



REPUBLIC OF KENYA



**Mengich & 6 others v Nathan (Environment and Land Case  
E023 of 2025) [2025] KEELC 6118 (KLR) (16 September 2025) (Ruling)**

Neutral citation: [2025] KEELC 6118 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT KAPSABET  
ENVIRONMENT AND LAND CASE E023 OF 2025  
GMA ONGONDO, J  
SEPTEMBER 16, 2025**

**BETWEEN**

**EZEKIEL MAREIYO MENGICH ..... 1<sup>ST</sup> PLAINTIFF  
CHARLES KIPLETING MENGICH ..... 2<sup>ND</sup> PLAINTIFF  
RAEL MENGICH KORIR ..... 3<sup>RD</sup> PLAINTIFF  
LENAH MAREIYO ..... 4<sup>TH</sup> PLAINTIFF  
HELLEN JEBET LAGAT ..... 5<sup>TH</sup> PLAINTIFF  
SALINA JEPKORIR RONO ..... 6<sup>TH</sup> PLAINTIFF  
JOB LAGAT ..... 7<sup>TH</sup> PLAINTIFF**

**AND**

**KIPSILGICH MAAREIYO NATHAN ..... DEFENDANT**

**RULING**

1. At this stage of the instant suit, this court is confronted with two matters for determination namely;
  - a. The application by way of notice of motion dated 10<sup>th</sup> September 2025 by the seven applicants through Rotich, Langat and Company Advocates and
  - b. The preliminary objection dated 16<sup>th</sup> September 2025 by the defendant/respondent through Kalya and Company Advocates.
2. Ms Chesoo instructed by the firm of Kalya and Company Advocates for the defendant/respondent was of the view that the preliminary objection raises pure points of law capable of disposing of the entire suit. That therefore, it be heard first herein.



3. On the other hand, Mr Rotich learned counsel for the plaintiffs/applicants stated that whereas the matter is for inter-partes hearing of the application, he concurred with the defendant/respondent's counsel on the hearing of the preliminary objection.
4. Besides, counsel Rotich implored the court to order that;
  - a. The preliminary objection be heard by way of written submissions on priority.
  - b. Status quo obtaining over the suit land reference number Nandi/Ndalat/Settlement/1081 as at this date, be maintained pending the outcome of the preliminary objection and the suit. That in particular, the registration of the suit land to remain in the name of the defendant/respondent who shall not sell, sub divide, transfer, alienate or in any manner dispose it of within the said time to preserve the subject matter of this suit.
5. In rejoinder, Ms Chesoo learned counsel for the defendant/respondent objected to the status quo order sought on the basis that the plaintiffs/applicants have not demonstrated any danger likely to occasion on them if the interim order is not granted.
6. Having considered the application, the preliminary objection, the suit and stand points taken by counsel for the respective parties, what orders can the court render in the ends of justice?
7. Indeed, the application is set for inter-partes hearing yet the preliminary objection on points of law, inter alia, locus standi and limitation of actions, has been lodged in regard to the entire suit. Under Article 159 (2) (b) and (e) of the *Constitution* of Kenya 2010, justice shall not be delayed and the purpose and the principles of the same Constitution shall be protected and promoted.
8. In the circumstances, this court has the mandate to grant status quo order to preserve the suit land, in the interim, to attain the ends of justice under Practice Direction No. 32 of the Environment and Land Court Practice Directions 2014.
9. Also, this court is empowered to grant interim preservation orders inclusive of status quo, to meet the ends of justice as stipulated under sections 3 and 13 of the *Environment and Land Court Act* 2015 (2011).
10. Further, sections 3 and 3A of the *Civil Procedure Act* Chapter 21 Laws of Kenya provides for special and inherent powers of this court in cases, to meet the ends of justice.
11. Furthermore, it is established law that the court has to decide the preliminary objection with promptitude; see *Kakuta Maimai Hamisi -vs-Peris Pesi Tobiko and 2 others* (2013) eKLR.
12. In the premises, it is hereby directed and ordered thus;
  - a. The preliminary objection to take precedence over the application and other issues in this suit and the preliminary objection be heard without delay by way of written submissions. So, the defendant/respondent's counsel and the plaintiffs/applicants' counsel to file and serve submissions within two (2) days from this date and two (2) days upon service of the defendant/respondent's submissions respectively.
  - b. The status quo prevailing in respect of the suit land, be maintained. For clarity, the suit land to remain registered in the name of the defendant/respondent who shall not sell, charge, lease, sub divide, transfer, alienate or in any manner dispose of the land pending the hearing and determination of the preliminary objection and the suit.



- c. The preliminary objection is fixed for mention on 25<sup>th</sup> September 2025 to confirm compliance and for further directions.

13. It is so ordered.

**DATED AND DELIVERED VIRTUALLY THIS 16<sup>TH</sup> SEPTEMBER, 2025**

**G M A ONGONDO**

**JUDGE**

Present;

1. Mr. M. Rotich learned counsel for the plaintiffs/applicants
2. Ms. Chesoo instructed by Kalya and Company Advocates learned counsel for the defendant/respondent
3. Walter, court assistant

