



Mitei v Aziz & 3 others (As Administrators of the Estate of Rashid Kipkurgat Too alias Richid Kipkurgat Too - Deceased) (Environment & Land Case E011 of 2022) [2025] KEELC 4272 (KLR) (4 June 2025) (Ruling)

Neutral citation: [2025] KEELC 4272 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT KAPSABET
ENVIRONMENT & LAND CASE E011 OF 2022**

GMA ONGONDO, J

JUNE 4, 2025

BETWEEN

RAEL MITEI PLAINTIFF

AND

KIRWA KURGAT AZIZ 1ST DEFENDANT

ALI KIPNGETICH KURGAT 2ND DEFENDANT

FARAJI KIPLIMO KURGAT 3RD DEFENDANT

IBRAHIM KIPROP KURGAT 4TH DEFENDANT

**AS ADMINISTRATORS OF THE ESTATE OF RASHID KIPKURGAT TOO
ALIAS RICHID KIPKURGAT TOO - DECEASED**

RULING

1. By a Notice of Motion dated 17th January 2025 (The first application herein), the applicant/plaintiff through Rotich, Langat and Partners Advocates is seeking an order that the Officer Commanding Station Kapsabet to provide security during the implementation of orders of the court dated 30th January 2023 herein.
2. In the Notice of Motion dated 29th May 2025 (The second application herein), the applicants namely Kirwa Kurgat Aziz, Ali Kipngetch Kurgat, Faraj Kiplimo Kurgat and Ibrahim Kiprop Kurgat (as administrators of the Estate of Rashid Kipkurgat Too alias Rashid Kipkurgat Too-Deceased) through Kipkosigei Choge and Company Advocates, have sought inter alia, review, variation and setting aside of the orders/ decree given and dated the 30th day of January 2023.
3. It worth to note that Judgment was entered herein on 30th January 2023 and it is applicable in Kapsabet ELCC NO. 14 of 2022 as ordered by the court on the said date.



4. I have heard Mr Rotich learned counsel for the plaintiff and Mr Sang learned counsel for the applicants on the two applications. It is common ground that the two applications be allowed in part by way of an order of status quo to sustain the substratum of the suit pending the outcome of the applications; see *Ogada-vs-Mollin (2009) eKLR*.
5. In the premises and to meet the ends of justice, it is hereby ordered and directed that;
 - a. The plaintiff/respondent's counsel duly served with the second application, to file and serve response to it within the next seven days from this date.
 - b. The applicants' counsel to file and serve any rejoinder and submissions on the applications within seven days upon service of the response as the applications be heard by written submissions.
 - c. The respondent's counsel to file and serve submissions on the applications within seven days upon service of the submissions by respondent.
 - d. The applicants shall respect the portion of land occupied by the plaintiff in LR No.Nandi/Kapgangani/2407 being a sub division of LR NO. Nandi/Kapgangani/ 515 and in particular, they shall not uproot and or destroy maize planted thereon or transfer or alienate a portion thereof pending the hearing and determination of the two applications.
 - e. The officer Commanding Chepsonoi/Kaimosi Police Station to oversee the implementation of the interim orders herein.
6. Further directions on both applications set for 24th July 2025.
7. It is so ordered.

DATED AND DELIVERED AT KAPSABET THIS 4TH DAY OF JUNE 2025

G M A ONGONDO

JUDGE

Present

Mr k. Rotich learned counsel for plaintiff/respondent

Mr D. Sang instructed by Mr K Choge learned counsel for the applicant

Mr Walter, court assistant

