



REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NAROK
JUDICIAL REVIEW NO.265 OF 2017

LODI MESEYIEKI XAVIER.....PETITIONER

VERSUS

COUNTY GOVERNMENT OF NAROK.....1ST RESPONDENT

CABINET SECRETARY MINISTRY OF LAND

HOUSING AND URBAN DEVELOPMENT.....2ND RESPONDENT

LAND ADJUCATION OFFICER TRANSMARA.....3RD RESPONDENT

LAND REGISTRAR TRANSMARA.....4TH RESPONDENT

HONOURABLE ATTORNEY GENERAL.....5TH RESPONDENT

AND

BOARD OF MANAGEMENT ENOORETET PRIMARY

SCHOOL.....INTERESTED PARTY

RULING

The Petitioner filed a Notice of Motion dated 23rd September, 2019, supported by the Affidavit of the Petitioner sworn on even date.

The Petitioner prays that

1. That this Honourable court be pleased to declare that the Interested Party has no cross-petition within the meaning of rule 10(2) of the Constitution of Kenya (protection of rights and fundamental freedoms) practice and procedure rules 2013 (Mutunga Rules).
2. That this honourable court be pleased to declare that the present cross petition before the court is incompetent and incurably defective for failure to having been supported by an affidavit.
3. That the cross petition be struck out with costs to the applicant.
4. That consequent to the grant of prayers above, the Honourable court be pleased to issue such further directions and orders as may be necessary to give effect to the foregoing Orders and/or favour the cause of justice.

The application is opposed by the Replying Affidavit of the 3rd Respondent sworn by Stephen Githinji and dated 13th February, 2020. The Respondent contends that the cross Petition is in order as the same has a supporting Affidavit attached to it and that the Application be dismissed and the suit be set down for hearing.

I have analyzed the Application and the response thereto, I have also analyzed the Cross Petition dated 25th July, 2019 together with the Supporting Affidavit dated 25th July, 2019 sworn by Peter Oltetia Semeiyo which is the subject of this Application.

I do find that the Cross Petition as filed is in order and does not in any way offend the Mutunga rules as alleged by the Petitioner. The Notice

of Motion Application dated 23rd September, 2019 is dismissed. The matter to proceed for hearing. Parties are directed to get a hearing date at the registry.

DATED, SIGNED and DELIVERED ONLINE at NAROK on this 24th day of February, 2021.

Mohammed N. Kullow

Judge

24/2/2021

In the presence of: -

CA:Chuma

Parties and advocates: absent

Mohammed N. Kullow

Judge

24/2/2021