



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT NAIROBI (NAIROBI LAW COURTS)**

**Civil Case 522 of 2006**

**PANIAN OLE MOTUA.....1<sup>ST</sup>**  
**PLAINTIFF**

**EMMAUEL LESHAI SANE.....2<sup>ND</sup>**  
**PLAINTIFF**

**KENYATTA OLOITIPTIP.....3<sup>RD</sup>**  
**PLAINTIFF**

**HARON MESOPIR KIPARO.....4<sup>TH</sup>**  
**PLAINTIFF**

**VERSUS**

**THE REGISTERED GROUP REPRESENTATIVES**

**KIMANA TIKONDO GROUP RANCH.....**  
**DEFENDANT**

**RULING**

The applicants by way of this Chamber Summons dated 19<sup>th</sup> May 2006 seek inter alia the following orders:

- (a) An order restraining the defendants from subdividing, allocating, disposing off or transferring land belonging to the Group Ranch.
- (b) An order restraining the defendants from conducting any affairs of the Group Ranch.
- (c) An order restraining the defendants from operating the Group Ranch Accounts and
- (d) An order appointing a receiver/manager to manage the affairs of the Group Ranch.

The application is premised on the following grounds:

- (i) The defendant is operating illegally as it has failed to convene an Annual General Meeting for 2004-2005.
- (ii) The defendant is subdividing the Group Ranch in disregard to an order from the District Officer Loitokitok.

- (iii) The defendant has failed to account for the money paid to it.
- (iv) The defendant has failed to have an office, keep crucial records and allow access to the same.
- (v) There is rampant corruption in the management of the affairs of the Group Ranch.

The application is also supported by an affidavit sworn by Panian Ole Mutoa in which he avers on similar facts as those contained in the plaint.

The application is opposed by the Respondents who have filed a Replying Affidavit sworn by DANIEL MPOTE NINA which deals in detail with the applicants complaints and in my view exhaustively. The first Annual General Meeting was held on 26<sup>th</sup> March 2003 in which it was agreed that next Annual General Meeting would be held on 9<sup>th</sup> August 2004 and which was held accordingly and the Annual General Meeting for 2005 was held on 2<sup>nd</sup> September 2005 and for 2006 it was scheduled for 2<sup>nd</sup> September 2006. All these Annual General Meetings were attended by Government officials as required by the law and the Applicants were in attendance.

The applicants are only 4 out of the entire membership of the Group Ranch and it appears that they are dissatisfied with the way the officials are running the Group Ranch. On 9<sup>th</sup> February 2006 they had written the District Land Adjudication Officer expressing their grievances and sought urgent action. The District Land Adjudication Officer had acted on their complaints. He had written the Chairman of the Group Ranch stopping him from further allocation of land to members and requested for a meeting for 20<sup>th</sup> February 2006 over the issue. The Chairman was also requested to submit the list of all the beneficiaries and a comprehensive financial report since the new officials took over.

The letter was copied to the Director of Adjudication and Settlement, the District Officer – Loitoktok, the District Land Registrar and the Area Member of Parliament. The applicants seem to be dissatisfied minority who either do not like the manner in which the current officials are running the Group.

These officials are usually elected to those elective posts and can only be removed by the vote of the majority. The orders sought if granted will completely inhibit the operations of the Respondent.

For the applicants to succeed, they have to show that:

- (a) they have a prima facie case with a probability of success
- (b) the balance of convenience is in their favour
- (c) they would suffer irreparable damage if injunction is not granted.

This they have failed to do and their application is dismissed with costs to the Respondents.

Dated and delivered at Nairobi this 28<sup>th</sup> day of September 2006.

J.L.A. OSIEMO

JUDGE