



REPUBLIC OF KENYA



**Okondo & 10 others v Kiok & 2 others (Environment & Land Case  
74 of 2019) [2022] KEELC 14645 (KLR) (3 November 2022) (Ruling)**

Neutral citation: [2022] KEELC 14645 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT KAJIADO  
ENVIRONMENT & LAND CASE 74 OF 2019  
MN GICHERU, J  
NOVEMBER 3, 2022**

**BETWEEN**

**GABRIEL ONSONGO OKONDO ..... 1<sup>ST</sup> PLAINTIFF  
ELIZABETH KEMUNTO ONGAKI ..... 2<sup>ND</sup> PLAINTIFF  
AMOS LEMANGEN OLE KAITEI ..... 3<sup>RD</sup> PLAINTIFF  
VERA ODERA OGEMBO ..... 4<sup>TH</sup> PLAINTIFF  
DAVID L.C. MWANIKI ..... 5<sup>TH</sup> PLAINTIFF  
LILIAN WANJIKU MECHEMI ..... 6<sup>TH</sup> PLAINTIFF  
BEATRICE WANJIRA KAMAU ..... 7<sup>TH</sup> PLAINTIFF  
HUDSON LODENYO ..... 8<sup>TH</sup> PLAINTIFF  
JOSEPH MENGE ..... 9<sup>TH</sup> PLAINTIFF  
LILIAN NJERI THUKU ..... 10<sup>TH</sup> PLAINTIFF  
JOHN GICHUHA THUMBI ..... 11<sup>TH</sup> PLAINTIFF**

**AND**

**SANGIRI OLE KIOK ..... 1<sup>ST</sup> DEFENDANT  
LAND REGISTRAR, KAJIADO NORTH ..... 2<sup>ND</sup> DEFENDANT  
ATTORNEY GENERAL ..... 3<sup>RD</sup> DEFENDANT**

**RULING**

1. On 5/5/2022, an order was made that there be a ruling today on the way forward in this matter. Parties were expected to file written submissions by 5/9/2022. The Plaintiffs filed their submissions



on 5/5/2022 while the Defendants and the Interested Parties filed theirs within the timelines set by the court.

2. I have perused the entire record as well as the submissions by all the parties.

It is clear that all the parties agree that at the heart of the matter in this case is a boundary dispute between two parcels namely, Kajiado/Loodariak/123 and Kajiado Loodariak/876. L.R. 123 was owned by the first Defendant while L.R. 876 was owned by the Interested Party.

3. All the Plaintiffs bought land from the Interested Party. In their submissions dated 26/4/2022, they want a fresh boundary determination in their presence because the one that took place on 20/11/2017 did not involve them.

Likewise, the Interested Party would like another site visit. He claims that the Land Registrar was treated to a lunch by the first Defendant while the Interested Party and his team waited at the site for hours.

When the Land Registrar went to the site it was late and little time was left to do the actual site visit proceedings.

These allegations have come up suddenly in submissions. They have not been made before in form of an affidavit or pleading.

4. On the other hand, the first Defendant urges the court to adopt the Land Registrar's Report because the Interested Party was present at the boundary determination and even contributed, together with the first defendant, to the costs of the exercise which amounted to Kshs. 79,000/-.
5. I find that the jurisdiction to determine the dispute is vested in the Land Registrar by virtue of Section 18 (2) of the *Land Registration Act* which provides as follows.

"The court shall not entertain any action or other proceedings relating to a dispute as to the boundaries of registered land unless the boundaries have been determined in accordance with this section".

Secondly, I find that the boundary has already been determined but since the Plaintiffs and the Interested Party want a revisit, I will reluctantly allow the same but on the condition that they alone pay the costs of such visit.

For avoidance of doubt, the Defendants should not pay anything for the exercise.

**DATED SIGNED AND DELIVERED VIRTUALLY AT KAJIADO THIS 3<sup>RD</sup> DAY OF NOVEMBER, 2022.**

**M.N. GICHERU**

**JUDGE**

