



REPUBLIC OF KENYA



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**172 Residents Within Lake Bogoria National Reserve & 170 others v
National Land Commission & 7 others (Environment & Land Petition
16 of 2018) [2021] KEELC 4732 (KLR) (17 March 2021) (Ruling)**

*172 Residents within lake Bogoria National Reserve & 170
others v National Land Commission & 7 others [2021] eKLR*

Neutral citation: [2021] KEELC 4732 (KLR)

REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT ELDORET

ENVIRONMENT & LAND PETITION 16 OF 2018

SM KIBUNJA, J

MARCH 17, 2021

BETWEEN

**THE 172 RESIDENTS WITHIN LAKE BOGORIA NATIONAL
RESERVE 1ST PETITIONER**
KIPTOROI MOTOLOI 2ND PETITIONER
KIBON CHEPKOK 3RD PETITIONER
CHERUTICH KIMAIWA 4TH PETITIONER
WILLIAM CHANGOLE 5TH PETITIONER
KIBUTIEY CHENITIAN 6TH PETITIONER
TUITOEK KIPKOROS 7TH PETITIONER
KIPSONGOK CHELIMO 8TH PETITIONER
CHEPCHIENY CHANGWON 9TH PETITIONER
KIPSOI CHELIMO 10TH PETITIONER
KIPKULEI KIPTEWERET 11TH PETITIONER
MENGECH NDIRIM 12TH PETITIONER
KIPROP LOKOTOS 13TH PETITIONER
KIKURERE LOKOTOS 14TH PETITIONER
ABIAN LOKOTOS 15TH PETITIONER
KITURO LOKOTOS 16TH PETITIONER



JACKSON BAREHIGEI	17 TH PETITIONER
KIPKORIR CHEMNGENO	18 TH PETITIONER
JOHN CHIRCHIR	19 TH PETITIONER
KIPKOITUI CHIRCHIR	20 TH PETITIONER
CHERONO KIMALYA	21 ST PETITIONER
KIMUGON CHELIMO	22 ND PETITIONER
KIPSOI KIPSARMAT	23 RD PETITIONER
KOMEN KANGOGO	24 TH PETITIONER
BOKORIA KIPTEK	25 TH PETITIONER
KIBARAR KIPULEK	26 TH PETITIONER
JOSEPH CHERUTICH	27 TH PETITIONER
TUIYA KIPSARMAT	28 TH PETITIONER
KIBET BOKORIA	29 TH PETITIONER
CHEBON KIPKECH	30 TH PETITIONER
KIPTAI CHEBET	31 ST PETITIONER
BOKORIA CHEPKOCHE	32 ND PETITIONER
JOSEPH ARUSEI WENDOT	33 RD PETITIONER
KANA AH KAMUREN	34 TH PETITIONER
JOEL CHEPSOI CHELEGO	35 TH PETITIONER
JOSEPH KIPTEROI	36 TH PETITIONER
KIPARAR KABIEGOI	37 TH PETITIONER
RICHARD YEGON	38 TH PETITIONER
JOSEPH KAPTUNAI	39 TH PETITIONER
SOMOEI CHEPSAT	40 TH PETITIONER
KIPKERTICH KIPTEK	41 ST PETITIONER
KIPTEK KAMUREN	42 ND PETITIONER
MARABOI KIPTEK	43 RD PETITIONER
CHEPNGETICH CHEPYATOR	44 TH PETITIONER
BOGORIA CHEPNGETICH	45 TH PETITIONER
KIPSIOLEM CHEPYATOR	46 TH PETITIONER
BOGORIA KIPTEBENY	47 TH PETITIONER
CHERONO CHEPSERGON	48 TH PETITIONER



KIPCHEMIS ROTICH	49 TH PETITIONER
KOMEN ROTICH	50 TH PETITIONER
KIBOWEN CHEPYATOR	51 ST PETITIONER
KIGEN CHEBOIBEI	52 ND PETITIONER
CHEPTOO CHEPSERECH	53 RD PETITIONER
KOMERA NAKWECHI	54 TH PETITIONER
TUITOEK KOMERA	55 TH PETITIONER
RUSAINÉ KOMERA	56 TH PETITIONER
CHERUIYOT KANGOGO	57 TH PETITIONER
KIPKERTICH KOIMA	58 TH PETITIONER
CHELIMO KISALI	59 TH PETITIONER
CHERUYOT LONDONAI	60 TH PETITIONER
CHERONO KIPKIRWO	61 ST PETITIONER
KIPROP CHEPYEGON	62 ND PETITIONER
KIPKUTOL AMDANY	63 RD PETITIONER
CHEPKUI KIPCHUTAROTWET	64 TH PETITIONER
CHEPSERGON CHANGWONY	65 TH PETITIONER
KIPTUI CHEBON	66 TH PETITIONER
KONIKI KIPKURERE	67 TH PETITIONER
CHEPKUTO CHELAL	68 TH PETITIONER
KOIMUKUL TUITOEK	69 TH PETITIONER
CHEMOLIOL CHEPYATOR	70 TH PETITIONER
SANGUNYA KIGEN	71 ST PETITIONER
CHEBOI CHEPYAGON	72 ND PETITIONER
KIPKURERE JACKSON KIPNGETICH	73 RD PETITIONER
CHEPKONGA CHEPYAGON	74 TH PETITIONER
MUTEI CHEPYAGON	75 TH PETITIONER
KIBET KENDOGOR	76 TH PETITIONER
WILLIAM KIBET	77 TH PETITIONER
CHERONO KENDOGOR	78 TH PETITIONER
CHERUTICH KIBET	79 TH PETITIONER
KIPCHEU CHERONO	80 TH PETITIONER



KIPKORIR CHEPKECHEI	81 ST PETITIONER
DANIEL C. CHEPKONGA	82 ND PETITIONER
TUITOEK CHEPYATOR	83 RD PETITIONER
SAMWEL K. CHEPKONGA	84 TH PETITIONER
WILSON CHEMITEI	85 TH PETITIONER
CHEMITEI CHEPYAGAN	86 TH PETITIONER
SOLOMON KIYAYAN	87 TH PETITIONER
CHEMURGUIT SAIRERE	88 TH PETITIONER
KIPTONUI CHESIRE	89 TH PETITIONER
SUMUKUONY CHEPTIONY	90 TH PETITIONER
KAMAR CHEPKONGA	91 ST PETITIONER
TOYAI CHEBET	92 ND PETITIONER
AKENO CHEBET	93 RD PETITIONER
CHEBET KIPKULYES	94 TH PETITIONER
CHEMALINGA CHEPKETON	95 TH PETITIONER
KOKWELEL CHEPKONGA	96 TH PETITIONER
PAULO CHESANG	97 TH PETITIONER
CHEPKOCHEI ROTICH	98 TH PETITIONER
CHIRCHIR KIPNYORGIS	99 TH PETITIONER
CHEBURET KIMARINY	100 TH PETITIONER
KIPKOECH CHEPKOCHEI	101 ST PETITIONER
CHELAL TUITOEK	102 ND PETITIONER
ROKOK KIPKEMEI	103 RD PETITIONER
CHESUT CHIRCHIR	104 TH PETITIONER
CHIRCHIR KIPKURERE	105 TH PETITIONER
KIPLAGAT KIPKINOI	106 TH PETITIONER
ERIC L. CHEBET	107 TH PETITIONER
ERIC L. CHEPKONGA	108 TH PETITIONER
CHEBET CHEBOTIPIN	109 TH PETITIONER
TOROITICH CHEBOTIBIN	110 TH PETITIONER
LORUKOTI KANDIE	111 TH PETITIONER
KIKIOS CHEPYATOR	112 TH PETITIONER



KAIBOS KIBORUS	113 TH PETITIONER
KIMARU CHEPYATOR	114 TH PETITIONER
KIPNGETICH KIPSORO	115 TH PETITIONER
KOBETBET KIPURERE	116 TH PETITIONER
KIPCHUMBA CHEPSAIGUT	117 TH PETITIONER
KIROTICH KOBETBET	118 TH PETITIONER
JOSEPH KOBETBET	119 TH PETITIONER
CHIRCHIR LAGAT	120 TH PETITIONER
SOTE CHEPKAITANY	121 ST PETITIONER
KIPKOROR CHEPSONGOL	122 ND PETITIONER
LOCHOMOI CHIRCHIR	123 RD PETITIONER
CHEPNGETICH CHEPKURUI	124 TH PETITIONER
CHERUTICH KIPKIOS	125 TH PETITIONER
KEINO CHEBOTIPIN	126 TH PETITIONER
WILLIAM K. CHEPKONGA	127 TH PETITIONER
KANGOGO KIGEN	128 TH PETITIONER
KIPKORIS ROTICH	129 TH PETITIONER
WILLIAM K. KIPMELIL	130 TH PETITIONER
KIPKOME KANDIE	131 ST PETITIONER
PAULO KIGEN	132 ND PETITIONER
KIPYEMIT KIMARINY	133 RD PETITIONER
JOHN CHEPOR CHEMITEI	134 TH PETITIONER
DAVID CHEPYATOR	135 TH PETITIONER
KIPNGETICH KOBETBET	136 TH PETITIONER
JOHN KIPKURERE	137 TH PETITIONER
KIPKERTICH KIPMARINY	138 TH PETITIONER
WILSON CHERONO	139 TH PETITIONER
DAVID KIPNGETICH	140 TH PETITIONER
TOROITICH MUSA	141 ST PETITIONER
CHESANG KIPROTICH	142 ND PETITIONER
JOSEPH C. CHEPYATOR	143 RD PETITIONER
TIGAMOI CHEMURSOI	144 TH PETITIONER



MOLOK CHEPNGETICH	145 TH PETITIONER
KIPSAMBO CHEBOI	146 TH PETITIONER
ELIJAH CHEMONGE	147 TH PETITIONER
KAIBOS CHEMALAN	148 TH PETITIONER
TUITOEK CHESANG	149 TH PETITIONER
DAVID L. CHEPSAKUIT	150 TH PETITIONER
KIYEGO KANGOGO	151 ST PETITIONER
MOLOK CHESANG	152 ND PETITIONER
CHEBOI KANGOGO	153 RD PETITIONER
WILSON K. KIPKULIOS	154 TH PETITIONER
KIBET KIBOIT	155 TH PETITIONER
KIPNYARGIS CHEBET	156 TH PETITIONER
KIPMOLEL CHEROP	157 TH PETITIONER
CHEPSERGON CHELAL	158 TH PETITIONER
WILLIAM CHEROP	159 TH PETITIONER
JOHN CHEBOR	160 TH PETITIONER
JOSEPH KIPNYOEK	161 ST PETITIONER
LOCHOMOI CHEPKONGA	162 ND PETITIONER
CHESANG CHEPKUTO	163 RD PETITIONER
CHEBET CHESIRE	164 TH PETITIONER
CHEPTUMO CHESANG	165 TH PETITIONER
KIBONGOCHOCH CHEMOIWO	166 TH PETITIONER
KABUTIE CHEMOIWO	167 TH PETITIONER
KIGEN KIPKWE	168 TH PETITIONER
KIPKORIR ARAP CHERUIYOT	169 TH PETITIONER
CHELAGAT KIPMULWA	170 TH PETITIONER
CHEPLEGO LOROKI	171 ST PETITIONER

AND

NATIONAL LAND COMMISSION	1 ST RESPONDENT
THE PERMANENT SECRETARY, MINISTRY OF LANDS & PHYSICAL PLANNING	2 ND RESPONDENT
THE COUNTY SECRETARY, BARINGO COUNTY GOVERNMENT	3 RD RESPONDENT



THE COUNTY EXECUTIVE COMMITTEE MEMBER RESPONSIBLE FOR MATTERS RELATING TO LAND, BARINGO COUNTY GOVERNMENT	4 TH RESPONDENT
BARINGO COUNTY GOVERNMENT	5 TH RESPONDENT
THE HON. ATTORNEY GENERAL	6 TH RESPONDENT
KENYA WILDLIFE SERVICE (FORMERLY WILDLIFE CONSERVATION & MANAGEMENT DEPARTMENT)	7 TH RESPONDENT
MINISTRY OF TOURISM AND WILDLIFE, (STATE DEPARTMENT OF WILDLIFE)	8 TH RESPONDENT

RULING

[1ST Respondent’s Preliminary Objection Dated 29TH October, 2019]

1. The 1st Respondent filed the Notice of Preliminary Objection dated the 29th October, 2019 and filed on the 30th October, 2019 on the petition raising six (6) grounds summarized as follows;
 - (a) That the Petitioner is without capacity to file and maintain the petition and is without proprietary interest over the suit land.
 - (b) That the Court is without jurisdiction to entertain the petition by dint of Article 67(3) of *the Constitution*, Section 15 of the *National Land Commission Act* and Part viii of the *Land Act*.
 - (c) That this petition being a claim for compensation clothed as a violation of fundamental rights and freedoms should have been filed as an ordinary suit, and not a petition, and should therefore be struck out with costs.

2. That upon hearing Counsel for the parties on 6th February, 2020, directions were given for the preliminary objection to be heard through written submissions, to be filed and served within the timelines given. That the learned Counsel for the Petitioners and 7th Respondent filed their submissions dated the 20th July, 2020 and 18th September, 2020 respectively. The Petitioners’ Counsel filed a supplementary submission dated the 19th October, 2020. That during the mention of 26th November, 2020, the learned Counsel for 2nd, 6th and 8th Respondents associated himself with and adopted the submission filed by the learned Counsel for the 7th respondent.

3. That as there are no submissions received from the learned Counsel for the 1st Respondent, the court will consider that filed by the 7th Respondent’s Counsel first as it is in support of the preliminary objection. The learned Counsel submitted that the preliminary objection raises questions of law and is therefore in agreement with the threshold set in *Mukisa Biscuits Manufacturing Company Limited Vs West End Distributors (1969) E. A. 696*. That the Petitioner, who is registered under the Ministry of Labour, Social Security and Service, is not a legal person capable of suing or being sued on its own name. That as was held in the cases of *National Bank of Kenya Ltd Vs Christian Community Life Church [2020] eKLR* and *Kituo Cha Sehria Vs John Ndirangu Kariuki & Another [2013] eKLR*, the petition should be struck out as the Petitioner is without capacity. That the Endorois Welfare Certificate filed with the petition was issued in February, 2018 but there is no evidence to confirm that the 172 residents named were alive when the petition was filed. The learned counsel also cited the cases of *Kipsiwo Community Self-Help Group Vs Attorney General and 6 Others [2013] eKLR*,



and David Kamau Njoroge (Deceased) Vs Savings & Loan Ltd (2006) eKLR, and asked the court to strike out the petition. The learned Counsel further submitted that the Petitioners have not shown that they have interest in the suit land or have acquired any rights on the suit land. The Counsel referred to the case of Vekariya Investment Limited Vs Kenya Airports Authority & 2 Others [2014] eKLR and [*Joseph Ihugo Mwaura and Others Vs The Attorney General and Others Nairobi Petition No. 498 of 2009*](#) (unreported) on the requirement for a party to demonstrate that they hold recognizable rights over the suit property to succeed. It was submitted that the Petitioners have not demonstrated any proprietary interests over the suit land, having lost it at the expiry of 12 years from the time the land was alienated by the Government. That the petition is therefore statute time barred by dint of Section 7 of the [*Limitation of Actions Act*](#). That the Petitioners' claim arose over 50 years ago and to allow it, will amount to unfairness and violation of the rule of law. The Counsel cited the case of Mehta Vs Shah [1965] E.A. 32. The learned Counsel further submitted that the Court is without jurisdiction and should down its tools as was held in the case of Owners of the Motor Vessel Lilian S [1989] KLR 1, Kennedy Mureithi & Another Vs Peterson Karimi Gacewa [2016] eKLR, and Bosire Ongero Vs Royal Media Services [2015] eKLR. That further, the claim should have been pursued as an ordinary suit and not a constitutional petition and should therefore be dismissed for being an abuse of the judicial process with costs.

4. The learned Counsel for the Petitioners submitted that none of the five grounds on Notice of Preliminary Objections raised by the 1st Respondent constitutes a true preliminary objection as defined in Mikisa Biscuits Manufacturing Company Ltd Vs West End Distributors Ltd [1969] E. A. 696 and Oraro Vs Mbajja Civil suit No. 85 of 1992. That the ground that the Petitioners are without capacity allegedly because some are dead, is not a pure point of law as it would require evidence to be tabled. That the 1st and 7th Defendants who have raised the allegation have a legal duty to tender proof as was held in Evans Otieno Nyakwana Vs Cleophas Bwana Ongaro [2015] eKLR. That the ground of capacity must fail.

That on ground two of the petition being premature and hence the court lacking jurisdiction, the learned Counsel disputed that the petition is about historical injustices. He submitted that the petition has invoked Articles 10, 19, 20 to 23, 27, 40, 47 to 48 and 50 of [*the Constitution*](#) as the Petitioners' rights in the bill of rights have been denied, violated or infringed, which issues cannot be investigated by the National Land Commission. The learned Counsel referred to the case of Kenya National Chamber of Commerce Industry KNCCI (Murunga Chapter) & 2 Others Vs Delmonte Kenya Ltd & 3 Others; County Government of Kiambu (Interested Party) [2020] eKLR, on what amounts to a historical injustice. That ground 2 is not a pure point of law as evidence would need to be availed and should fail also. That the further amended petition raises questions of law that by dint of Article 165(3)(b) of [*the Constitution*](#) can only be determined by the court and not the National Land Commission.

The learned Counsel submitted that ground three that the petitioners have not exhausted the internal mechanism under Part viii of the [*Land Act*](#) and hence the Court has no jurisdiction is also not a pure point of law, and must fail as the suit lands were compulsorily acquired under [*the Constitution*](#) of Kenya (Repealed) and the Trust [*Land Act*](#) before the enactment of the [*Land Act*](#).

That on ground 4, the learned Counsel submitted that it is not a pure point of law as it requires delving into facts to determine whether or not the Petitioners have proprietary interests over the suit land.

That on ground 5, the Counsel submitted that it is not a question of pure point of law as it would require facts to be ascertained, and therefore the preliminary objection should be dismissed with costs. The learned Counsel for the Petitioners later filed the supplementary affidavit to respond to the 7th Respondent's submissions. It is their submissions that the preliminary objection was improperly raised, and leads to unnecessary increase of costs and delay. That the 171 Petitioners are before the



Court in their own names as the Amended Petition is not a representative suit. That in view of Article 22 of *the Constitution*, the ground of locus standi fails. That the superior courts' decisions cited by the 7th Respondent among them National Bank of Kenya Ltd Vs Christian Community Life Church, Kituo Cha Sheria Vs John Ndirangu Kariuki & Another, Kipsiwo Community Self-Help Group Vs Attorney General & 6 Others and David Kamau Njoroge (Deceased) Vs Savings & Loans (K) Ltd have no application to the instant petition and are distinguishable. That the petition is not by Endorois Welfare and the Petitioners do not represent the said Welfare. That the 2nd to 171st Petitioners have come to court in their own names, and therefore have capacity and the preliminary objection is misconceived. That the Petitioners have grounded their petition on Articles 117(2) (4) and 118(1) of *the Constitution* of Kenya (Repealed) and Section 7(1), 8 and 13 of the Trust *Land Act* Chapter 288 of Laws of Kenya as it is a claim by the local inhabitants of the land then vested on them under African Customary Law, that was set apart without prompt payment of full compensation. That the Petitioners therefore have a right to a prompt payment of full compensation and the decisions in Vekariya Investment Limited Vs Kenya Airports Authority & 2 Others [2014] eKLR and Joseph Ihugo Mwaura and Others Vs The Attorney General and Others are distinguishable. That the question as to whether the Petitioners have proprietary interests capable of protection by the court cannot be decided without ascertaining the same through facts which cannot be determined in limine through a preliminary objection.

The learned Counsel cited the case of Bahola Mkalindi Rhigo & 9 Others Vs Michael Seth Kaseme & 3 Others [2016] eKLR, on the position that setting apart of the land without prompt payment of full compensation was of no effect. The Counsel further submitted that there is no time limit for filing of constitutional petitions and the 7th Respondent cannot hide under the Limitations of Actions Act. The Counsel cited the case of Chief Land Registrar and 4 Others Vs Nathan Tirop Koech & 4 Others (2018) eKLR, where the Court of Appeal reviewed previous decisions and concluded that there is no time limit for filing of a Constitutional petition, and that the period of limitation in the *Limitation of Actions Act* does not apply to violation of rights and freedoms guaranteed under *the constitution*. That the Court has jurisdiction to hear and determine the petition in light of Article 165(3) (b) of *the Constitution* and the preliminary objection should be dismissed with costs.

5. The issues for the Court's determination are as follows;
 - (a) Whether the Petitioners have proprietary interest over the suit land.
 - (b) Whether the Petitioners are with capacity/locus standi to file and prosecute this petition.
 - (c) Whether the Court is with jurisdiction in the petition.
 - (d) Who pays the costs?
6. The court has carefully considered the five grounds on the preliminary objection, the submissions by the learned Counsel for the 7th Respondent and Petitioners, the superior courts' decisions cited thereon, the pleadings filed and come to the following determinations;
 - (a) That these proceedings were commenced through the Petition dated the 3rd December, 2018 that was amended on 24th December, 2018 and further amended on the 6th May, 2019. That the initial petition dated the 3rd December, 2018 named the Petitioner as "The 172 Residents within Lake Bogoria National Reserve" and had seven named Respondents. The Petitioners' names were listed under paragraph 5 of the Petition totaling 170. That the petition dated 3rd December, 2018 was amended through the Amended Petition dated 24th December, 2018 that cancelled the names of the 170 Petitioners appearing under paragraph 5 of the petition and introducing another list of similar number. That the Amended Petition dated 24th December, 2018 was replaced by the Further Amended Petition dated the 6th May, 2019 which retained



the initial Petitioners as the 1st Petitioner and added the 2nd to 171st Petitioners, and the 8th Respondent at the heading among other amendments. That the 1st Respondent's Notice of Preliminary Objection dated the 29th October, 2019 has been supported by the 7th Respondent through their written submissions dated 18th September, 2020 on four grounds that the Petitioners lack legal capacity; and do not have proprietary interest capable of protection by the court; that the court has no jurisdiction; and that Petitioners' claim for compensation ought to have been commenced through an ordinary suit and not a petition.

- (b) That after considering the submissions filed by the learned Counsel for 7th Respondent and the Petitioners, and the decided superior courts' decisions cited, the court finds that the position put forward by the 7th Respondent could have been correct had the Petition not have been amended through the Further Amended Petition of 6th May, 2019 which introduced the 2nd to the 171st Petitioners as parties in their names. That the Further Amended Petition, however, retained as the 1st Petitioner the original party named "The 172 Residents within Lake Bogoria National Reserve". That while the capacity of the 1st Petitioner may be challenged on the basis of not being a legal person, and failing to sue through the registered or elected officials as was held in the case of *Kituo Cha Sheria Vs John Ndirangu Kariuki & Another* [2013] eKLR, among others, the other Petitioners who have raised a claim of infringement of their rights have a right under Article 22 of *the Constitution*, 2010 to move the court for redress. The relevant part of the said Article states;

" 22.

- (1) Every person has the right to institute court proceedings claiming that a right or fundamental freedom in the Bill of Rights has been denied, violated or infringed, or is threatened."

That as can be discerned from paragraphs 16, 17, 18, 26, 30 and 39 of the Further Amended Petition, the Petitioners have invoked Articles 10, 19, 20, 21, 23, 27, 40, 47, 48 and 50 of *the Constitution*, which are matters that can best be dealt with through a petition and not an ordinary suit.

- (c) That on the issue of limitation and in view of the long period the matter has taken from the date of cause of action to the time the Petition was filed, the post 2010 constitution decision of the Court of Appeal in the case of *Chief Land Registrar & 4 Others Vs Nathan Tirop Koech & 4 Others* [2018] eKLR, that *Limitation of Actions Act* does not apply in proceedings for violation of rights and freedoms guaranteed under *the Constitution* means that ground must fail. The Court of Appeal's decision is binding to this court.
- (d) That paragraphs 9 to 12 of the Further Amended Petition shows the origin or basis of the Petitioners' claim. That as can be seen in the decision cited by the Petitioners' Counsel of *Bahola Mkalindi Rhigo & 9 Others Vs Michael Seth Kaseme & 3 Others* [Supra], such determinations are better dealt with through the Court as the National Land Commission is without jurisdiction.
- (e) That pursuant to Article 22 (1), 23(1) and (3), 162(2)(b) and 165(5)(b) of *the Constitution*, 2010, this court has jurisdiction to hear and determine this petition contrary to the preliminary objection raised by the 1st Respondent and the submissions by the 7th Respondents.



(f) That though the court finds no merit in the preliminary objection, the Court is of the view that the costs should abide the outcome of the petition.

7. That from the foregoing, the Court finds no merit in the 1st Respondent's preliminary objection dated the 29th October, 2019 and the same is dismissed with costs to abide the outcome of the petition. It is so ordered.

DELIVERED VIRTUALLY AND DATED AT ELDORET THIS 17TH DAY OF MARCH, 2021.

S. M. KIBUNJA

JUDGE

In the presence of:

Petitioners: Absent.

Respondents: Absent.

Counsel: Mr. Korir for Arusei for Petitioners.

M/s Oduor for 7th Respondent.

Mr. Odongo for 2nd, 6th and 8th Respondents.

Court Assistant: Christine

and the Ruling is to be transmitted digitally by the Deputy Registrar to the Counsel on record through their e-mail addresses.

