners plead that they are not aware of, and have seen no evidence of, any compensation bond having been delivered by the 4th Interested Party and held in a non-interest-bearing escrow account by the 1st Respondent's Ministry, or of any Government Valuer determination of such a bond's amount, as sections 153(2) and (3) of the Mining Act require, and that, absent such a bond and the compensation process it is meant to secure, the 1st Interested Party has no lawful basis to commence mining operations under the statutory bar the Petitioners are advised forms part of section 153.

85. The Petitioners plead that section 176(2) of the Mining Act as the Ramula-Mwibona ESIA's own legal-framework chapter itself records, requires, as conditions for the grant of a Mining Licence, an environmental impact assessment licence, an approved social heritage assessment, an approved environmental management plan, and a site mitigation, rehabilitation or mine closure plan; and that, on the ESIA's own text, no approved social heritage assessment is shown to exist, no confirmation of an approved Environmental Management Plan is given, and the Mine Closure Plan is described throughout the ESIA, on at least twenty-eight occasions, as *conceptual, preliminary, or a dynamic document* still requiring updates the opposite of the approved, final plan section 176(2) requires.

86. The Petitioners plead that section 177 of the Mining Act requires compliance with the prevailing water rights laws under the Water Act, 2016, and that the ESIA's own projected groundwater drawdown of up to approximately 124 metres, together with the reported drying of at least three springs during prospecting, raise a live question whether the 4th Interested Party holds, or has applied for, the water abstraction permits or rights the Water Act requires, absent which no Mining Licence can lawfully be granted consistently with section 176(1).

87. The Petitioners plead that section 179 of the Mining Act expressly prohibits the seepage of toxic waste into streams, rivers, lakes and wetlands, and requires land to be restored to an acceptable condition on completion of mining; that the ESIA concedes the proposed dry-stack tailings storage facility is not fully lined; and that this creates a foreseeable risk of the very seepage section 179 prohibits, into the Yala River system already pleaded as at risk in this Petition.

88. The Petitioners plead that sections 180 and 181 of the Mining Act require, respectively, an approved site restoration/mine-closure plan and an environmental protection bond or other security sufficient to cover rehabilitation and closure costs, and that neither is shown, on the record available to the Petitioners, to have been finalised, approved, or provided by the 4th Interested Party.

89. The Petitioners plead that on or about 16 December 2025, the Principal Secretary, State Department for Mining, Mr. Kimutai, publicly indicated that the 1st Respondent was at an advanced stage of issuing the Mining Licence the subject of Application No. ML/2024/0200. The Petitioners aver that this statement, made more than three months after the 182 landowners' objections of 10 September 2025 remained unresolved, and without any disclosed process of compulsory acquisition having been undertaken, confirms that the grant of the Mining Licence is imminent and not speculative, and/or could have been issued already and thus the Court is invited to in haste render itself on the questions asked with finality in the Petition.

90. The Petitioners plead that the United Nations Guiding Principles on Business and Human Rights (UNGPs) are relevant to this Petition: Pillar I imposes on the State a duty to protect against human rights abuses by business enterprises within its territory, including through adequate policy, regulation and adjudication, while Pillar II imposes on business enterprises, including the 4th Interested Party, an independent responsibility to respect human rights that exists over and above compliance with domestic law.

91. The Petitioners aver that the 4th Interested Party cannot claim neutrality where its operations are linked to disputed consent, displacement risk, community intimidation and state repression as particularized in this Petition, and that the 1st, 3rd and 4th Respondents have correspondingly failed to discharge the State's Pillar

I duty by permitting the licensing process to proceed notwithstanding these documented risks.

92. The Petitioners plead that Article 35 of the Constitution, which guarantees every citizen the right of access to information held by the State and by another person where required for the exercise or protection of a right, is directly engaged by the 1st, 3rd and 4th Respondents' failure to make available to the Petitioners and the wider community the concession and licence maps, the full ESIA and any Resettlement Action Plan, the compensation framework, the Project implementation timeline, and any grievance-redress mechanism for the Project. The Petitioners aver that meaningful public participation and free, prior and informed consent are impossible without this information, and that its withholding independently violates Article 35 and undermines the lawfulness of any consent said to have been given without it.

93. The Petitioners plead, further and in the alternative, that the pattern of conduct surrounding this Project extends beyond the land and licensing questions addressed above. The Petitioners are informed and believe that community members opposed to, or questioning, the Project have suffered death, injury, property destruction, arrest and intimidation in the context of the Project; that certain individuals have faced criminal charges the Petitioners aver are disproportionate and calculated to chill lawful dissent; and that project-related land and consent activity has, on the Petitioners' information, continued.

94. The Petitioners plead that this wider pattern is relevant both as further evidence that the consent and public participation processes relied upon cannot be regarded as free, informed or voluntary, and as an independent ground for the broad suspension of the Project pending the hearing and determination of this Petition.

95. The Petitioners accordingly plead that a suspension of Mining Licence Application No. ML/2024/0200 and of all mining-related activity in the Project area is justified on each of the following grounds, any one of which would independently warrant such relief:

a) unresolved and substantial doubt as to whether lawful consent has been obtained from the private, ancestral and community landowners affected;

b) the inadequacy of the public participation process, both under the Constitution and under Regulations 17 and 20-23 of the Environmental (Impact Assessment and Audit) Regulations, 2003;

c) the absence of any credible, publicly disclosed Resettlement Action Plan despite an acknowledged risk of displacement;

d) the pattern of death, injury, property destruction, arrest and intimidation suffered by community members in the context of the Project; and

e) the chilling effect of the criminal justice process on lawful dissent and advocacy;

F. DECLARATIONS AND ORDERS SOUGHT

WHEREFORE the Petitioners pray for judgment against the Respondents jointly and severally as follows:

a) A declaration that Shanta Gold Kenya Limited, being a private company, has no power under Article 40(3) of the Constitution or Part VIII of the Land Act, 2012 to compulsorily acquire any land in Ramula, Munungo or Mwibona, whether directly or by proxy.

b) A declaration that section 40 of the Mining Act, 2016 is, to the extent it purports to authorise the compulsory acquisition of land triggered by a private party's inability to secure consent under sections 36, 37 or 38, or by the Cabinet Secretary's own unilateral view that withholding of consent is contrary to the national interest, inconsistent with Article 40(3) of the Constitution and void to that extent under Article 2(4), alternatively that it be read down so as to require an independent public-purpose determination by the National Land Commission and prior compliance with Article 40(3)(a)(i) and (ii) before any such vesting may occur.

c) A declaration that Mining Licence Application No. ML/2024/0200 could not lawfully be granted unless the 1st Respondent demonstrated compliance with sections 34, 37, 38, 100, 103, 153, 176, 177, 179, 180 and 181 of the Mining Act, 2016, including resolution of the 182 outstanding objections, verified individual landowner consent, a compensation bond held in escrow, an approved social heritage assessment, an approved (not merely conceptual) environmental management plan and mine-closure plan, an environmental protection bond, and confirmed compliance with the Water Act, 2016.

d) An order directing the 1st Respondent and the 4th Interested Party to disclose to the Petitioners and to this Honourable Court, within 30 days:

(i) whether any artisanal or small-scale mining permits or applications exist within the licence area under sections 92-98 or 128 of the Mining Act;

(ii) whether any minerals have been sold under section 100;

(iii) evidence of the compensation bond required under section 153(2)-(3);

(iv) the approved social heritage assessment, approved environmental management plan, and approved mine-closure plan required under section 176(2); and

(v) evidence of the environmental protection bond required under section 181.

e) A declaration that any acquisition of land for Shanta Gold Kenya Limited and any private company can only lawfully be effected only through a genuine, free, informed and individually verified consent under section 37 of the Mining Act, 2016, or lawful compulsory acquisition conducted exclusively by the 3rd Respondent upon the application of the 1st Respondent or the relevant County Executive Committee Member, for a demonstrable public purpose or public interest independent of the 4th Interested Party's private commercial interest, with prompt payment in full of just compensation in accordance with Article 40(3) and sections 107-119 of the Land Act, 2012.

f) A declaration that the objections lodged by the 2nd Petitioners on 10 September 2025 have not been lawfully considered or resolved by the 1st Respondent as required by section 34(4) of the Mining Act, 2016, and that Application No. ML/2024/0200 could not lawfully be determined, and any Mining Licence issued or to be issued thereon is or would be unlawful, until those objections are properly and individually resolved.

g) A declaration that any consent documents relied upon by the 1st Respondent, the 4th Respondent or the 4th Interested Party in respect of the land the subject of Application No. ML/2024/0200 must be independently verified by the 3rd Respondent for authenticity, the legal capacity of the signatory and freedom from inducement or coercion, before any reliance may lawfully be placed upon them.

h) A declaration that the 3rd Respondent has failed to discharge its constitutional mandate under Articles 62(2), 63(3) and 67 of the Constitution in respect of the unregistered community land within the Project area, and an order directing the 3rd Respondent to conduct and report to this Honourable Court, within a time to be fixed by the Court, on an audit of land tenure, succession and consent status across the entire gazetted footprint of Application No. ML/2024/0200.

i) A declaration that the public participation process preceding the EIA Licence issued by the 4th Respondent to the 4th Interested Party on or about 2 May 2025 did not meet the mandatory requirements of Regulation 17 of the Environmental (Impact Assessment and Audit) Regulations, 2003, in that no newspaper notice, radio announcement in official and local languages, or dated poster notice of the kind Regulation 17 requires has been shown to have been made.

j) A declaration that the 4th Respondent failed to discharge its own independent statutory obligations under Regulations 20, 21, 22 and 23 of the Environmental (Impact Assessment and Audit) Regulations, 2003, including the obligations to circulate the ESIA Study Report to lead agencies within 14 days, to invite public comment by Gazette notice, nationwide newspaper and radio announcement within 14 days, to properly publicise any public hearing, and to weigh the adequacy of the ESIA report, lead-agency comments and hearing outcomes before issuing a licence.

k) A declaration, that public participation which is conducted more than a year after, and without resolving, a documented and unanimous community rejection of a project cannot constitute the meaningful, preventive and deliberative public participation Articles 10 and 69 of the Constitution and the Environmental (Impact Assessment and Audit) Regulations, 2003 require.

l) An order of certiorari to remove before this Court the EIA Licence issued by the 4th Respondent to the 4th Interested Party on or about 2 May 2025, for the reasons set out above, and the same be quashed.

m) An order of certiorari to remove before this Court the Mining License emanating from EIA Licence Application No. ML/2024/0200 issued by the 4th Respondent to the 4th Interested Party, for the reasons set out above, and the same be quashed.

n) An order restraining the 4th Interested Party from any further land access, consent-gathering or construction activity in Ramula, Munungo or Mwibona, pending compliance with the Orders of this Court.

o) A declaration that the EIA Licence issued by the 4th Respondent to the 4th Interested Party on or about 2 May 2025 is unlawful for having been issued without satisfying itself that lawful land tenure and access had been, or could lawfully be, secured for the Project, and an order quashing the same.

p) An order directing the 1st Respondent and 3rd Respondent to disclose to this Honourable Court and to the Petitioners, within 30 days, whether any request for compulsory acquisition under section 107 of the Land Act has at any time been made in respect of any part of the Project area, and if so, the status thereof.

q) An order directing the 1st Respondent, in conjunction with the State Department for Mining, to convene direct, transparent, village-level engagements with the affected residents of Ramula, Munungo, Mwibona and, to the extent applicable, Isulu/Bushiangala, inclusive of women, widows, youth, artisanal miners, clergy, persons at risk of displacement, and persons perceived to oppose the Project, as a precondition to any further steps toward the determination of any licensing for Gold Exploration and Mining within their locality.

r) An order directing the 1st Respondent to publicly disclose the legal and procedural basis upon which Application No. ML/2024/0200 has been processed to date, including any steps taken in response to the objections of 10 September 2025, the statement made by the Principal Secretary, State Department for Mining on or about 16 December 2025, and any consideration given to compulsory acquisition under section 107 of the Land Act, 2012.

s) An order directing the 1st, 3rd and 4th Respondents to disclose to the Petitioners, within 30 days and pursuant to Article 35 of the Constitution, all concession and licence maps, the full Environmental and Social Impact Assessment report and any Resettlement Action Plan, the compensation framework, the Project implementation timeline, and details of any grievance-redress mechanism established for the Project.

t) An order directing the 4th Respondent to review the Environmental and Social Impact Assessment process for the Project, including whether displacement, livelihood disruption, water impacts, social infrastructure and security risks were adequately assessed, and whether the absence of a completed Resettlement Action Plan renders the EIA Licence issued on 2 May 2025 unsafe to rely upon.

u) An order directing the 3rd Respondent to urgently and independently assess land acquisition, compensation, succession, consent and displacement risk across the Project area, ensuring that widows, dependants, informal occupants, ancestral landholders and customary land users are identified and not excluded from any resettlement or compensation process.

v) An order directing that a full, independent audit be conducted of all consent documents relied upon by the 1st Respondent, the 4th Respondent or the 4th Interested Party in respect of the Project, including verification of signatures, cross-checking against the names of deceased persons, scrutiny of attendance registers and allowance or payment sheets, verification of each signatory's family and legal authority to consent, and confirmation that each signatory understood the nature and consequences of what they were asked to approve.

w) Costs of this Petition.

x) Any other or further relief this Honourable Court may deem just and expedient to grant.

DATED at Nairobi this 21st **day of** July **2026.**

Ms GNS Advocates LLP
LSK/26/07637
Advocates for the Petitioners

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2. **Hon. Attorney General**
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3. **The National Land Commission**
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4. **The National Environment Management Authority**
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5. **Shanta Gold Kenya Limited**
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6. **County Government of Siaya**
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7. **County Government of Vihiga**

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8. **Law Society of Kenya**

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