



Dalla & another v Guracha & 9 others; Northern Rangelands Trust & another (Interested Party) (Environment & Land Petition 005 of 2021) [2022] KEELC 13370 (KLR) (3 October 2022) (Judgment)

Neutral citation: [2022] KEELC 13370 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT ISIOLO
ENVIRONMENT & LAND PETITION 005 OF 2021
PM NJOROGE, J
OCTOBER 3, 2022**

BETWEEN

ABDI SORA DALLA 1ST PETITIONER

ISACK ABDUBA FAYO 2ND PETITIONER

AND

ADAN DENG GURACHA & 9 OTHERS RESPONDENT

AND

NORTHERN RANGELANDS TRUST & ANOTHER INTERESTED PARTY

JUDGMENT

1. This petition which is dated September 15, 2022 seeks the following orders:
 - a. A declaration that the gazettment of unregistered community land as a wildlife conservation area under the *Wildlife Management and Conservation Act*, No 47 of 2013, without public participation and without the consent of the relevant county government as the community trustee is *ultra vires* the *Constitution* and the *Community Land Act*, No 27 of 2016 and therefore illegal, null and void.
 - b. A declaration that the gazettment of unregistered community land as a wildlife conservation area under the *Wildlife Management and Conservation Act*, No 47 of 2013, is subject to and inferior to the community right to property envisaged in articles 40(1) and 43 of the *Constitution* of Kenya.
 - c. A declaration that the gazettment of unregistered community land as a wildlife conservation area under the *Wildlife Management and Conservation Act*, No 47 of 2013 constitutes a



compulsory acquisition of land under article 40(3) of the Constitution entitling the community to just and prompt compensation.

- d. A declaration that the registration of the Kinna community conservancy and Garba Tulla community conservancy by the 9th respondent for the purpose of obtaining a gazette of Kinna and Garba Tulla community land as a wildlife conservation area by the 7th respondent contravenes the community land rights of the Kinna and Garba Tulla communities and is therefore unconstitutional, illegal, null and void.
 - e. An order of certiorari to bring into this court, for purposes of quashing and nullifying, the certificate of registration serial No 05596 dated August 27, 2021 issued to Garba Tulla community conservancy community based organization.
 - f. An order of permanent injunction restraining the 7th and 8th respondents from gazetting Kinna and Garba Tulla unregistered community land as a wildlife conservation area until the Community Land Act is fully operationalized and implemented in Isiolo county.
 - g. An order of permanent injunction restraining the 1st, 2nd, 3rd, 4th, 5th and 6th respondents together with anybody claiming through them or under them from alienating unregistered community land in Kinna and Garba Tulla or purporting to act for the communities in Kinna and Garba Tulla regarding any transactions in community land.
 - h. Costs of the petition.
 - i. Such other relief as the honourable court may deem it fit to issue in the circumstance.
2. On October 3, 2022, the parties proffered a consent which they asked the court to adopt as its order. The consent is in the following format;

Consent

3. The petitioners' suing on their own behalf and on behalf of the communities in Garba Tulla & Kinna wards by consent of the parties hereby agree as follows;
1. The petitioners wholly withdraw the entire petition against all respondents.
 2. Every party shall bear its own costs.
 3. By consent, the matter be marked as fully settled.

Name of advocate signature

1. Fridah Nyasani signed

For the petitioner

2. Benjamin Kimathi signed

For 8th, 9th, & 10th respondents

3. Thomas Ogola signed

Advocate for the 1st interested parties

4. This consent is hereby adopted as an order of this court.

DELIVERED IN OPEN COURT AT ISIOLO THIS 3RD OCTOBER, 2022 IN THE PRESENCE OF;

Court Assistant: Balozi



Fridah Nyasani for the Petitioner.

Benjamin Kimathi for the 8th, 9th and 10th Respondents.

Thomas Ogole for the 1st Interested parties.

HON. JUSTICE P.M NJOROGE

JUDGE

