



Ndewa & 12 others v Kenya Defence Forces & 3 others; County Government of Meru & another (Interested Parties) (Constitutional Petition E014 of 2021) [2022] KEELC 3869 (KLR) (28 July 2022) (Ruling)

Neutral citation: [2022] KEELC 3869 (KLR)

REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT MERU
CONSTITUTIONAL PETITION E014 OF 2021
CK NZILI, J
JULY 28, 2022
IN THE MATTER OF ARTICLES 22(1) 23 AND 162 (2) OF
THE CONSTITUTION OF KENYA, 2010
AND
IN THE MATTER OF ALLEGED CONTRAVENTION OF
RIGHTS OR FUNDAMENTAL FREEDOM UNDER ARTICLES
35, 40, 47 (1) 67 AND 68 OF THE CONSTITUTION OF
KENYA, 2010
AND
IN THE MATTER OF THE COMMUNITY LAND ACT, ACT NO.
27 OF 2016
AND
IN THE MATTER OF THE LAND ACT (ACT NO. 6 OF 2012)
AND
IN THE MATTER OF THE CONSTITUTION OF KENYA
(PROTECTION OF RIGHTS AND FUNDAMENTAL
FREEDOMS) PRACTICE AND PROCEDURE RULES, 2013

BETWEEN

LAWRENCE KANYI NDEWA 1ST PETITIONER
MWENDA THIRIBI 2ND PETITIONER
THIAKUNU MWIRABUA 3RD PETITIONER



JEREMIAH KORONYA MAILUTHA 4TH PETITIONER
CHARLES MWITI MUGAMBI 5TH PETITIONER
RICHARD KIAMBI 6TH PETITIONER
VINCENT MURANGIRI 7TH PETITIONER
MURIITHI MARTIN KAINDIO 8TH PETITIONER
MUTEMBEI IKIAO 9TH PETITIONER
PHILIP IGWETA 10TH PETITIONER
BERNARD M NJOGI 11TH PETITIONER
SAMUEL GITILE 12TH PETITIONER
PETER KABERIA 13TH PETITIONER

AND

KENYA DEFENCE FORCES 1ST RESPONDENT
CABINET SECRETARY, MINISTRY OF DEFENCE 2ND RESPONDENT
CABINET SECRETARY, MINISTRY OF LANDS AND PHYSICAL
PLANNING 3RD RESPONDENT
ATTORNEY GENERAL 4TH RESPONDENT

AND

COUNTY GOVERNMENT OF MERU INTERESTED PARTY
NATIONAL LAND COMMISSION INTERESTED PARTY

RULING

1. The court has looked at the consent filed by the parties on July 15, 2022. Rule 29 of the *Constitution of Kenya (Protection of Rights and Fundamental Freedoms) Practice and Procedure Rules 2013*, provides that parties with leave of the court, record an amicable settlement reached by the parties in partial or final determination of the matter. Rule 31 allows the court to refer and or allow for alternative dispute resolution.
2. Rule 27 thereof allows the court the power to decide and determine the juridical effects on any decision over discontinuance or withdrawal of a petition.
3. By the same implication and reasoning a proposed consent has to be considered the light of its juridical implications, its effects and constitutionality.
4. Given the above provisions the court finds there is need for parties to address it on the juridical effects of the proposed consent in the light of the two petitions and the parties enjoined and the effects it may have on them, and other third parties.
5. Each of the parties is given 14 days from the date hereof to file written submissions before the approval and adoption.



6. Ruling on September 21, 2022. All parties to be served.

DATED, SIGNED AND DELIVERED VIA MICROSOFT TEAMS/OPEN COURT THIS 28TH DAY OF JULY, 2022

In presence of:

C/A: Kananu

Miss Kyalo for petitioners in petition no. E014 of 2021

Miss Gitonga for petitioners in E013 of 2021

Ikioo for 1st interested party

Miss Kimotho for Mungiria for 1st & 2nd respondents

Mr. Kieti for Wachira for 3rd, 4th respondents and 3rd interested party

HON. C.K. NZILI

ELC JUDGE

