



**REPUBLIC OF KENYA**

**IN THE ENVIRONMENT & LAND COURT**

**AT KAJIADO**

**JUDICIAL REVIEW NO. 968 OF 2017**

**(Formerly Kajiado HCC JR NO. 1 OF 2015)**

**IN THE MATTER OF THE APPLICATION BY MAILUA GROUP RANCH FOR LEAVE TO APPLY FOR ORDER OF  
JUDICIAL REVIEW ORDERS OF CERTIORARI, PROHIBITION AND MANDAMUS**

**AND**

**IN THE MATTER OF THE LAND (GROUP REPRESENTATIVES ) ACT CAP 287**

**AND**

**IN THE MATTER OF THE CONSTITUTION OF KENYA 2010**

**IN THE MATTER OF ELECTIONS OF MAILUA GROUP RANCH FOR 2015**

**BETWEEN**

**1. NKAITOLE MOROR**

**2. NTUIYOTO MARASWA**

**3. MOKARE SERINA**

**4. NKUKAT KAKURO**

**5. TARAII AMPAPA**

**6. JOSEPH KARANTEI**

**7. KOLELE LESIANGAU**

**8. JOSHUA PARMERE**

**9. RAINGPT PLEMGA**

**10. JEREMIS MORORO**

**11. MAILUA GROUP RANCH.....APPLICANTS**

**VERSUS**

**1. CHAIRMAN, KAJIADO COUNTY LAND BOARD..1<sup>ST</sup> RESPONDENT**

**2. COUNTY LAND ADJUDICATION OFFICER.....2<sup>ND</sup> RESPONDENT**

3. THE CHIEF LAND REGISTRAR.....3<sup>RD</sup> RESPONDENT

4. THE ATTORNEY GENERAL.....4<sup>TH</sup> RESPONDENT

AND

1. DANIEL KOIKAI KIRONUA.....1<sup>ST</sup> INTERESTED PARTY

2. CHRISTOPHER K. SAIGOL.....2<sup>ND</sup> INTERESTED PARTY

3. SHAPAPAMPAPA.....3<sup>RD</sup> INTERESTED PARTY

4. JOSHUA LENGETESARBABI.....4<sup>TH</sup> INTERESTED PARTY

5. KOILENKESEMPETA.....5<sup>TH</sup> INTERESTED PARTY

6. PARMERES NINA.....6<sup>TH</sup> INTERESTED PARTY

7. MEIBUKO MESHILA.....7<sup>TH</sup> INTERESTED PARTY

8. TONIKONKULANA.....8<sup>TH</sup> INTERESTED PARTY

9. MASHIPEITIRATI.....9<sup>TH</sup> INTERESTED PARTY

10. SINJALE OLE KANORE.....10<sup>TH</sup> INTERESTED PARTY

#### RULING

What is before Court for determination is the Ex parte Applicant's Notice of Motion application dated the 10<sup>th</sup> March, 2020 brought pursuant to Order 51 of the Civil Procedure Rules. The Applicants seek the following orders:

1. Spent
2. That the period provided for compliance with the orders of Hon. Nyakundi J. be extended by such a time as this court may provide.
3. That the Honourable Court do issue directions and timelines on the Judgement of Hon. Justice R. Nyakundi dated 16<sup>th</sup> November, 2016.
4. That the court do supervise the compliance of the orders of the parties through the Deputy Registrar.
5. That costs of this application be provided for in any event.

The application is premised on the grounds on the face of it and the supporting affidavit of NTUYOTO MARASUA LEMPESAI where he highlights the proceedings herein after the impugned judgement by Hon. Justice Nyakundi and enumerated the orders granted therein. He confirms that they seek to transfer the documents in respect to the Group Ranch and claims the interested parties have done nothing to comply with the said judgement.

The application is opposed by the Interested Parties who filed a replying affidavit sworn by DANIEL KOIKAI KIRONUA where he deposes that the application is not merited. He proceeded to highlight the Applicants actions after the impugned judgement and contends that they had filed an application dated the 19<sup>th</sup> December, 2016 seeking to cite the Applicants for contempt. Further, the application for stay in the Court of Appeal was withdrawn on 13<sup>th</sup> February, 2020 and the Applicants have had sufficient time to comply with the orders of the court. He insists the Applicants are seeking for more time to perpetuate their illegalities. He further proceeded to highlight how the 2<sup>nd</sup> Applicant obtained an ex parte judgement from court to remove the caution in respect to a public utility plot, which affected the rights of the larger Mailua Community.

The application was canvassed by way of written submissions but only the Interested Parties filed their submissions.

#### Analysis and Determination

Upon consideration of the Notice of Motion application dated 10<sup>th</sup> March, 2020, including the rivalling affidavits and submissions, the only issue for determination is whether this court can extend time and provide timelines to enable the Applicants to comply with the orders of Justice R. Nyakundi in the judgement dated the 16<sup>th</sup> November, 2016.

The Interested Parties in their submissions reiterated their claim and insist the extension of time is not justified. To buttress their averments, they have relied on the case of **Econet Wireless Kenya Ltd V Minister for Information & Communication of Kenya & Another (2005) 1KLR**.

I note the impugned Judgement was specific on the timelines within which the Applicants were to comply with the orders granted therein. The Applicants opted to lodge an appeal and filed an application for stay which they withdrew on 13<sup>th</sup> February, 2020. The Applicants have not indicated whether they had attempted to implement the said Judgement but faced difficulty. I note it is over one year since the Application for stay was withdrawn from the Court of Appeal.

Upon perusal of the impugned Judgement, I note the timelines were very specific on when the Applicants were to implement the said Judgement. The Applicants have not provided plausible reasons why they delayed in implementing the said judgement.

Based on the facts as presented, to my mind, I find that the Applicants have not met the threshold set to extent time to comply with the impugned judgement. Further, in associating myself with the case of **Econet Wireless Kenya Ltd V Minister for Information & Communication of Kenya & Another (2005) 1KLR** where the court found that obedience of court orders is essential for maintenance of the Rule of Law, I opine that the Applicants seem to seek orders from court to sanitize their actions of contempt for failing to comply with orders of the court. I note that the issue that was in dispute is the management of a group ranch which affects a large community and it is my considered view that extension of time is not justified at this juncture especially when it is sought in bad faith.

In the circumstance, I find the Notice of Motion application dated the 10<sup>th</sup> March, 2020 unmerited and will proceed to dismiss it with costs to the Interested Parties.

**DATED SIGNED AND DELIVERED VIRTUALLY AT KAJIADO THIS 16<sup>TH</sup> DAY OF JUNE, 2021**

**CHRISTINE OCHIENG**

**JUDGE**