



**Golden Fields Association v County Government of Kajiado & 4 others (Environment and Land Petition E001 of 2024) [2025] KEELC 5195 (KLR) (16 June 2025) (Ruling)**

Neutral citation: [2025] KEELC 5195 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT KAJIADO  
ENVIRONMENT AND LAND PETITION E001 OF 2024**

**MD MWANGI, J  
JUNE 16, 2025**

**BETWEEN**

**GOLDEN FIELDS ASSOCIATION ..... APPLICANT**

**AND**

**COUNTY GOVERNMENT OF KAJIADO ..... 1<sup>ST</sup> RESPONDENT**

**KENYA WILDLIFE SERVICES ..... 2<sup>ND</sup> RESPONDENT**

**BIG LIFE FOUNDATION LTD ..... 3<sup>RD</sup> RESPONDENT**

**NATIONAL ENVIRONMENT MANAGEMENT AUTHORITY .... 4<sup>TH</sup>  
RESPONDENT**

**THE ATTORNEY GENERAL ..... 5<sup>TH</sup> RESPONDENT**

**RULING**

[In respect of the notice of motion dated 17<sup>th</sup> October 2024 brought under various provisions of *the Constitution* & Rules 4, 13, 19 and 23 of *the Constitution* of Kenya [Protection of Rights and Fundamental Freedom] Practice and Procedure Rules of 2013]

**Background**

1. The petitioners instituted this matter vide their petition dated 17<sup>th</sup> October 2024. The petitioners describe themselves as members of Golden Fields Association whose membership comprises of residents of Kajiado, Eselenkei, Olgulului, Ololalarashi, formally group ranches. The Association is duly registered under the *Societies Act* for purposes of protecting and promoting the welfare and interests of the residents.
2. The petition is brought against the Kajiado County Government, Kenya Wildlife Services, Big Life foundation Ltd, National Environment Management Authority and the Attorney General.



3. The Petitioners allege that the National Government through H.E. the President of the Republic of Kenya, on 26<sup>th</sup> July 2023 issued a directive to the Director General of NEMA, the 4<sup>th</sup> Respondent directing him to stop the issuance of licenses and permits for various projects in the Kenya Wildlife Conservation areas including Kajiado and prepare a detailed list of ESIA reports detailing the type of project, ESIA reference, the name of the respondent, number, project location, date of submission and the status of the record of the decision by 15<sup>th</sup> August 2023. The directive, according to the petitioners further requested the Director General to stop receiving any new ESIA reports within the specified areas.
4. The Petitioners further accuse the 1<sup>st</sup> Respondent, the County Government of Kajiado of beginning the process of spatial planning in special spatial planning areas within Kajiado County without adhering to the due process. The targeted areas include areas inhabited by the Applicants. The intended spatial planning is expressed as intended to;
  - a. Safeguard the livelihood of communities living within the zone;
  - b. Provide a framework to inform sustainable use of land and land resources; and
  - c. Support conservation efforts in the larger Amboseli ecosystem and wildlife zone to avert potential conflicts.
5. The petitioners' complainant is that the directives; of the National Government and the County Government are being implemented without any consultations and without considering the legal, policy and environmental safeguards relating to the right to property, privacy, public participation and consultation. The petitioners aver that they have since been subjected to extreme human rights violations and cruel treatment including invasion of their properties, damage and attempt to remove their properties from their farms, discrimination, violation of their privacy, physical assault and arbitrary arrests and unlawful confinements.
6. The Petitioners reiterate that they have been subjected to a myriad of injustices and abuse of their basic rights since the beginning of the year, 2024 including:-
  - i. Unlawful arrests, detention and frivolous charges;
  - ii. Destruction of property;
  - iii. Infringement of privacy;
  - iv. Discrimination;
  - v. Low flying planes aimed at blowing roofs;
  - vi. Denial of approval by NEMA;
  - vii. Illegal carbon credit trade over the petitioners' private property.
7. Despite raising their voices and writing memos and petitions to the County Government of Kajiado and the National Government, their grievances have not been addressed. This prompted them to file the petition herein seeking a raft of orders.
8. Pending the hearing and determination of their petition, the petitioners vide the Notice of Motion dated 17<sup>th</sup> October 2024 seek conservatory orders suspending the discussion, consideration and implementation of County Spatial Plan 2019 – 2029, until civic education and public participation processes as required under the *County Governments Act* and *the Constitution* are complied with. They further pray for a conservatory order suspending the presidential directive directed at NEMA and dated



26<sup>th</sup> July 2023 suspending development projects within Kenya Wildlife conservation areas including Kajiado, Machakos [Athi–Kapiti corridor], Narok, Laikipia, Taita Taveta and Baringo and further stopping NEMA from issuing ESIA licenses and certificates in those areas and or receiving any ESIA application or issuing EISA project reports in those areas and or receiving any ESIA application or issuing ESIA project reports within Kenya Wildlife conservation areas.

9. The petitioners too pray, for an order of injunction against the 1<sup>st</sup> – 4<sup>th</sup> Respondents restraining them from trespassing into the Petitioners’ freehold properties, removing any fences and or stopping any developments thereon or flying an aircraft above the petitioners’ premises pending the hearing and determination of the petition.
10. The application is supported by the affidavit of one James Maina, the Chairman of Golden Fields Association sworn on 17<sup>th</sup> October 2024. In the affidavit, the deponent explains what he refers to as the germane issues around the application and the reasons why they seeks to be heard urgently as follows;-
  - a. There has been a spate of numerous non-warranted physical attacks on the petitioners and their properties and they have reliable information that these is a planned intended attack to invade the petitioners’ and completely wipe out their properties.
  - b. The County Government of Kajiado has commenced special spatial planning process without the involvement, civic education and public participation of the members of Golden Fields Association.
  - c. The National Government through H.E the President made a directive dated 26<sup>th</sup> July 2023 directing NEMA to stop issuing EIA Licenses to the members of the association living in this region and the greater Kajiado area.
  - d. That the 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup> Respondents relying on the unlawful presidential decree and the unconstitutional spatial planning process have taken the law into their hands and have purported to stop the members of the Association from developments in their private freehold properties including constructing houses, digging boreholes and other developments in their properties.
11. The petitioners’ allege that the actions by the Respondents are discriminative and amounts to land invasion. They too amount to violations of rights under Articles 20, 21, 11, 27, 28, 29, 30, 31, 35, 40, 43 and 47 of *the Constitution*. They to accuse the County Government of Kajiado of failure to involve the people; otherwise conduct public participation in the process of formulation of the policies, which impact on their lives.
12. The Petitioners urge the court for purposes of safeguarding public interest to suspend the implementation, decision or debate and the proposed special spatial law until the County Government complies with the provisions of *the Constitution* and the *County Governments Act* concerning public participation and civic education.
13. The Petitioners further accuse the Respondents of engaging in Carbon Credit Trade in the guise of special spatial planning and enforcement of the presidential decree. They have unlawfully trespassed into the Petitioners’ properties, caused them to be arrested, physically assaulted and destroyed their properties including fences, houses and other properties on the land. The Petitioners insist that their titles are freehold; entitling them to indefeasible titles.
14. It is the petitioners’ claim that the Respondents are misusing and abusing the presidential decree by using their vast land for carbon sequestration. It is further alleged that the Respondents have signed dubious and illegal agreements in collusion with officials of the defunct group ranches and that is the



reason they want to keep the petitioners out of their properties in a bid to keep the land ‘fallow’ for purposes of carbon sequestration in spite of the fact that the agreements they rely on were entered into before the sale and transfer of the properties to the Petitioners/Applicants who are therefore third parties.

### **Responses By The Respondents**

15. The 1<sup>st</sup> Respondent responded to the application by the petitioners by way of Grounds of Opposition dated 22<sup>nd</sup> April 2024 and a Replying Affidavit sworn by Hamilton Parseina of even date.
16. In the Grounds of Opposition, the 1<sup>st</sup> Respondent asserted that the Presidential directive only required the 4<sup>th</sup> Respondent to stop issuance of licenses and permits for various projects in Kenya Wildlife Conservation areas until a conservation policy is done. It was therefore in the interim pending the drafting of the Conservation Policy. The directive was aimed at protecting the wildlife conservation areas pending the drafting of a National Wildlife Conservation Policy.
17. The 1<sup>st</sup> Respondent further, averred that the Petitioners had not demonstrated a real danger that is actual, imminent and evident to warrant the immediate intervention of the court. It is the 1<sup>st</sup> Respondent’s position that public interest tilts on the side of not granting the conservatory orders. Granting the orders sought would have an effect in government’s efforts aimed at conserving wildlife.
18. The Replying Affidavit on behalf of the 1<sup>st</sup> Respondent reiterates the issues raised in the grounds of opposition.
19. The 3<sup>rd</sup> Respondent filed a replying affidavit dated 15<sup>th</sup> March 2025 denying any involvement with the actions complained of in the petition. They therefore asserted that the Petitioners had no cause of action against them.
20. The 4<sup>th</sup> Respondent too filed grounds of opposition dated 27<sup>th</sup> November 2024. The 4<sup>th</sup> Respondent asserts that it is a state agency under the Ministry of Environment and cannot vary the executive order issued on 26<sup>th</sup> July 2023. Any grievances regarding its execution ought to be channeled through the Cabinet Secretary in the Ministry of Environment and Forestry; the 5<sup>th</sup> Respondent is therefore the appropriate channel through which any requests for variation of the presidential directive ought to be directed at.
21. The petitioners filed a further affidavit reiterating the assertions in their petition and the supporting affidavit referred to earlier on.

### **Court’s Directions**

22. The Directions by the court were that the application by the petitioners be canvassed by way of oral submissions. Parties however, were at liberty to file skeleton submissions, which they were to highlight before the court. The oral hearing was on 28<sup>th</sup> April 2025. The proceedings for the day form part of the record of this court. I need not replicate them verbatim.

### **Issues for Determination**

23. Having carefully considered the application by the Petitioners, the responses thereto and the submissions by the parties, the critical issue for determination is whether the Petitioners have made a case for the issuance of the interim reliefs sought pending the hearing and determination of the petition.



## Analysis And Determination

24. In writing, this ruling, this court is acutely conscious of its responsibility at this interim stage not to delve into the issues in the realm of the main petition as rightly held in the case of Muslims for Human Rights and 2 others v AG and 2 others [2011] eKLR, where the court cautioned that;
- “The court must be careful for it not to reach final conclusion and to make final findings. By the time the application is decided; all the parties must still have the ability and flexibility to prosecute their cases or present their defences without prejudice. There must be no conclusivity or finality arising that will or may operate adversely vis-a-vis the case of either parties. The principle is similar to that in temporary or interlocutory injunctive in civil matters.”
25. *Mrima J in Law Society v Attorney General & ano*, noted that;
- “A court, therefore, dealing with an application for conservatory orders must maintain the delicate balance of ensuring that it does not delve into issues which are in the realm of the main petition.”
26. Conservatory orders being interim orders are aimed at preserving the substratum of the petition/suit pending the determination of the main issues in disputes. In the case of *JSC v Speaker of the National Assembly and Ano* [2013] eKLR, the court describing the rationale of conservatory orders stated that,
- “Conservatory orders in my view are not ordinary civil law remedies but are remedies provided for under *the Constitution*, the supreme law of the land. They are not remedies between one individual as against another but are meant to keep the subject matter of the dispute in situ. Therefore, such remedies are remedies in rem as opposed to the remedies in personam. In other words, they are remedies in respect of a particular state of affairs as opposed to injunctive orders which may only attach to a particular person.”
27. The Supreme Court of Kenya in *Gatirau Peter Munya v Dickson Mwenda Kithinji and others* [2014] eKLR, on its part had this to say about conservatory orders;
- “Conservatory orders bear a more decided public law connotation; for these are orders to facilitate ordered functioning within public agencies, as well as to uphold the adjudicatory authority of the court in the public interest.
- Conservatory orders, therefore, are not, unlike interlocutory injunctions, linked to such private – party issues as the ‘prospects of irreparable harm’, occurring during the pendency of a case; or ‘high Probability of success’ in the Applicant’s case for orders of stay.’
28. The SCK went further to state that,
- “Conservatory orders, consequently, should be granted on the inherent merit of a case bearing in mind the public interest, the constitutional values and the proportionate magnitudes, and priority levels attributable to the relevant courses.”
29. It is against the above stated principles that the court must consider the application by the petitioners in this case.



30. The grievances as deposed in the affidavit supporting the application by the petitioners are majorly two, as follows:-
- i. The County Government of Kajiado has commenced special spatial planning process without involving the petitioners and or conducting civic education and public participation.
  - ii. The National Government through H.E. the President made a directive dated 26<sup>th</sup> July 2023 directing NEMA to stop issuing EIA licenses to the members of the association living in the specific region and the greater Kajiado area.
31. Arising from the above actions, the petitioners aver that there has been as spate of numerous unwarranted physical attacks on them and their properties and they have reliable information that there is an impending attack meant to invade them and completely wipe out their properties. The petitioners further allege that the Respondents in the guise of implementing the spatial law and the Presidential directive have taken the law into their hands and have purported to stop the members of the association from undertaking various developments in their private freehold properties including constructing houses, digging boreholes and other forms of developments.
32. Though they did not provide any material evidence, the petitioners have further accused the Respondents of misusing and abusing the Presidential directive in collusive with the officials of the defunct group ranches [which have since been dissolved] to engage in dubious and illegal carbon credits trade.
33. Undoubtedly, County Governments have the Constitutional and statutory mandate to plan their respective Counties with the object of among other aims, facilitating the development of a well-balanced system of settlements and enable the productive use of scarce land, water and other resources for economic, social, ecological and other functions across the County, maintain a viable system of green and open spaces for a functioning ecosystem, protect the historical and cultural heritage, artefacts and sites within the County amongst the other objectives as outlined under Section 103 of the *County Governments Act*. The *climate Change Act* too requires the mainstreaming of climate change responses into development, planning, decision-making and implementation. This is informed by the realization that climate change is the single greatest challenge and the single greatest threat to life on earth. County Governments too being state agents are expected to mainstream climate change responses in planning.
34. Amongst the plans that the County Government is expected to develop include the County Integrated Development Plan [CIDP], County Sectional plans, County spatial plan; and Cities and Urban areas plans. The County spatial plan shall be a ten [10] years GIS based database system spatial plan. It shall set out the objectives, strategies and policies regarding the manner in which the desired spatial form for the county shall be actualized taking into account the development programmes of the county as articulated in the CIDP.
35. Consequently, the County spatial plan shall indicate the desired patterns of land use within the county, address the spatial construction and reconstruction of the county, provide strategic guidance in respect of the location and rationale of development in the county, set out basic guidelines for a land use management system in the county, taking into account any guidelines, regulations or laws as provided for under Article 67[2] of *the Constitution*.
36. Section 110 of the *County Governments Act* further provides that spatial plans shall indicate the desired or undesired utilization of space in a particular area and also indicate where public and private land development and infrastructure investment should take place. That is where special planning areas come in in the planning process.



37. The above provisions of the *County Governments Act* align with Article 66 of *the Constitution*, which empowers the state to regulate the use of any land, or interest in or right over any land in the interest of public defence, public safety, public order, public morality, public health, or land use planning.
38. In carrying out their planning mandate however, County Governments must carry out public participation in accordance with the mechanisms provided under Part VIII of the *County Governments Act* and provide the public with clear and unambiguous information on any matter under consideration in the planning process.
39. The petitioners seem to challenge both the County spatial plan 2019 - 2029 [which is already approved] and the intended special spatial planning of the areas touching on their properties.
40. In respect to the Kajiado County spatial plan 2019 – 2029, the petitioners’ application is seemingly overtaken by events. In any event, the court is not able to, at this stage conclusively determine whether or not there was adequate public participation in the process of preparation of that spatial plan; that will have to await the full hearing of the petition. In respect to the intended special spatial planning, the law is clear on what is expected of the County Government in undertaking such a process. The court does not consider it appropriate to injunct the County Government from undertaking its constitutional and statutory mandate. No violation or deviation from the law has been cited as yet in as far as the intended special spatial planning is concerned.
41. With respect to the impugned Presidential directive, the Petitioners/Applicants complaint is that the same has been misused and abused by the Respondents to mete out various atrocities against them including but not limited to physical assaults, unlawful arrests, destruction of properties and malicious prosecutions. Irrespective of the ultimate finding of this court as to the legality or otherwise of the presidential directive, the alleged actions against the petitioners are outrightly illegal. The petitioners have the right to seek appropriate redress from the right fora.
42. I do not think that this court is the right forum for the petitioners to seek redress in respect to the allegations of physical assaults, unlawful arrests and malicious prosecutions. The jurisdiction of this court as defined under Article 162 [2] [6]] of *the Constitution* and Section 13 of the *Environment and Land Court Act*, is to hear and determine disputes relating to the environment and the use and occupation of, and title to land. Off course, the court has the jurisdiction to hear and determine petitions and applications for denial, violation of infringement of threat to rights and fundamental freedom relating to a clean and healthy environment under Articles 42, 69 and 70 of *the Constitution*.
43. The impugned Presidential directive concerns land use in the affected areas and is within the jurisdiction of this court. The court will consider its constitutionality or otherwise upon the hearing of the petition.
44. From the foregoing, whereas the court appreciates the weight of the issues raised in this matter, it is however not persuaded that the petitioners’ application dated 17<sup>th</sup> October 2024 meets the threshold for the grant of conservatory orders; neither the orders of temporary injunction pending the hearing and determination of their petition.
45. The court, noting the nature of the dispute disclosed in the matter; which is in the nature of a public interest litigation, will do all that it is able to, to expedite its hearing by issuing appropriate case management directions forthwith.
46. Consequently, the petitioners’ application dated 17<sup>th</sup> October 2024 is hereby dismissed.
47. There shall be no orders as to costs.



It is so ordered.

**DATED SIGNED AND DELIVERED AT KAJIADO VIRTUALLY THIS 16<sup>TH</sup> DAY OF JUNE 2025.**

**M.D. MWANGI**

**JUDGE**

In the virtual presence of:

Mr. Omino for the Petitioners/Applicants

Ms. Mueni alongside Mr. Aluda for the 3<sup>rd</sup> Respondent

Mr. Abuya for the proposed Interested Party

N/A by the 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> Respondents

Court Assistant: Mpoye

**M.D. MWANGI**

**JUDGE**

