



REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT OF KENYA

AT NAKURU

CIVIL APPEAL NO. 11 OF 2001

ENOSOKON GROUP RANCH.....APPLICANT

AND

MUKUYUINI FARMERS CO. LTD.....RESPONDENT

VERSUS

SAMWEL MALAKWEN & 53 OTHERS.....OBJECTORS

RULING

1. I have perused this file and the file ELC 65/2013. This is an appeal arising from a decision of the Appeals Committee from a decision of the Land Disputes Tribunal. This Appeal was dismissed, and strictly speaking, save probably for costs, the function of this court is spent.

2. In the file ELC 65/2013, the plaintiffs' case and the defendants' counterclaim were both dismissed. There was an issue of a report to be adopted but my view of the matter was that since both the plaintiffs' and defendants' claims have been dismissed, there was no substratum upon which this court could make further orders.

3. I still hold that position .

4. This being an appeal file, the appeal having been dismissed, this court is *functus officio*. Matters of execution of the decree appealed from should be addressed to the court that issued the decree, not to the appellate court.

5. My position is that this court is *functus officio* and I am therefore not able to adopt any report or make orders for execution.

6. It is so directed.

Dated, signed and delivered in open court at Nakuru this 19th day of September 2016.

MUNYAO SILA

JUDGE

ENVIRONMENT & LAND COURT

AT NAKURU

In presence of :-

Mr. Katithi for Respondents

Ms. M Njoroge for Appellants

Mr. Morintat for Objectors

CA: Janet

MUNYAO SILA

JUDGE

ENVIRONMENT & LAND COURT

AT NAKURU