



REPUBLIC OF KENYA



**Wilson & 86 others (Suing on behalf of the residents of Chepchoina Phase III in Trans-Nzoia County) v Attorney General & 4 others (Environment & Land Case E014 of 2024) [2024] KEELC 4104 (KLR) (7 May 2024) (Ruling)**

Neutral citation: [2024] KEELC 4104 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT KITALE  
ENVIRONMENT & LAND CASE E014 OF 2024**

**FO NYAGAKA, J  
MAY 7, 2024**

**BETWEEN**

**LOSHAKEP CHUMEL WILSON ..... 1<sup>ST</sup> PLAINTIFF**  
**REMEILE LOWONOTUM ..... 2<sup>ND</sup> PLAINTIFF**  
**NELSON TIAMALE LISORENG ..... 3<sup>RD</sup> PLAINTIFF**  
**DOMONGOLE LOMWAI ..... 4<sup>TH</sup> PLAINTIFF**  
**LOICE CHEPONYAGAT CHELALYWA ..... 5<sup>TH</sup> PLAINTIFF**  
**CHEPOCHERWOW LOMONYANG ..... 6<sup>TH</sup> PLAINTIFF**  
**ISAIAH RUTO NGURIATUDO ..... 7<sup>TH</sup> PLAINTIFF**  
**CHEPOSIMET LOYANALEE ..... 8<sup>TH</sup> PLAINTIFF**  
**NICHOLAS LOTUNALE ..... 9<sup>TH</sup> PLAINTIFF**  
**SALOME CHEMOKIL ..... 10<sup>TH</sup> PLAINTIFF**  
**CHEPAYOS LONYANGATA ..... 11<sup>TH</sup> PLAINTIFF**  
**CHEPSEKEU LOKUL ..... 12<sup>TH</sup> PLAINTIFF**  
**LOITANGURA YARANYANG ..... 13<sup>TH</sup> PLAINTIFF**  
**DAVID LOTULIATUM ..... 14<sup>TH</sup> PLAINTIFF**  
**LOLIWALE NGORIALEM JOSEPH ..... 15<sup>TH</sup> PLAINTIFF**  
**LOSIANGURA LUKIPAK ..... 16<sup>TH</sup> PLAINTIFF**  
**AUGUSTINO ABOTH LOKOYER ..... 17<sup>TH</sup> PLAINTIFF**  
**CHEPOTE RIONGOBOSI ..... 18<sup>TH</sup> PLAINTIFF**



SIMON KIPYEGO LOWANATUM .....	19 <sup>TH</sup> PLAINTIFF
BENJAMIN KAMUNAI .....	20 <sup>TH</sup> PLAINTIFF
AMINA CHEMUSO LYSON .....	21 <sup>ST</sup> PLAINTIFF
APOROKOI PATARIKAMAR .....	22 <sup>ND</sup> PLAINTIFF
CHEMKAN LONGIROKWANG .....	23 <sup>RD</sup> PLAINTIFF
CHEPOCHEPIT WAPALE POGHON .....	24 <sup>TH</sup> PLAINTIFF
CHEPOCHEPKAI LONYAKOU .....	25 <sup>TH</sup> PLAINTIFF
CHEPLAMIN PAULINA LOPUTAKONG .....	26 <sup>TH</sup> PLAINTIFF
SILAS WAPES .....	27 <sup>TH</sup> PLAINTIFF
HEZRON MOSOP .....	28 <sup>TH</sup> PLAINTIFF
JACKSON LOKERE NATANGOLE .....	29 <sup>TH</sup> PLAINTIFF
JACKSON LONGURANYANG EDOM .....	30 <sup>TH</sup> PLAINTIFF
ISAYA LOKEDI KIRWA .....	31 <sup>ST</sup> PLAINTIFF
CHEPOKALTILIT JAMES .....	32 <sup>ND</sup> PLAINTIFF
CHEPNONGOR TUNDUNYE .....	33 <sup>RD</sup> PLAINTIFF
ELIZA LOKURUK .....	34 <sup>TH</sup> PLAINTIFF
CHEPTOYO NAKORIBOK .....	35 <sup>TH</sup> PLAINTIFF
CHEMUTAI TOLIM .....	36 <sup>TH</sup> PLAINTIFF
TULIANGIRO LOKOL .....	37 <sup>TH</sup> PLAINTIFF
SHARON CHENANGAT POWON .....	38 <sup>TH</sup> PLAINTIFF
LORIPO SIMON LOKURUK .....	39 <sup>TH</sup> PLAINTIFF
REGINA APETA .....	40 <sup>TH</sup> PLAINTIFF
PUOMOL TUDOO BENSON .....	41 <sup>ST</sup> PLAINTIFF
DANIEL TOLIMLEMKOU .....	42 <sup>ND</sup> PLAINTIFF
CHEPOSANIAK APENYIMOI .....	43 <sup>RD</sup> PLAINTIFF
PETER PKOPUS MUDANG .....	44 <sup>TH</sup> PLAINTIFF
CHEPOSONGORO LODIONGOLE .....	45 <sup>TH</sup> PLAINTIFF
JOHNSON LOKITAMUGH .....	46 <sup>TH</sup> PLAINTIFF
LONGORIASIWA SOKOL .....	47 <sup>TH</sup> PLAINTIFF
NANCY CHEPENGAT CHELELE .....	48 <sup>TH</sup> PLAINTIFF
KAPELO KASPAN SAMMY .....	49 <sup>TH</sup> PLAINTIFF
TULIANGIRO LOKODOPURAT .....	50 <sup>TH</sup> PLAINTIFF



PIRAA MERINYANG .....	51 <sup>ST</sup> PLAINTIFF
DANIEL PKITE ADUPA .....	52 <sup>ND</sup> PLAINTIFF
CHEPOSETIO TABAKI .....	53 <sup>RD</sup> PLAINTIFF
EMMANUEL POGHISHO KARIWO .....	54 <sup>TH</sup> PLAINTIFF
CHEPOSAGHICH YARAPUS .....	55 <sup>TH</sup> PLAINTIFF
LOSIANGER NGIRUIYE .....	56 <sup>TH</sup> PLAINTIFF
SELINA CHENANGAT LOKONGOTONO .....	57 <sup>TH</sup> PLAINTIFF
CHEPOTUNYANY LINGANYANG .....	58 <sup>TH</sup> PLAINTIFF
CHEPOSERA LOKENO .....	59 <sup>TH</sup> PLAINTIFF
SETIENG APUOT IDAKONG .....	60 <sup>TH</sup> PLAINTIFF
SIMATIA KALES WAIJA .....	61 <sup>ST</sup> PLAINTIFF
KARENGE LOTULIATUM .....	62 <sup>ND</sup> PLAINTIFF
LORIPO SIMON LOKORUK .....	63 <sup>RD</sup> PLAINTIFF
APUSIKOU NGOROKOO .....	64 <sup>TH</sup> PLAINTIFF
PIUS MNANGAT DAUDI .....	65 <sup>TH</sup> PLAINTIFF
CHEPOCHERWOW LONGUSU LOSHAKONG .....	66 <sup>TH</sup> PLAINTIFF
CHEPOTUTURWA KASOTOT .....	67 <sup>TH</sup> PLAINTIFF
JOHN NGURAKAPEL LOMORU .....	68 <sup>TH</sup> PLAINTIFF
ANTHONY PKIECH .....	69 <sup>TH</sup> PLAINTIFF
ALEXANDER PCHUMA LOKORORA .....	70 <sup>TH</sup> PLAINTIFF
CHEMKAM CHEPTIYOS LOMERILIMA .....	71 <sup>ST</sup> PLAINTIFF
PLIMO TINJAA LODENYA .....	72 <sup>ND</sup> PLAINTIFF
MONICA CHEPOKENYEKIA LOSEKUR .....	73 <sup>RD</sup> PLAINTIFF
MERPUS KOSPEI LIMALUK .....	74 <sup>TH</sup> PLAINTIFF
SELINA CHEMITINY LOSEMUK .....	75 <sup>TH</sup> PLAINTIFF
KEDIMUK TUPER .....	76 <sup>TH</sup> PLAINTIFF
CHEPONYORIO MERPUS .....	77 <sup>TH</sup> PLAINTIFF
WILSON MERINYANG .....	78 <sup>TH</sup> PLAINTIFF
TOMENGAR SAMWEL LOKTARI .....	79 <sup>TH</sup> PLAINTIFF
THOMAS NGURIANYANG MUNYUNY .....	80 <sup>TH</sup> PLAINTIFF
ZAKAYO LEKEN DANGALUKA .....	81 <sup>ST</sup> PLAINTIFF
STEPHEN LOKUDOKORI .....	82 <sup>ND</sup> PLAINTIFF



ROBERT PKIACH LOSWA ..... 83<sup>RD</sup> PLAINTIFF  
RITANGORIA DOMORENG KIMARMAR ..... 84<sup>TH</sup> PLAINTIFF  
REUBEN POIGHISHO PSILOT ..... 85<sup>TH</sup> PLAINTIFF  
PKOMOR LOTINYANG ..... 86<sup>TH</sup> PLAINTIFF  
REAL CHEPLEKE BENSON ..... 87<sup>TH</sup> PLAINTIFF  
SUING ON BEHALF OF THE RESIDENTS OF CHEPCHOINA PHASE III IN  
TRANS-NZOIA COUNTY

AND

THE ATTORNEY GENERAL ..... 1<sup>ST</sup> DEFENDANT  
CHIEF LAND REGISTRAR ..... 2<sup>ND</sup> DEFENDANT  
NATIONAL LAND COMMISSION ..... 3<sup>RD</sup> DEFENDANT  
DIRECTOR OF LAND ADJUDICATION AND SETTLEMENT  
SCHEME ..... 4<sup>TH</sup> DEFENDANT  
DIRECTOR OF SURVEY ..... 5<sup>TH</sup> DEFENDANT

RULING

1. This matter came up on 6/5/2024 for the inter partes hearing of the application dated 15/04/2024, following directions which this court issued on the application on 15/04/2021. The Applicants and the State Counsel appearing on behalf of all except the 3<sup>rd</sup> Respondent were present. The learned counsel for the Applicants appeared virtually but all her clients were present in open court where the learned state counsel too was.
2. When the court sought to confirm about service on the 3<sup>rd</sup> Respondent, though the Applicants indicated that they had served it, there was no demonstration by way of a received document, as alleged in the affidavit of service of the process server, that indeed the said Respondent was served. Thus, the court being dissatisfied with the service indicated as much.
3. The elephant in the room was the prayer by the Applicants for the court to issue temporary orders of injunction pending the hearing of the application on another date as sought by the Respondents who were already served. The Plaintiffs prayed for issuance of the orders for reasons that they were being harassed and threatened with eviction by the Defendants and the persons who were allocated the 917 plots alleged to have been resulted from the subdivision of land Reference Number 8026. They stated that the allottees were provincial administration officers, police officers, politicians and affluent members of the public.
4. The learned state counsel opposed the grant of interim orders on the grounds of non-service on the 3<sup>rd</sup> Respondent, and also that the alleged allottees of the 917 plots would be affected and condemned unheard yet they too had a right to property. He also argued that although the court had directed that the Respondents file responses within the timelines given, the suit land in issue having been registered under the *Registration of Titles Act* Chapter 280 of Laws of Kenya (now repealed) the documentation thereto was in the Lands office in Nairobi Ardhi House and the same were in various offices to where he had dispatched the Lands and Settlement Officer to go and get copies therefrom and instructions



thereon. He prayed for one (1) week to have the same in terms of a replying affidavit. He prayed for more time to reply and also advised that the Plaintiffs were better off seeking Alternative Dispute Resolution over the matter since they were entitled to settlement in the same manner as the alleged allottees. Lastly, he argued that there was no demonstration of a threat to the occupancy of the suit land as alleged against the Defendants.

5. Having heard the oral arguments of the parties, and considering the fact that the law requires that parties are given a hearing before decisions, adverse or otherwise, are made against them, or in their favour, it is my considered view that, as indicated earlier on 15/04/2024, the application is not urgent. Secondly, the application having not been served on the 3<sup>rd</sup> Defendant, and the interim orders sought would prejudice the party who has not been served, and given that there are as alleged in the pleadings about 917 beneficiaries who have not been included in the application and are likely to be affected by the order of this court, a grant of the interim order of injunction would be prejudicial to them and have untold ramifications. It is in the interest of justice that the parties likely to be affected by the orders contested herein be served first and they be given a hearing too. I thus decline to grant a temporary injunction at this ex parte state.
6. I direct that the National Land Commission be served with the pleadings and application. The plaintiffs are to identify the 3<sup>rd</sup> Parties whom they allege have been allocated the plots numbering 917 in Chepchoina Phase III Scheme and also serve them upon applying to enjoin them in this matter, and the court granting their application.
7. The Respondents are given 21 days to file responses and serve. the Applicants too are given 14 days from today to apply to enjoin as Defendants or Interested Parties and individuals likely to be affected by the orders of this court in this matter.
8. The application shall be heard virtually on 05/06/2024 when the court may give further directions on joinder of other parties, and any other appropriate order.
9. Orders accordingly.

**RULING DATED, SIGNED AND DELIVERED AT KITALE VIRTUALLY VIA TEAMS PLATFORM THIS 7<sup>TH</sup> DAY OF MAY, 2024.**

**HON. DR. IUR FRED NYAGAKA**

**JUDGE, ELC, KITALE**

In the presence of:

1. Langat holding brief Jeruto for Plaintiffs
2. Odongo for the Defendants
3. Obino holding brief for Akello for 3<sup>rd</sup> Defendant

