



**Teiyia & 4 others v Keshine & 14 others; Oltepes Group Ranch & another (Interested Parties)  
(Environment & Land Petition E011 of 2024) [2025] KEELC 4706 (KLR) (19 June 2025) (Ruling)**

Neutral citation: [2025] KEELC 4706 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT KAJIADO  
ENVIRONMENT & LAND PETITION E011 OF 2024  
LC KOMINGOI, J  
JUNE 19, 2025**

**BETWEEN**

**TULITO OLE TEIYIA ..... 1<sup>ST</sup> PETITIONER  
KITARE OLE MATIRA ..... 2<sup>ND</sup> PETITIONER  
SARONI OLE OIYE ..... 3<sup>RD</sup> PETITIONER  
LITEI OLE KOIYAKI ..... 4<sup>TH</sup> PETITIONER  
MUTERI LEGISA LESHU ..... 5<sup>TH</sup> PETITIONER**

**AND**

**SAMPEKE OLE KESHINE ..... 1<sup>ST</sup> RESPONDENT  
KUNTAI OLE NTIAKI KETORA ..... 2<sup>ND</sup> RESPONDENT  
SAMWEL LABOYOI OLE SOLIO ..... 3<sup>RD</sup> RESPONDENT  
LENKAI OLE KOSHESHE ..... 4<sup>TH</sup> RESPONDENT  
SWAKEI OLE LEPOSO ..... 5<sup>TH</sup> RESPONDENT  
SIPOI OLE HABORA ..... 6<sup>TH</sup> RESPONDENT  
RUNDA OLE KAO ..... 7<sup>TH</sup> RESPONDENT  
KELELUE OLE LEDAPANA ..... 8<sup>TH</sup> RESPONDENT  
THOMAS M. NTIAKI ..... 9<sup>TH</sup> RESPONDENT  
JOHN SANDAMO OLEKU ..... 10<sup>TH</sup> RESPONDENT  
REGISTRAR OF GROUP REPRESENTATIVES ..... 11<sup>TH</sup> RESPONDENT  
THE DISTRICT LAND REGISTRAR, KISAMIS ..... 12<sup>TH</sup> RESPONDENT  
THE COMMUNITY LAND REGISTRAR ..... 13<sup>TH</sup> RESPONDENT**



**THE MINISTRY OF LANDS, PUBLIC WORKS, HOUSING AND URBAN  
PLANNING ..... 14<sup>TH</sup> RESPONDENT**

**THE HON. ATTORNEY GENERAL ..... 15<sup>TH</sup> RESPONDENT**

**AND**

**OLTEPES GROUP RANCH ..... INTERESTED PARTY**

**THE COUNTY GOVERNMENT OF KAJIADO ..... INTERESTED PARTY**

## **RULING**

1. This Ruling is in respect of the 1<sup>st</sup> to 10<sup>th</sup> Respondents' Preliminary Objection dated 16<sup>th</sup> January 2025 opposing the Petition on grounds that:
  - i. The court lacks jurisdiction to entertain a matter of this nature.
  - ii. The same offends the provisions of sections 39, 40, 41 and 42 of the [Community Land Act](#) Cap 287 as read with Article 159(2)(c) of [the Constitution](#) of Kenya 2010
2. The Petitioners in their Replying Affidavit sworn by Kitare Ole Matira the 2<sup>nd</sup> Petitioner oppose the preliminary objection on grounds that Oltepes Group Ranch is not yet registered under the [Community Land Act](#). Therefore provisions of Section 39, 40, 41 and 42 of the [Community Land Act](#) are inapplicable until the group ranch is in compliance with the Act. He avers that the 1<sup>st</sup> to 10<sup>th</sup> Respondents have refused/failed to initiate the registration process and can therefore not ask Court to enforce Section 39 of the [Community Land Act](#) while they have began the subdivision process contrary to Section 47(3) of the [Community Land Act](#) which estops land held by group representatives from being leased, sold or converted to private land before registration.
3. This application was canvassed by way of written submissions.

### **Submissions of the 1<sup>st</sup> – 10<sup>th</sup> Respondents**

4. Counsel submitted that the Petition should be struck out for being premature as internal dispute resolution mechanisms espoused by Section 39 and 42 of the [Community Land Act](#) and Article 159(2)(c) of [the Constitution](#) had not been exhausted contrary to the doctrine of exhaustion under. It was submitted that the dispute which pertained change in membership and officials of the Oltepes Group Ranch did not require judicial intervention at this stage while there were opportunities for alternative dispute resolution. And the fact that a party was pleading constitutional violation did not automatically imply that the dispute qualified as a Petition as held in *Mwasighwa & 55 others v Mbulia Community Land & 3 others* [2024] KEELC 5866 (KLR). The Petition should therefore be dismissed with costs.

### **The Petitioners' submissions**

5. On whether the Preliminary Objection is merited, it is argued that the objection should be dismissed with costs because it does not adhere to *Mukisa Biscuits Manufacturing Co. Ltd v West End Distributors Ltd* [1969] EA 696 and *Kenya National Commission on Human Rights v Attorney General; Independent Electoral & Boundaries Commission & 16 others (Interested Parties)* [2020] eKLR that an objection should be on a pure point of law. They assert that the Respondents' objection is factually contested and cannot be resolved on the face of pleadings alone. This is because the



Oltepes Group Ranch has not undergone the process of conversion and thus has not been registered as a community under the [Community Land Act](#) and the suit property being Title No. Kajiado/Loodariak/3. The Oltepes Group Ranch was incorporated under the Land (Group Representatives) Act, Cap 287 pursuant to the Application for Incorporation of Group Representatives dated 20<sup>th</sup> September 1990. The Land (Group Representatives) Act was repealed by the [Community Land Act](#), 2016 that requires the group representatives registered under Cap 287 to undergo the process of conversion and be registered as a community in accordance with the [Community Land Act](#). Section 47(1), (3) of the [Community Land Act](#) prohibits the sale, leasing or conversion to private land of land held by group representatives before it has been converted to Community Land as espoused under the Community Land Regulations of 2017. By virtue of this, the provisions of Sections 39, 40, 41 and 42 of the [Community Land Act](#) do not apply to this dispute as the group Ranch is question is still registered under the Land (Group Representatives) Act. Reference was made to *Lolkidienye & 9 others v Olemiranit & 15 others* [2023] KEELC 18254 (KLR), *Kasaine Ole Seleka & 5 others v Daniel Kiria Leturesh & 7 others* [2020] KEELC 530 (KLR) and *County Government of Taita Taveta v Isangaiwich Group Ranch & 3 others* [2021] KEELC 1343 (KLR) where the Courts dismissed the Preliminary objections on the grounds that there was no material on record to demonstrate that the Group Ranches were registered under the [Community Land Act](#).

6. On whether the Court has jurisdiction to determine the Petition, Counsel submitted that the reason for the Petition was due to violation of the Petitioners' Constitutional Rights which were not within the ambits of Section 39, 40, 41 and 42 of the [Community Land Act](#). And even then, the [Community Land Act](#) did not oust jurisdiction of this Court as enshrined under Article 165 of [the Constitution](#) as held in *Hassan Maalim Abdalla v County Government of Marsabit & Ssack Maalimyussuf* [2018] KEELC 3775 (KLR).
7. As such, the preliminary objection lacked merit and should be dismissed with costs to the Petitioners.

### **Analysis and determination**

8. I have considered the Preliminary Objection, the rival submissions, and the authorities cited and find that the issues for determination are:
  - i. Whether the Preliminary objection dated 16<sup>th</sup> January 2025 is merited;
  - ii. Who should bear the costs of this application?
9. It is now settled that a preliminary objection should be raised on a pure point of law. One that can be discerned from the pleadings as held in *Mukisa Biscuits Manufacturing Co. Ltd v West End Distributors Ltd* [1969] EA 696 and the Supreme Court in *Independent Electoral & Boundaries Commission v Cheperenger & 2 others* [2015] KESC 2 (KLR):

“...To restate the relevant principle from the precedent-setting case, *Mukisa Biscuit Manufacturing Co. Ltd v West End Distributors* [1969] EA 696: ‘a preliminary objection consists of a point of law which has been pleaded or which arises by clear implication out of pleadings and which if argued as a preliminary point may dispose of the suit... It raises a pure point of law which is argued on the assumption that all the facts pleaded by the other side are correct. It cannot be raised if any fact has to be ascertained or if what is sought is the exercise of judicial discretion...”
10. For a Preliminary objection to be merited, a court has to be satisfied that there is no contest on the facts and they are agreed as presented.



11. In the matter at hand, the 1<sup>st</sup>-10<sup>th</sup> Respondents argue that the Petition is unmerited because it is against the doctrine of exhaustion as it has not adhered to the alternative dispute resolution methods provided under Section 39 of the Community Land Act. The said section provides:
- 39(1) A registered community may use alternative methods of dispute resolution mechanisms including traditional dispute and conflict resolution mechanisms where it is appropriate to do so, for purposes of settling disputes and conflicts involving community land.
- (2) Any dispute arising between members of a registered community, a registered community and another registered community shall, at first instance, be resolved using any of the internal dispute resolution mechanisms set out in the respective community by-laws.
- (3) Where a dispute or conflict relating to community land arises, the registered community shall give priority to alternative methods of dispute resolution.
- (4) Subject to the provisions of the Constitution and of this Act, a court or any other dispute resolution body shall apply the customary law prevailing in the area of jurisdiction of the parties to a dispute or binding on the parties to a dispute in settlement of community land disputes so far as it is not repugnant to justice and morality and inconsistent with the Constitution.
12. The Petitioners have contested this allegation on grounds that the Oltepes Group Ranch is not registered under Section 47 of the Community Land Act and is thus not bound by the provisions of that Act. It provides:
- 47(1) In relation to land held under the Land (Group Representatives) Act, the respective group representatives together with the communities they represent shall be registered as a community in accordance with the provisions of this Act.
- (2) Upon registration, the respective group representatives shall cease to hold office.
- (3) Land held by group representatives referred to under subsection ( 1) shall not be sold, leased or converted to private land before it has been registered under this Act.
13. On this plain reading, there is already contention on the status of the Petition/ Group Ranch. This means that the Court will have to look through evidence to ascertain the status of the Group Ranch so as to determine whether the Petition is against the doctrine of exhaustion.
14. I find no merit in the Preliminary objection and the same is dismissed.
15. The costs shall abide the outcome of the Petition.

**DATED, SIGNED AND DELIVERED VIRTUALLY AT KAJIADO THIS 19<sup>TH</sup> DAY OF JUNE 2025.**

**L.KOMINGOI**

**JUDGE.**

In The Presence Of:

Ms. Kyeva for Ms. Thiongo for Petitioners.

Mr. Ochieng for the 1<sup>st</sup> – 10<sup>th</sup> Respondents.

Ms Wanjiru for 11<sup>th</sup>, 15<sup>th</sup> Respondents.

N/A for the Interested Parties.



Court Assistant – Mutisya.

