



**Torobeek Community Association of Kenya v County Commissioner
Laikipia West & 4 others (Environment and Land Petition
E001 of 2025) [2025] KEELC 6031 (KLR) (17 September 2025) (Ruling)**

Neutral citation: [2025] KEELC 6031 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NANYUKI
ENVIRONMENT AND LAND PETITION E001 OF 2025
LN MBUGUA, J
SEPTEMBER 17, 2025**

BETWEEN

TOROBEEK COMMUNITY ASSOCIATION OF KENYA PETITIONER

AND

COUNTY COMMISSIONER LAIKIPIA WEST 1ST RESPONDENT

INSPECTOR GENERAL OF POLICE 2ND RESPONDENT

THE NATIONAL POLICE SERVICE 3RD RESPONDENT

**THE DIRECTORATE OF CRIMINAL INVESTIGATIONS (DCI) 4TH
RESPONDENT**

THE ATTORNEY GENERAL 5TH RESPONDENT

RULING

1. Before me is the Petitioner’s amended Notice of Motion dated 9.4.2025 brought under Articles 22, 23 and 40 of *the Constitution* of Kenya, 2010 and Rules 4, 13 and 23 of *the Constitution* of Kenya (Protection of Rights and Fundamental Freedoms) Practice and Procedure Rules, 2013 seeking orders that a mandatory injunction be issued prohibiting the Respondents, their agents, servants or otherwise however from removing and demolishing the dwelling structures erected on the suit property, and that a conservatory order, as well as a temporary order of injunction be issued restraining the Respondents from forcefully evicting, harassing, threatening or interfering with the peaceful occupation and possession of the land by members of the Petitioner/Applicant. They also seek orders restraining the Respondents from trespassing upon or damaging any part of the land and that the Officer Commanding Laikipia West Police Station do assist in effecting and supervise enforcement of orders.



2. The application is premised on grounds on the face of the application and on the supporting affidavit of Paulo Kiprotich Mosbei, the chairman of the petitioner. The petitioners contend that they are a registered association representing the Torobeek community. They purchased the suit property Title No. Mutara/Thome block (Thome IV)/3521 and Title No. Mutara/Thome block (Thome IV)/2962 each measuring two acres and have lawfully been occupying and utilising the suit land.
3. That on 25.2.2025 the Respondents without any lawful justification entered and forcefully evicted nearly 500 families being members of the Petitioners from the suit land rendering them homeless and exposing them to extreme hardship and suffering. The said evictions were conducted without a court order and in blatant disregard of due process as provided under the law, violating the constitutional rights of the affected individuals and continue issuing threats of further evictions, posing an imminent risk of irreparable harm, displacement, and destruction of property of the petitioners, adding that the petitioners have nowhere else to go.
4. It is argued that the balance of convenience leans in favour of granting the orders sought to preserve the status quo, to prevent further displacement, and uphold the rule of law.
5. The application is opposed by the 1st Respondent through the replying affidavit of one Barasa Wafula dated 15.4.2025. He deponed that the man claiming to be the Chairman of the Petitioners/Applicants has established an unauthorized IDP (Internally Displaced Persons) camp of 537 people on four acres of land that the Petitioner apparently purchased, two acres each from Paul Kanji Ndiritu and Martin Macharia Kogi.
6. He denied forcefully evicting the Petitioner or any other person from any parcel of land. He avers that the camp is made up of makeshift structures and shanties with people living in squalid conditions with no sign of water or sanitation facilities and a notice to abate nuisance was issued by Laikipia Health Services. He annexed copies of photographs of the camp to buttress his averments.
7. He avers that the camp had started causing anxiety among the locals and there was correspondence received from the host community through the area Nyumba Kumi Chair, the Assistant Chief and the Area Chief.
8. That on 25.2.2025, the Respondents visited the unauthorized camp at a place called Impala Village (Taigaa) in Thome Location to meet with the leaders of the Torobeek Community for consultations and to assess the situation as a matter of public health and security concern. Their leaders allowed them to speak to the members of the community and they took the opportunity to inform them that their settling in a makeshift camp without any amenities was causing anxiety among the area residents and the local government agencies and was not tenable. They asked them to close their camp and leave just a few structures for a few of their members to be left behind to look after the property.
9. Mr. Wafula stated that criminal allegations of solicitation and fraud have been made against the Torobeek Community leaders stating that they collect funds from unsuspecting members of the public under the guise of registration fees promising land allocations from the government and later dumping them in a small space. He deponed that this suit is an attempt to circumvent these criminal investigations.
10. He further stated that on 28.2.2025 most of the Petitioners left the suit property and the Respondents continued to monitor the situation. He denied any destruction of the property, adding that the makeshift camp is still intact with about 30 of the Petitioner's members residing within it, guarding their property.



11. I have considered the rival arguments as set out in the pleadings and the submissions of the parties. I frame the issues for consideration as follows; whether the Petitioner/Applicant has locus standi, and, whether the Petitioner is entitled to the orders sought (conservatory orders as well as temporary and mandatory injunctions).
12. On locus, the Respondent argues that the Petitioner has no locus standi to institute these proceedings because it is not a corporate body but a society registered under the *Societies Act*, thus it should have acted through its members.
13. The provisions of Article 22 of *the Constitution* provides that:
 - (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.
 - (2) In addition to a person acting in their own interest, court proceedings under clause (1) may be instituted by–
 - (a) a person acting on behalf of another person who cannot act in their own name;
 - (b) a person acting as a member of, or in the interest of, a group or class of persons;
 - (c) a person acting in the public interest; or
 - (d) an association acting in the interest of one or more of its members” [emphasis added].
14. Further, Rule 4(2)(iv) of *the Constitution* of Kenya (Protection of Rights and Fundamental Freedoms) Practice and Procedure Rules, 2013) provides that in addition to a person acting in their own interest, court proceedings under sub rule (1) may be instituted by an association acting in the interest of one or more of its members.
15. In the Supreme Court case of *Matemu v Trusted Society of Human Rights Alliance & 5 others* (Civil Application 29 of 2014) [2014] KESC 6 (KLR) the Court, in discussing locus standi, stated that ;

“it is to be noted that the promulgation of the 2010 Constitution enlarged the scope of locus standi, in Kenya. Articles 22 and 258 have empowered every person, whether corporate or non-incorporated, to move the Courts, contesting any contravention of the Bill of Rights, or *the Constitution* in general. This far, I find that this is a public interest matter brought in good faith, not only in the interest of the members of the Petitioner but also the residents of the surrounding area. It follows that the Petitioner has the locus standi to institute these proceedings. The Respondents have not tendered any evidence to demonstrate that the Petitioner is not acting in good faith.
16. On the orders for a temporary injunction, the courts have laid down the criteria that; First, the applicant must show a prima facie case with a probability of success; secondly, the applicant should demonstrate that they stand to suffer irreparable injury which would not be adequately compensated by an award of damages; and if the court is in doubt, the matter should be decided on a balance of convenience. See *Giella v Cassman Brown and Company* [1973] EA 358. For mandatory injunctions at the interlocutory stage, special circumstances must be proved and the court must exercise judicial discretion. As for conservatory orders granted under Article 23(3)(c) of *the Constitution*, the Court must consider public interest while weighing the merits of the case and constitutional values.
17. It has been held that while considering whether to grant such orders the Court is not invited to make definitive findings of law or fact; the Court’s jurisdiction is limited to examining and evaluating the



materials before it to establish whether the applicant has made a prima facie case to warrant the granting of a conservatory order. See *Ministry of Environment and Natural Resources & 3 others* [2017] eKLR, *Gatirau Peter Munya vs Dickson Mwendwa Kithinji and 2 others* [2014]eKLR.

18. The Petitioner seeks these injunctive reliefs and conservatory orders as an association acting for its members of the Torobeek Community. I am concerned however that the petitioners have not provided any materials for examination and consideration by the court, such as their society registration documents. Further, even though the Chairman of the Community averred in his supporting affidavit that he had annexed copies of the sale agreements and duly executed transfer forms for the suit property, these documents cannot be found in the court record. As a matter of fact, both the Petition and the Notice of Motion application lack any annexures that might assist the court in determining who holds the rights of proprietorship in the suit property. Thus at this stage of the trial, the petitioners have not demonstrated before this court that they hold any rights and or interests in the suit property capable of being protected by the court. In that regard, the orders sought by the petitioners are not merited.
19. Further, the attention of this court has been drawn to the averments of Mr. Wafula that the petitioners have set up a makeshift camp on the suit property, of which photographs of the aforementioned structures have been availed. A look at the said photographs (annexure "BW2") reveals that indeed, there are makeshift structures made of sticks, polythene papers and iron sheets. Such uncontrolled developments would certainly pose a health and security risk to not just the petitioners, but other residents in the vicinity as well.
20. To this end, I invoke the provisions of Article 24 (d) of *the Constitution* on limitation of rights and fundamental freedoms where courts are called upon to consider the "need to ensure that the enjoyment of rights and fundamental freedoms by any individual does not prejudice the rights and fundamental freedoms of others"; This again is another reason as to why the orders sought should not be granted at this interlocutory stage of the trial.
21. In the end, I find that the application dated 5.3.2025 as amended on 9.4.2025 is not merited, the same is hereby dismissed with no orders as to costs.

DATED, SIGNED AND DELIVERED AT NANYUKI THIS 17TH DAY OF SEPTEMBER 2025 THROUGH MICROSOFT TEAMS.

LUCY N. MBUGUA

JUDGE

In the presence of:

Medrine for the Petitioners

Kibe Holding brief for Gisemba for the Respondents

