



Maangi & 178 others v B2 Yatta Ranching Co-operative Society Ltd (Environment & Land Case E002 of 2021) [2023] KEELC 16544 (KLR) (23 March 2023) (Directions)

Neutral citation: [2023] KEELC 16544 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT KITUI
ENVIRONMENT & LAND CASE E002 OF 2021**

**LG KIMANI, J
MARCH 23, 2023**

BETWEEN

MUANGE NZONGOI MAANGI & 178 OTHERS APPLICANT

AND

B2 YATTA RANCHING CO-OPERATIVE SOCIETY LTD RESPONDENT

DIRECTIONS

1. By a ruling of the court delivered on November 15, 2022 the court made an order that the status quo pertaining to the suit land parcel Kanyonyo 11802 be maintained pending hearing and final determination of the suit. The parties were directed to ascertain and agree on the status quo pertaining and that was to be maintained. On various dates Counsel for the parties reported to the court on their different views of what the status quo was and it became clear that they were unable to agree. The court directed that a site visit be made for the sole purpose of ascertaining the said status quo.
2. Having visited a portion of the suit land on February 14, 2023, I will make a very brief description of my view of what the status quo is having in mind that the dispute is pending hearing. The observations made in these directions do not form the final determination of the suit herein.
3. The court observed an expansive parcel of land with temporary structures said to belong to the applicants in this suit. It was observed that some of the structures had been recently demolished while others were recently constructed. There were also claims and evidence of violent attacks on some of the people the court found in one of the residence that was clearly under construction. There were counter accusations on identity of the authors of the demolitions and violence. The applicants claim that they live on the land where they carry out subsistence farming and grazing. The court observed a few maize farms and a few herds of cattle grazing.
4. Large parts of the land were untended and unoccupied and the Respondents claim that they used to utilize most parts of the land but have often been prevented from use by the applicants who they claim



are invaders on their land. Portions of the land were fenced with temporary plant fences which the Respondent claimed belong to them which they use to create paddocks for their grazing grounds. The applicants claim that the plant fences belong to them as they have sub-divided the land to the different claimants using the fences. However, it was observed that there was a certain pattern to the plant fences that can only be attributed to by a single hand which points to the same being done by the respondent.

5. The court was taken to a dam which at the time did not contain any water and which all parties claim to use for watering their cattle and other uses.
6. The parties raised the issue of cattle belonging to one of the applicants confiscated by the respondent and the applicants counsel sought to have the cattle released to the owner without payment of the required fee. The respondent admitted that they were holding the said cattle and had held cattle for other people but the same were released upon payment of the required fee.

Directions on the status quo to be maintained:

The court finds that the status quo pertaining to a portion land parcel Kanyonyo 11802 is that;

1. The structures built on the suit land and claimed to be occupied by the applicants to remain as constructed and with the same occupancy.
2. No structures are to be demolished and no additional structures are to be constructed on the suit land.
3. The respondent is to continue use of the portions of land they have been using for grazing and occupation.
4. The common facilities such as the dam and roads to continue being utilized by all parties.
5. The parties are directed to cease violent attacks on the occupants of the suit parcel of land and destruction of properties.
6. The OCS Kanyonyoo Police Station is directed to enforce the orders issued by the court.
7. On the question of the cattle held by the respondent, the concerned parties are advised to agree on a formula for release of the same failure to which the issue will be dealt with at the trial.
8. Hearing of the suit to be expedited and heard on priority basis.

DATED, SIGNED AND DELIVERED AT KITUI THIS 23RD DAY OF MARCH, 2023.

L G KIMANI

JUDGE

ENVIRONMENT AND LAND COURT, KITUI

Directions read in open court and virtually in the presence of:

C/A Musyoki

Kalwa for the Applicants

Odhiambo Odhim for the Respondent

