



Osman & 146 others (Suing on their own behalf and on behalf of residents of Merti Sub-County, Chari ward and Cherab Ward in Isiolo County) v Northern Rangeland Trust & 8 others (Environment & Land Petition 006 of 2021) [2023] KEELC 17368 (KLR) (15 May 2023) (Ruling)

Neutral citation: [2023] KEELC 17368 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT ISIOLO
ENVIRONMENT & LAND PETITION 006 OF 2021**

PM NJOROGE, J

MAY 15, 2023

BETWEEN

ABDIRAHIMAN OSMAN & 146 OTHERS PETITIONER

**SUING ON THEIR OWN BEHALF AND ON BEHALF OF RESIDENTS OF
MERTI SUB-COUNTY, CHARI WARD AND CHERAB WARD IN ISIOLO
COUNTY**

AND

NORTHERN RANGELAND TRUST & 8 OTHERS RESPONDENT

RULING

1. This ruling is dated September 27, 2021 and seeks orders that:
 1. That this Application and the annexed Petition be certified as extremely urgent, service of the same be dispensed with in the first instance and the same be heard on priority basis;
 2. That pending the hearing and determination of this petition, this Honourable court be pleased to grant an *ex parte* interim injunction stopping, prohibiting and forbidding all the activities including establishing and management of conservancies on unregistered community land, whether by themselves, their agents, servants, assignees licensees, umbrella bodies or any other person working under their authority or contract of the 1st, 3rd, 4th 5th and 6th Respondents, within Cherab ward and Chari ward of Merti Sub-County, and within the rest of Isiolo County;
 3. That pending the hearing and determination of this petition, this Honourable Court be pleased to grant an *ex parte* interim injunction stopping, prohibiting and forbidding all the activities of the employed personnele engaged by the 1st, 3rd, 4th, 5th and 6th Respondents, including Rangers, drivers and other staff, without a valid license from the relevant authorities.



4. That pending the hearing and determination of this Petition, this Honourable Court be pleased to issue an interim order compelling the 7th respondent, to take up all the activities relating to establishment and management of community conservancies within Cherab and Chari wards, and the rest of Isiolo County, to wit that all licenses or authority granted to the 1st, 3rd, 4th, 5th and 6th Respondents or any of its affiliates and/or umbrella bodies or their community based organizations be revoked immediately.
 5. That pending the hearing and determination of this petition, this Honourable court be please to grant an ex parte interim injunction stopping, prohibiting and forbidding the 1st, 3rd, 4th, 5th and 6th Respondent, whether by themselves, their agents, servants, assignees, licensees, umbrella bodies or any other person working under their authority, instructions or contract, from entering, mapping, surveying, delineating or in any way disposing the unregistered community land, carrying out conservancy operation, evicting and intimidating community members, within Cherab Ward and Chari Ward of Merti Sub- County and within the rest of Isiolo County;
 6. That pending the hearing and determination of this Petition, this Honourable court be pleased to grant interim orders compelling the 2nd Respondent to execute its trust mandate relating to the management of the unregistered community land in Cherab and Chari wards, as well as the rest of Isiolo County, to wit all licenses or authority granted to the 1st Respondent or any of its affiliates and umbrella bodies be revoked immediately;
 7. That pending the hearing and determination of this Petition, this Honourable Court be pleased to grant an interim injunction against the advertisement, hiring, recruitment, employment or any other form of contractual engagement for or of services of Rangers, Drivers or other Conservancy personnel by the community Based Organizations run by the 1st, 3rd, 4th, 5th and 6th Respondents or any other Conservancy or Community Based Organization under the management or patronage of the 1st Respondent either by themselves or through anyone acting under their authority or contract;
 8. That pending the hearing and determination of this Petition, this Honourable Court be pleased to grant an interim injunction against the 1st respondent either by themselves or through anyone acting under their authority or contract stopping, prohibiting them from erecting any structures on the unregistered community land.
 9. That pending the hearing and determination of this Petition, the County Commissioner Isiolo and the Isiolo County Police Commandant do oversee the implementation of the orders sought herein and to ensure that peace and order is maintained.
 10. That the Honourable Court be pleased to certify the matter to be placed before the Honourable Chief Justice or such other person duly authorized to act in such capacity for the appointment or a Three-Judge Bench as it raises substantial questions of law.
 11. The costs of this application be provided for;
2. On May 15, 2023, Mr Innocent Makaka, asked the court to grant prayer 8 in the application until hearing of the application to forestall further construction on the suit property by the 1st respondent. Miss Nyasani told the court that the 1st respondent's advocate had not been served with the Petitioners' affidavit date May 10, 2023.



3. Miss Nyasani who represented Mr Ogola told the court that Mr Ogola was not aware that there was any construction going at the site. She denied this allegation.
4. The 1st respondent's advocate having denied that there was no construction going on the site, it is now clearly evident that the 1st respondent would not be prejudiced in any way by the interim grant of prayer No 8. This accords appropriately with the precautionary principle.
5. The following orders are hereby issued;
 - a. Prayer 8 in the application is granted pending hearing of this application.
 - b. The Petitioners' advocate to serve the orders issued by the court upon the 7th respondent within 7 days of today.
 - c. Directions on 6/6/2020.

DELIVERED IN OPEN COURT AT ISIOLO THIS 15TH DAY OF MAY, 2023 IN THE PRESENCE OF; -

Court assistant: Balazi & Rahma

Innocent Makaka for the Petitioners.

Miss Nyasani holding brief for Ogola for the 1st, 3rd, 4th, 5th and 6th Respondents.

Miss Nyasani holding brief for Wangila for the 2nd Respondent.

Caleb Mwiti holding brief for Kimathi for the 8th and 9th Respondents.

HON. JUSTICE P.M NJOROGE

JUDGE

