



**Lonyala & 28 others v Cabinet Secretary Ministry of Physical Planning & 3 others;  
County Government of West Pokot & 6 others (Interested Parties) (Constitutional  
Petition E002 of 2023) [2025] KEHC 8399 (KLR) (12 June 2025) (Ruling)**

Neutral citation: [2025] KEHC 8399 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KAPENGURIA  
CONSTITUTIONAL PETITION E002 OF 2023  
RPV WENDOH, J  
JUNE 12, 2025**

**BETWEEN**

**CHRISTOPHER KURUTYON LONYALA & 28 OTHERS ..... PETITIONER**

**AND**

**CABINET SECRETARY MINISTRY OF PHYSICAL PLANNING .... 1<sup>ST</sup>  
RESPONDENT**

**DIRECTOR SURVEY ..... 2<sup>ND</sup> RESPONDENT**

**NATIONAL LAND COMMISSION ..... 3<sup>RD</sup> RESPONDENT**

**HON ATTORNEY GENERAL & OTHERS ..... 4<sup>TH</sup> RESPONDENT**

**AND**

**COUNTY GOVERNMENT OF WEST POKOT ..... INTERESTED PARTY**

**COUNTY GOVERNMENT OF BARINGO ..... INTERESTED PARTY**

**COUNTY GOVERNMENT OF ELGEYO MARAKWET .... INTERESTED PARTY**

**COUNTY GOVERNMENT OF TRANS NZOIA ..... INTERESTED PARTY**

**COUNTY GOVERNMENT OF TURKANA ..... INTERESTED PARTY**

**THE SENATE ..... INTERESTED PARTY**

**INDEPENDENT ELECTORAL AND BOUNDARIES**

**COMMISSION ..... INTERESTED PARTY**



## RULING

1. This petition dated 23/6/2023 was filed by Christopher K. Lonyala and 28 others against, The Cabinet Secretary Ministry of lands Mapping & Physical Planning, Director Survey National Land Commission, & The Honourable Attorney General and Interested Parties, County Government of West Pokot, County Government of Baringo, County Government of Elgeyo Marakwet, County Government of Trans Nzoia County Government of Turkana, The Senate, and the Independent Electoral and Boundaries Commission.
2. The Prayers sought in the petition are -
  - a. An order compelling the Director of Survey of Kenya, the second Respondent to demarcate and clearly mark on the ground as shown on the map of Kenya prepared between 1921 and 1942, the boundaries of West Pokot in relation to the neighbouring counties of Turkana, Baringo, Elgeyo Marakwet and Trans Nzoia,
  - b. Costs of the petition.

This petition is expressed to be brought pursuant to Articles 1,2,3,6,10,19,20,22,23,24,27,47,67,88(1),93,96,165(b),258  
(2);
3. The petition was filed by the firm of Changorok Sabulei Advocates with Mr. Ndinyo appearing for the firm;
4. Ms. Odeya represents the Attorney General for the Respondents; Mr. Chebon the 4<sup>th</sup> Interested Party; Mr. Ekuru Aukot and Miss Bosire for the 5<sup>th</sup> Interested party and Mr. Macharia for the 7<sup>th</sup> interested party.
5. The 5<sup>th</sup> interested party filed a Notice of preliminary objection to this petition dated 13/6/2024. The Attorney General also filed a Notice of preliminary objection on 7/11/2024.
6. The court gave directions that the preliminary objection be determined first and Counsel filed their respective submissions on the preliminary objection.
7. Before the court could retire to consider the preliminary objection, on 8/5/2025, Mr. Ndinyo, Counsel for the petitioners informed the court that he had read the Judgment in Mombasa ELC Petition 33/2021 Okiya Omtata Okoiti -V- The Parliament of Kenya, The National Executive of Kenya, the Attorney General and four interested parties and that the Judgment had been partially delivered; that the court ordered the parliament of Kenya to consider implementing Articles 94(3) and 188 of *the Constitution* by enacting appropriate legislation by amending the law and establish an independent forum to deal with boundary disputes affecting the 47 boundaries in Kenya; that the parliament is supposed to comply within twelve (12) months effective from 19/11/2024, he urged that in Msa. ELC. Petition 33/2021 petition, the prayers relate to demarcation of boundaries of all the 47 counties. He therefore prayed that these proceedings be stayed pending the conclusion of MSA.ELC Petition 33/2021 to avoid conflicting decisions between Environment and Land Court and this court.
8. Ms. Odeyo, Counsel for the Respondents was in agreement with the petitioners view and so was Mr. Chebon, Counsel for the 4<sup>th</sup> interested party.



9. However, Mr. Ekuru Aukot, opposed the staying of this suit. He was of the view that in ELC 33/2021, the petitioners are different and the prayers sought are over fights over towns, historical injustices and collection of taxes; that in this petition the petitioners are on a fishing expedition.
10. Similarly, Mr. Macharia Counsel for 7<sup>th</sup> interested party urged the court to proceed with the instant petition; that the Mombasa matter is a land matter while this is a Constitutional petition and that the court should proceed to deal with the preliminary objection to determine whether there is merit in staying this suit or to await the conclusion of the Mombasa matter.
11. I have now read the Judgment in Mombasa ELC petition 33/2021. In the said petition, several reliefs were sought. I agree that most of the reliefs that were sought in ELC Petition 33/2021 relate to historical injustices relating to Taita Taveta, Makueni and Kwale counties and collection of taxes and levies in towns bordering the counties. However, at prayer (d), (e) and (f) the prayers relate to the 47 counties and relate to ascertaining and demarcation of the boundaries in respect of the 47 counties. The counties of West Pokot, Baringo, Turkana and Trans Nzoia are included therein. The prayers are as follows:-
- (d) A declaration that Parliament of Kenya should enact enabling legislation to implement Articles 94(3) and 188 of *the Constitution*;
  - (e) A declaration that the national executive of Kenya has failed to lessen county boundary disputes by surveying and erecting visible beacons to clearly demarcate the boundaries of Kenya's 47 counties, pursuant to Articles 129,130,131(1) (b) and 2(a) and (b) as read together with Articles 6(1) and the first schedule to *the Constitution*;
  - (f) A declaration that the national executive of Kenya should survey and erect visible beacons to clearly demarcate the boundaries of Kenya's 47 counties pursuant to Articles 129,130,131 (1) (b) and 2(a) and (b) as read together with Articles 6(1) and the first schedule to *the Constitution*.
12. Clearly, any orders that will be made by the Environment and Land court in respect of the said prayers will directly touch on and affect the prayers sought herein i.e seeking demarcation of the boundaries of the 47 counties. For that reason, I do agree with the petitioners and the Attorney General, that since the court in Mombasa is already seized of the matter and awaiting parliament to take action, it is proper that this court awaits the determination in the said case lest the two courts arrive at contradictory decisions on the same issue.

Consequently, this petition is hereby stayed pending the determination of Mombasa ELC Petition 33/2021. Mention on 4/12/2025.

**DATED, SIGNED AND DELIVERED ON 12TH DAY OF JUNE, 2025**

**HON. R. WENDOH**

**JUDGE.**

Judgement read in open court in the presence of

Juma/Hellen-Court Assistants

Mr. Ekuru Aukot & Bosire for the 5<sup>th</sup> interested party.

Mr. Chebon holding brief for Mr. Otieno for 4<sup>th</sup> interested party.

Mr. Karanja holding brief for Mr. Macharia for Independent Electoral & Boundaries Commission.(IEBC)

Mr Ndinyo for all petitioners.



No appearance – Attorney General.

