



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT MERU

ELC PETITION NO. 22 OF 2019

IN THE MATTER OF ARTICLE 22 AND ARTICLE 258 (1) & (2) (C) OF THE CONSTITUTION OF KENYA 2010

IN THE MATTER OF ALLEGED THREAT OF VIOLATION OF ARTICLE 2, 3 AND 10 OF THE CONSTITUTION OF KENYA 2010

IN THE MATTER OF ALLEGED THREAT TO AND CONTRAVENTION OF ARTICLES 19, 20, 21, 22, 23, 24, 25 ©, 28, 35, 40, 43, 47, 50, 51, 63 OF THE CONSTITUTION OF KENYA 2010

IN THE MATTER OF THE COMMUNITY LAND ACT 2016

IN THE MATTER OF THE URBAN AREAS AND CITIES (AMENDMENT ACT NO. 30 OF 2019)

IN THE MATTER OF THE URBAN AREAS AND CITIES ACT 2011

BETWEEN

ALEXANDER BARILLE ABDUBAH1ST PETITIONER
GIRRO KATELO YATTAN2ND PETITIONER
ELEMA GALGALO JILLO3RD PETITIONER
ABDUB KOFO MAMO4TH PETITIONER
GUYO BUTTO ADANO5TH PETITIONER
TURA GODANA MAMO6TH PETITIONER
KUNI ELLE7TH PETITIONER
ABDI HASSAN8TH PETITIONER
BONAYA KATELO.....9TH PETITIONER
HAJI ABDO.....10TH PETITIONER
EDEN ABDO.....11TH PETITIONER
MAHD DALACHE.....12TH PETITIONER
LERIA DOKHLE.....13TH PETITIONER
JOHN E'TALA.....14TH PETITIONER
ZEINABU FECH.....15TH PETITIONER

JAMES LEKARGI..... 16TH PETITIONER

KALALI ZAKARIA.....17TH PETITIONER

LEKUTI GOBANAI.....18TH PETITIONER

VERSUS

THE GOVERNOR, MARSABIT COUNTY

GOVERNMENT1ST RESPONDENT

MARSABIT COUNTY GOVERNMENT.....2ND RESPONDENT

THE COUNTY ASSEMBLY OF MARSABIT3RD RESPONDENT

RULING

1. The application before me is dated 10.9.2019. It is yet to be prosecuted. The applicant however prays that pending the hearing and determination of the said application, the court be pleased to issue the following orders:

(i) That the honourable court be pleased to issue a temporary injunction restraining the respondents their employees, servants, agent's representative and/or any other persons acting under their instructions from publishing and/or gazetting in Kenya Gazette or in any other forum a decision to include Karatina Karare Ward and Shegel and Oranderi as part of the Marsabit Municipality pending the hearing and determination of the application herewith.

2. It is averred that if the temporary orders are not granted, the respondents will proceed to gazette the municipality boundaries yet these are the issues in contention. The application will then amount to nothing.

3. The prayer for temporary injunction has been opposed where it is averred that the parties are not going to be prejudiced in anyway and that no irreparable harm will be suffered.

4. I have weighed all the issues raised herein. The matter is at the infancy stage and the application is yet to be determined. I find that the substratum of the suit may be affected if an order to maintain status quo is not granted.

5. In the circumstances, I allow prayer 2 in the application of 10.9.2019 but I direct that the matter be heard expeditiously.

DATED, SIGNED AND DELIVERED IN OPEN COURT AT MERU THIS 2ND DAY OF OCTOBER, 2019 IN THE PRESENCE OF:-

C/A: Kananu

B. Kinyua holding brief for Bayale for the 1st and 2nd respondent

Mutegi holding brief for Lesaisor for petitioner

HON. LUCY. N. MBUGUA

ELC JUDGE