



**REPUBLIC OF KENYA**

**IN THE ENVIRONMENT AND LAND COURT**

**AT KITALE**

**ELC CASE NO. 38 OF 2021**

KANYARKWAT GROUP RANCH.....1<sup>ST</sup> PLAINTIFF  
JULIUS LONGUROKWANG.....2<sup>ND</sup> PLAINTIFF  
PHILIP CHEMALA RUTO.....3<sup>RD</sup> PLAINTIFF  
LOKORLUKA LOTUNALE.....4<sup>TH</sup> PLAINTIFF  
JOSEPH NGIRUYE.....5<sup>TH</sup> PLAINTIFF

**VERSUS**

MERINGIRO LOKADIR JOSEPH.....1<sup>ST</sup> DEFENDANT  
ANTONY MUKELUK TONGOLO.....2<sup>ND</sup> DEFENDANT  
LOMANGIRO INVESTMENT LIMITED.....3<sup>RD</sup> DEFENDANT  
THE LAND REGISTRAR, WEST POKOT COUNTY.....4<sup>TH</sup> DEFENDANT

**RULING**

1. The application dated 29/6/2021 and filed in court on the same date has been brought under Sections 1, 1A, 1B, 3A & 63(e) of the Civil Procedure Act, Order 40 Rule (1) and (2) and Order 51 Rule (1) of the Civil Procedure Rules. The plaintiffs seek the following orders:-

1. ...spent

2. That the defendants and/or agents, servants, works and/or any other person acting for them be restrained by way of temporary injunction from trespassing and/or developing, transferring, selling, disposing off, charging, dealing(s), working and/or interfering with the members of the 1<sup>st</sup> plaintiff in any manner in respect to title deeds No. West Pokot/Kanyarkwat "B"/3 and West Pokot/Kanyarkwat "B"/6 respectively, pending *inter partes* hearing and final determination of this application.

3. That the defendants and/or agents, servants, works and/or any other person acting for them be restrained by way of temporary injunction from trespassing and/or developing, transferring, selling, disposing off, charging, dealing(s), working and/or interfering with the members of the 1<sup>st</sup> plaintiff in any manner in respect to title deeds No. West Pokot/Kanyarkwat "B"/3 and West Pokot/Kanyarkwat "B"/6 respectively, pending the hearing and determination of the main suit.

4. That this honourable court be pleased to stay proceedings of Kitale ELC No. 30 of 2017 pending the hearing and determination of this application *inter partes* and thereafter pending the hearing and determination of the main suit.

5. That this honourable court be pleased to suspend dissolution and subdivision of the Kanyarkwat Group Ranch parcel of land No. West Pokot/Kanyarkwat /1 and its subsequent illegal subdivision and the Registrar of community land shall not register any instrument relating to the said land.

**6. Any other relief that may be viable or expedient for the court to grant.**

2. The application is supported by the affidavit sworn on **29/6/2021** by **Julius Longurokwang**, the **2<sup>nd</sup>** plaintiff on his own behalf and on behalf of co-plaintiffs.
3. The defendants filed a replying affidavit on **8/7//2021**.
4. This court directed the application be disposed of by way of written submissions.

**Determination**

4. The main issue arising from the instant application is whether the orders of temporary injunction and stay of suit sought by the plaintiff may be issued.
5. It is clear that the parcel claimed by the **1<sup>st</sup>** and **2<sup>nd</sup>** defendants in both suits, that is **West Pokot /Kanyarkwat “B”/3** emanated from the subdivision of the land owned by Kanyarkwat Group Ranch.
7. The subdivision of the land and the registration of **West Pokot /Kanyarkwat “B”/3** in the names of the **1<sup>st</sup>** and **2<sup>nd</sup>** defendants and the purported dissolution of the Group Ranch having been disputed, I find that there is a good ground to halt the proceedings in **Kitale ELC No. 30 of 2017** pending the hearing and determination of the instant suit as any determination of that suit before the dispute herein may irredeemably prejudice the trial of this suit.
8. The second parcel whose title is challenged is said to be registered in the names of the **1<sup>st</sup> - 3<sup>rd</sup>** defendants. The **1<sup>st</sup>** and **2<sup>nd</sup>** plaintiffs have sought a stay of proceedings in the earlier suit but this court is of the opinion that the orders sought in both suits can be addressed in the same judgment upon consolidation of the two suits, and that that may be a better application of judicial time.
9. By the same reasoning above it is clear that the plaintiffs herein have a *prima facie* case with a probability of success and they may suffer considerable loss if the orders of temporary injunction are not granted.
10. The two land parcels subject matter of are quite large and lie in peril of disposal by the **1<sup>st</sup> - 3<sup>rd</sup>** defendants as they hold title. It is not known if the defendants would be able to compensate the plaintiffs for the loss of the land thereafter perchance any disposal occurs.
11. For the foregoing reasons this court is of the view that the two conditions requisite for the grant of orders of temporary injunction in this case do exist.
12. I therefore grant the application dated **29/6/2021** in the following terms:

**1. That the defendants and/or agents, servants, works and/or any other person acting for them be restrained by way of temporary injunction from trespassing and/or developing, transferring, selling, disposing off, charging, dealing(s), working and/or interfering in any manner whatsoever with title deeds No. West Pokot/Kanyarkwat “B”/3 and West Pokot/Kanyarkwat “B”/6 respectively, pending the hearing and determination of the main suit.**

**2. That the instant suit shall be consolidated with Kitale ELC No. 30 of 2017 for the purposes of a single judgment for both suits.**

**3. That purported dissolution of the Kanyarkwat Group Ranch and the purported subdivision of the Kanyarkwat Group Ranch parcel of land No. West Pokot/Kanyarkwat /1 are suspended and the Registrar of Community Land and the County Land Registrar West Pokot shall not register any instrument or instruments relating to the said land pending the hearing and determination of the consolidated suit.**

**4. To avert delay in the hearing and determination of the two suits one which is quite old, the file record for Kitale ELC No. 30 of 2017 shall be brought up and shall accompany the record herein and the consolidated suit shall be mentioned on 21/7/2021 at 12.30 pm for issuance of a hearing date on a priority basis.**

**5. All parties without exception shall ensure that they have complied with the civil procedure rules as to filing and service of documents by 21/7/2021.**

It is so ordered.

**DATED, SIGNED AND DELIVERED AT KITALE VIA ELECTRONIC MAIL ON THIS 14<sup>TH</sup> DAY OF JULY, 2021**

**MWANGI NJOROGE**

**JUDGE, ELC, KITALE.**