



**REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA**

AT NAIROBI

**MILIMANI LAW COURTS
CIVIL CASE NO. 1497 OF 1999**

**DAVID SOPON OLE LOROMA1ST PLAINTIFF
MAANTA OLE PUTAPUTA.....2ND PLAINTIFF
MAANTA OLE LEPASO.....3RD PLAINTIFF
DANIEL MONKOTI SABAYA.....4ST PLAINTIFF
NGINA KIPOOPO.....5TH PLAINTIFF
TAPORU MASAINI.....6TH PLAINTIFF
RAITA LECHOKI.....7TH PLAINTIFF**

**(IN THEIR DUAL CAPACITIES AS OFFICERS AND MEMBERS OF BARTIMARU ALSO
KNOWN AS**

ILPARTIMARU GROUP BRANCH) BARTIMARU ALSO KNOWN AS

ILPARTIMARU GROUP RANCH.....8TH PLAINTIFF

VERSUS

**LEMONO OLE NTENKESE1ST DEFENDANT
TUPET OLE MURRE ALIAS OLKAUET.....2ND DEFENDANT
SAMUEL OLE PARASHURU.....3RD DEFENDANT
SENTEU OLE SOPON.....1ST OBJECTOR
KEEMPUA MAANTA.....2ND OBJECTOR
BENJAMIN SAIDIMU OLE KUIYIAN.....3RD OBJECTOR
NKETUNYA SABAYA.....4TH OBJECTOR
MUSEE KIMARIRI LENGOSEINE.....5TH OBJECTOR**

RULING

The six objectors object to attachment of cattle in satisfaction of the decree in favour of the defendants.

Each of the six objectors has sworn an affidavit in support of the objection. Each of them states in para 2 of the respective affidavit that the livestock proclaimed, “belong to me and to my other brothers”

The first respondent has sworn a comprehensive affidavit reply.

He deposes that he knows each of the plaintiffs at personal level for many years and that the livestock proclaimed belong to the plaintiffs. In para 11 of the supporting affidavit he states that he was personally present when auctioneers attached the livestock and that he established that only cattle belonging to the plaintiffs were attached.

He knows each of the objectors and has described the relationship of some of them with the plaintiff. For example, he states that 1st objector of the first plaintiff; that 2nd objector is son of the second plaintiff; that 4th objector is a stepbrother of the 4th plaintiff, and that 5th objector is a brother to 6th plaintiff. The objectors have not filed a reply to the affidavit of the first defendant.

The onus of proof is with each objector to establish his claim – See Michael A.O. Mashere versus Samson Asatsa Criminal Appeal No. 70/82 (Kisumu)

The affidavit of each objector is very sketchy. Each does not say how many of the attached cattle belong to him and how he acquired them.

Each does not specifically say that the cattle belong to him. Each seems to say that the cattle are communally owned by each and his respective brothers. I am not satisfied that each objector has proved by credible evidence that the cattle proclaimed belong to each. The affidavit evidence of the first defendant sufficiently refutes the claim to the cattle by each objector.

Consequently I dismiss the objection by each of the six objectors with costs to the defendants.

E. M. Githinji

Judge

4.12.2001

Mr. Solonka holding brief for Mr. Kilukumi for objectors present

Mr. Macharia absent

Mr. Solonka

I apply for certified copy of the ruling

Order: Ruling to be typed and copy supplied to objectors

counsel

E. M. Githinji

Judge