



**Chebugel & 3 others v Kenya Rural Roads Authority & 7 others; Rono
(Suing as the legal representative of the Estate of Cherono Chebowo
(Deceased) & 3 others (Interested Parties) (Environment & Land Petition
E004 of 2022) [2023] KEELC 21881 (KLR) (23 November 2023) (Ruling)**

Neutral citation: [2023] KEELC 21881 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NAKURU
ENVIRONMENT & LAND PETITION E004 OF 2022
LA OMOLLO, J
NOVEMBER 23, 2023**

BETWEEN

**SUNGUYO OLE CHEBUGEL 1ST PETITIONER
CHIRCHIR KIPKOECH JOEL 2ND PETITIONER
VALENTINE JEPKOECH KOSGEI 3RD PETITIONER
ENOCK KIPYEPKWAI CHEPSOM (SUING ON THEIR OWN BEHALF AND
ON BEHALF OF ALL THE MEMBERS OF THE PUBLIC USING THE
MUSERECH-ORINIE-KAPSATEK ROAD) 4TH PETITIONER**

AND

**KENYA RURAL ROADS AUTHORITY 1ST RESPONDENT
THE CHIEF LAND REGISTRAR 2ND RESPONDENT
THE DIRECTOR OF SURVEY 3RD RESPONDENT
THE HON ATTORNEY GENERAL 4TH RESPONDENT
JACKSON LAGAT 5TH RESPONDENT
THE COUNTY GOVERNMENT OF NAKURU 6TH RESPONDENT
THE COUNTY GOVERNMENT OF BARINGO 7TH RESPONDENT
THE NATIONAL LAND COMMISSION 8TH RESPONDENT**

AND

**WILFRED CHEBON RONO (SUING AS THE LEGAL REPRESENTATIVE OF
THE ESTATE OF CHERONO CHEBOWO (DECEASED) .. INTERESTED PARTY**



SAMSON KIPCHUMBA KIPNGOK INTERESTED PARTY
KIBICHII MOGOTIO INTERESTED PARTY
JENIFFER LAGAT INTERESTED PARTY

RULING

Introduction.

1. This court delivered a ruling on 23rd March, 2023.
2. The ruling was in respect of an application for temporary mandatory injunction against the 5th Respondent to restrain him from blocking, erecting barbed wire on fencing posts on a portion of the Muserech Orinie – Kapsatek road (which road is said to pass next to his parcel of land) pending the hearing and determination of this petition among other orders.
3. This application was filed by the Petitioners herein.
4. The ruling of 23rd March, 2023 also dealt with the 5th Respondents application dated 1st July, 2022. The said application sought orders compelling the Petitioners to deposit in court an amount of ksh 10,000,000 as security for costs of this suit.
5. In the final result, this court declined to grant the Petitioners orders of temporary injunction but only allowed prayer (g) of the application which was that the 2nd and 3rd Respondents prepare and file a report containing information on ownership and boundaries of parcels of land adjacent to the Muserech-Orinie-Kapsatek road.
6. The application by the 5th Respondents for security for costs was dismissed.
7. Subsequently and pursuant to the order issued by this court the Regional Surveyor Rift Valley Region filed his report dated 2nd October, 2023.
8. The Petitioners Advocate made submissions that on the basis of this report, the Muserech-Orinie-Kapsatek Road should be open stating that the alternative road currently being used by the Petitioners is in a bad state.
9. The 5th Respondent in his submissions on whether he had seen the report (which the court had given him time to look at) stated that they were not involved in the survey and therefore do not agree with its contents. He stated that he was desirous of the court visiting the *Locus in quo*.
10. Counsel for the 8th Respondent (National Land Commission) in her submissions noted that counsel for the 5th Respondent was questioning an expert report and stated that the only proper way to do so is to get an alternative expert report. She concluded that she supports the re-opening of the road.
11. Counsel for the Petitioners in his conclusion reminded this court that Kenya Rural Roads Authority (1st Respondent), the National Land Commission (8th Respondent) and the Attorney General support the re-opening of the road.
12. The question of re-opening the road is a matter for determination in the Petition as can be seen from prayer (iii).



13. In the ruling of 23rd March, 2023 this court stated at paragraph III that the Petitioners/Applicants had not demonstrated any special circumstances that would warrant the grant of an order of a mandatory injunction at this stage of the proceedings.
14. That position has not changed. Issuing any order for re-opening of the road at this stage would amount to reviewing my orders which I have not been moved to do and which I shall not do.
15. I order that the matter proceeds to taking directions on the hearing of the Petition.

DATED, SIGNED AND DELIVERED VIRTUALLY AT NAKURU THIS 23RD DAY, OF NOVEMBER, 2023.

L.A. OMOLLO

JUDGE.

In the presence of:

Mr. Oloo for Petitioners

Mr. Mutai for Andama for 5th Respondent and 1st-4th Interested Party

Attorney General for 2nd, 3rd and 4th Respondent

6th Respondent- Absent

7th Respondent- Absent

8th Respondent- Absent

Court Assistant: Ms. Monica Wanjohi.

