



REPUBLIC OF KENYA



KENYA LAW
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Cheruiyot & 19 others v Director of Kenya Forest Service & 2 others (Environment & Land Case 85 of 2017) [2023] KEELC 16757 (KLR) (2 March 2023) (Ruling)

Neutral citation: [2023] KEELC 16757 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NAROK
ENVIRONMENT & LAND CASE 85 OF 2017**

MN KULLOW, J

MARCH 2, 2023

BETWEEN

JOHNSON CHERUIYOT & 19 OTHERS APPLICANT

AND

DIRECTOR OF KENYA FOREST SERVICE & 2 OTHERS RESPONDENT

RULING

1. By Notice of Motion dated November 8, 2017, and filed under certificate of urgency. The Applicant sought the following orders;-
 - a. That Sanja Ole Sankei, John Ole Sera, Samwel Malkwen, Chuma Joseph K Mutai, Sempele Ole Mateto, David Ole Sutenye Naiyo Ole Sirma, the County Land Registrar and Surveyor be enjoined as Interested party.
2. The application is based on the grounds that the proposed Interested Parties were carrying out fraudulent sub-division on the suit land beyond their boundaries and that they have infringed on the rights of the plaintiff.
3. The Applicant contends that the proposed respondent has started allocating themselves land which the Ogiek Community has been occupying.
4. The application was opposed by the Respondents by way of a Replying Affidavit sworn by the 8th Proposed Respondent. He averred that he was the former Chairman of the Defunct Enagishomi Group Ranch. He stated that the Applicant is inept and lacks merit and further that the same does not lay any grounds to enjoin him and the other as the proposed Respondents. He stated that the sub-division of the land by the Respondents was done procedurally and once the land was subdivided the Group Ranch ceased to exist after annual general meeting that was held on October 31, 1996 within the Group Ranch and he annexed to his Replying Affidavit, a copy of the Minutes of the Annual



General Meeting and a Letter to the Director of Land Adjudication for the formal dissolution of the Group Ranch.

5. I have considered the Application and the Replying Affidavit in opposition to the same and the sole issue for determination thereof is whether the applicant has laid down the requisite condition to enjoin the proposed Respondents.
6. On the face of the Application the Applicant states that the proposed Respondent have subdivided the land. However, in controverting the same the proposed Respondent have stated that the subdivision was procedural. I have read the Minutes of the Groups upon completion of the Adjudication and process and I have not seen information in support of the Applicant's assertion. Furthermore, the applicant has not demonstrated or shown which parcels of land the proposed Respondent have subdivided and I find the entire Application is based on innuendo that cannot be proved.
7. In view of the above, I find the Notice of Motion dated November 8, 2017 is not merited and I find no reason to enjoin the proposed Respondents to the suit and consequently, I dismiss the application with costs.

DATED SIGNED DELIVERED, VIRTUALLY AT MIGORI THIS 2ND DAY OF MARCH 2022.

MOHAMMED.N. KULLOW

JUDGE

