

REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT NANYUKI

ELC PETITION NO. E012 OF 2024

ELIMISHA MWANANCHI INITIATIVE.....1ST

PETITIONER

FRANCIS CHUBI.....2ND

PETITIONER

PETER GITONGA MUNGA.....3RD

PETITIONER

GATWIKIRA OUTSPAN SQUATTERS.....4TH

PETITIONER

HON. SAMUEL MUGAMBI GATATI.....5TH

PETITIONER

VERSUS

JOHN PETER NJOROGE.....1ST RESPONDENT

CHIRCHIR.....2ND

RESPONDENT

NJONJO.....3RD RESPONDENT

MINISTRY OF LANDS, PUBLIC WORKS HOUSING AND

URBAN DEVELOPMENT.....4TH

RESPONDENT

NATIONAL LAND COMMISSION.....5TH

RESPONDENT

LAIKIPIA COUNTY GOVERNMENT.....6TH

RESPONDENT

ATTORNEY GENERAL.....7TH

RESPONDENT

LAND REGISTRAR LAIKIPIA COUNTY.....8TH

RESPONDENT

RULING

1. This Petition was withdrawn on 8.10.2024 with cost to the 1st respondent. On 23.7.2025, counsel for the 1st respondent addressed the court stating that though the Petition was withdrawn, their cross petition was not withdrawn. He therefore desires that the same proceeds or it be joined or consolidated with case no. O.S. E003/2024 as the 3rd and 5th petitioners were amongst the people who caused damages to the 1st respondent. Thus the 1st respondent is seeking compensation.

2. In rejoinder thereof, the counsel for the petitioners averred that in the O.S suit, the claim is for prescriptive

rights in respect of one parcel of land owned by the 1st respondent, whereas in the withdrawn petition, the subject matter involved 3 parcels. Adding that the petition was withdrawn as the petitioners were evicted, hence the subject matter became mute. He avers that the O.S. suit is not re sjudicata.

3. Two issues arise, one is whether there is a valid suit in the form of a cross petition and secondly, what is the relationship between this suit and O.S E003 of 2024.
4. On the cross petition, I find that at paragraph 23 upto 43 of the cross petition, the 1st respondent has set out the particulars of violations of his Constitutional rights and various reliefs have been sought including compensation. In that regard, I find that the cross petition is still valid despite the withdrawal of the main petition.
5. On the second issue touching on the O.S suit No.E003 of 2024, I find that the question of consolidation, joinder and re-judicata have not been properly raised. After all, this court was not even given adequate particulars of the

said case by way of affidavits. Any party who desires to raise issue touching on that case should move the court formally by way of an application or a preliminary objection and not through random oral arguments. In the circumstances, the court declines to make any orders touching on the O.S suit.

DATED, SIGNED AND DELIVERED AT NANYUKI THIS 15TH DAY OF OCTOBER 2025 THROUGH MICROSOFT TEAMS.

**LUCY N. MBUGUA
JUDGE**

In the presence of:

Ndungu Maina for Petitioners

Charles Kimathi for 1st Respondent

Nancy Mwangi - Court Assistant