



Lekooro (Suing as the Legal Representative of the Estate of the Late Takan Lekooro alias Tukan Lekooro (Deceased) & 6 others v Suguta Marmar 'A' Group Ranch through Suruan - Chairman, Lekukuu - Treasurer & Lekinasia Secretary & 9 others (Environment & Land Petition 01 of 2021) [2025] KEELC 1385 (KLR) (20 March 2025) (Ruling)

Neutral citation: [2025] KEELC 1385 (KLR)

REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NYAHURURU
ENVIRONMENT & LAND PETITION 01 OF 2021

LN MBUGUA, J
MARCH 20, 2025

BETWEEN

JOSEPH LEKOORO (SUING AS THE LEGAL REPRESENTATIVE OF THE ESTATE OF THE LATE TAKAN LEKOORO ALIAS TUKAN LEKOORO (DECEASED) 1ST PETITIONER
NKOPOON LEKOORO 2ND PETITIONER
JOSEPH LEKOORO 3RD PETITIONER
JUMA LEKOORO 4TH PETITIONER
WILKAN LEKOORO 5TH PETITIONER
LOIBO LEKOORO 6TH PETITIONER
JOSHUA LEKOORO 7TH PETITIONER

AND

SUGUTA MARMAR 'A' GROUP RANCH THROUGH LETIKIRISH SURUAN - CHAIRMAN, EMMANUEL NGYBUBU LEKUKUU - TREASURER & JACOB SARUANA LEKINASIA – SECRETARY 1ST RESPONDENT
THE LAND ADJUDICATION & SETTLEMENT OFFICER, SAMBURU COUNTY 2ND RESPONDENT
THE LAND REGISTRAR, SAMBURU COUNTY 3RD RESPONDENT
THE DIRECTOR, DEPARTMENT OF ADJUDICATION & SETTLEMENT 4TH RESPONDENT
THE CHIEF LAND REGISTRAR 5TH RESPONDENT



THE CABINET SECRETARY, MINISTRY OF LANDS, HOUSING & PHYSICAL PLANNING	6TH RESPONDENT
THE NATIONAL LAND COMMISSION	7TH RESPONDENT
THE HON ATTORNEY GENERAL	8TH RESPONDENT
THE COUNTY GOVERNMENT OF SAMBURU	9TH RESPONDENT
SITI LELENGUYA ALIAS LELENGUYA LILA	10TH RESPONDENT

RULING

1. This matter was scheduled for hearing on 25th February, 2025 but the same was adjourned as some parties had not been served with the said date.
2. Counsel for the Petitioners then made an application for the court to visit the suit land to see how the homes of the Petitioners and the 10th Respondent are positioned on the ground. He averred that the request was made by the Petitioner who is 80 years old and who was in court.
3. In opposition thereof, Counsel for the 10th Respondent opposed that application averring that there is a status report which was prepared by the land adjudication officer, and they don't know what developments have been made post that report. It was further argued that all the delays in this suit have been made by the Petitioners.
4. The 1st Respondent similarly objected to the application averring that the matter is old, having been filed in year 2021. It was argued that at the time the suit property was handed over to the petitioners and the 10th respondent, the developments were different from what they are today and what they were in year 2021. Thus it would be difficult to get a clear picture, adding that the hand over report is what is important.
5. Counsel for the 1st Respondent termed the application as a delay tactic since pretrial had been conducted more than four times in this matter and the issue of the scene visit was never raised. It was added that the 1st Respondents have nothing to gain from this suit, yet they spend a lot of time defending the same since their Suguta Group was dissolved.
6. In rejoinder, counsel for the Petitioners averred that the photos alluded to in the report only capture one single structure in Petitioners' homestead, adding that the photographs availed by the parties are contested. That is why the court should go and see the status of the land as this would not prejudice anyone.
7. I have considered all the arguments proffered herein. I find that this case is almost 5 years old having been filed on 15th March, 2021. The court records indicated that pretrial directions have been conducted on numerous occasions as rightly submitted by counsel for the 1st Respondent, dating as far back as 8.2.2022. In all those occasions the Petitioners never raised the issue of the scene visit despite informing the court that their client is old as captured in the proceedings of 29th November, 2023.
8. In the case of Methuselar Keyah Lubembe vs Albina Kipkemoi [2019] eKLR, the court stated as follows;

“Case conference under Order 11 is a good tool for managing court files and demands time from the Judicial Officer in conduct as well as the parties or advocates to understand the file



sufficiently well so that every effort and endeavor is made to save every minute by agreeing on basic and mundane issues like the number of witnesses to be called, the need for cross examination of witnesses, any questions regarding admissibility of a document and how to have the filed documents produced. This is important so that prospects of objection upon objections which many times derail progress are avoided. It is also at the period of the case conference that parties make disclosures and discoveries towards achieving fair trial devoid of ambush..... When done correctly the prospects of subsequent interlocutory applications like for amendments can wholly be arrested and dealt with before hand. It is at this process that all players in Civil Litigation have no otherwise but to internalize and approach with seriousness deserved because when properly undertaken a very huge step is taken towards expeditious disposal of the matter”

9. What resonates from the decision above is that the courts as well as parties have a duty to embrace and uphold the overriding objective set out in the *Civil Procedure Act* at Section 1A and 1B as well as Order 11 which also resonates with the provisions of Article 159(2) of the 2010 Constitution. I therefore find that the issue of scene visit is one which ought to have been raised at the pretrial stage hence the Petitioners had all the time from 8th of February, 2022 to raise that issue.
10. Furthermore, it has emerged that there was a status report availed by the land adjudication officer and parties had also apparently availed photographs to reinforce their respective cases.
11. In the case of Parkire Stephen Munkasio & 14 others (suing on their own behalf and behalf of their families and all the members of the maasai community living on land reference no.8396 (i.r 11977) situated in kedong) v Kedong Ranch Limited & 8 others [2015] eKLR cited in Beatrice Ngonyo Ndungu & another v Samuel K. Kanyoro & 2 others [2017] eKLR , the court stated as follows;

“ At the outset, I need to emphasis that it is the duty of litigants to place material in support of their case. It is not the mandate of the court to go on a fact finding mission. If the petitioners wanted to press the fact of occupation through additional evidence, they had avenues to do so, right from the time the petition was filed, or even after receiving the responses of the respondents...”
12. Similarly, this court declines to go on a fact finding mission at this stage of the trial. Noting that with the passage of time, the nature of land use can change. Thus the application for the court to visit the scene is declined and the matter is to proceed to trial.

DATED, SIGNED AND DELIVERED AT NANYUKI THIS 20TH DAY OF MARCH 2025 THROUGH MICROSOFT TEAMS.

LUCY N. MBUGUA

JUDGE

In the presence of:-

Njuguna for Petitioners

George Mwangela holding brief for Mr. Khiso for 9th Respondent

M/S Koki for 10th Respondent also holding brief for M/S Kyalo for 1st Respondent.

Mumbi Murigu for 7th Respondent

Nancy Mwangi – Court Assistant

