

REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT
AT KISII
ELCC NO. 23 OF 2022

OLALUI GROUP RANCH PLAINTIFF
VERSUS
TAWARI KONCHELLA & OTHERS DEFENDANTS

RULING

1. This suit was commenced through a plaint dated 18 September 2012 by Olalui Group Ranch. That original plaint had 609 defendants. The 1st – 593rd defendants were pleaded to be adults of sound mind working in Narok County. The 594th – 598th defendants are Church institutions. The 599th – 602nd defendants are Schools and/or Educational Institutions. The 603rd defendant is a limited liability company. The 604th defendant was the now defunct County Council of Transmara. The 605th defendant was the Commissioner of Lands; the 606th defendant is the Director Land Adjudication and Settlement; the 607th defendant the Director Land Adjudication Officer, Transmara; the 608th defendant the District Land Registrar, Transmara; and the 609th defendant is the Attorney General. It is pleaded that on 29 July 2005, the land parcel Narok/Transmara/Olalui/13 measuring approximately 5769 Ha was illegally subdivided to create the land parcels No. Narok/Transmara/Olalui/15-607 which parcels were allocated to the 1st – 604th defendants by the 605th – 608th defendants. Inter alia it is pleaded that it was done prior to a lawful adjudication and demarcation process. In the original plaint the plaintiff asked for the following orders :

- (a) A declaration that Olalui Group Ranch is the registered owner of all that parcel of land known and fully described as Narok/Trans-Mara/Olalui/13.
- (b) A declaration that the demarcations, subdivision and registration of the resultant parcels No. 15-607 in the name of the illegal allottees is fraudulent, illegal, and hence null and void.

- (c) An order of cancellation of all titles No. Narok/Trans-Mara/Olalui/15-607 and restitution of the original title.
 - (d) An order of temporary injunction restraining the 1st – 604th defendants either by themselves, agents or servants howsoever from taking possession, alienating, selling, leasing, transferring, developing or in any way dealing or interfering with the plaintiffs' ownership of plots LR No. Narok/Trans-Mara/Olalui/15-607 initially LR No. Narok/Trans-Mara/Olalui/13.
 - (e) An order of permanent injunction restraining the 1st – 604th defendants either by themselves, agents or servants howsoever from taking possession, alienating, selling, leasing, transferring, developing or in any way dealing or interfering with the plaintiff's ownership of plots LR No. Narok/Trans-Mara/Olalui/15-607 initially LR No. Narok/Transmara/Olalui/13.
 - (f) An order of vacant possession.
 - (g) Costs of the suit.
2. Through an amended plaint dated 8 February 2023, the plaintiff amended the plaint, the amendment being two fold. First, the plaintiff removed various defendants, specifically the defendants No. 5, 6, 7, 10, 13, 19, 20, 24, 25, 30, 31, 32 , 35, 36, 38, 41, 43, 45, 49, 56, 58, 60, 66, 67, 71, 76, 79, 80, 81, 85, 90, 91, 93, 95, 97, 100, 101, 102 , 104, 105, 108, 110, 111, 119, 120, 123, 125, 126, 127, 129, 130, 138, 143, 145, 146, 147, 148, 149, 150, 153, 154, 155, 157, 158, 164, 165, 167, 170, 172, 173, 174, 176, 180, 182, 190, 193, 194, 198, 200, 205, 206, 207, 210, and 243. Secondly, the plaintiff made extra pleading on the particulars of fraud, more or less to add that the 28th and 54th defendants (Christopher Kirui Tampula and John Kady Sosio) represented themselves to be officials of the group ranch in order to demarcate the land of the Group Ranch. The other pleadings and prayers in the original plaint were not affected.
 3. The matter is partly heard as the plaintiff presented her first witness. Part of his evidence was that some of the parties listed in the suit are deceased and have not been substituted and also some owners of titles from the original

land parcel No. 13 and who benefited from its subdivision have been removed in the suit. Owing to that, I wondered to myself whether prayer (c) of the plaint, which I consider to be the main prayer, is capable of being granted, and if it is not, whether there is any veracity in the suit. I asked counsel to make submissions regarding this point and submissions have indeed been filed.

4. I however observe that after I directed counsel to address me, the plaintiff filed an application dated 17 June 2025 which is an application to amend the plaint. I have gone through that application and it appears as if the plaintiff wishes to press the point that her suit is curable by amendment.
5. That being the case, I will hold in abeyance my decision on whether or not the suit is one that is capable of proceeding as it is, or one to be struck out, and give a chance to the plaintiff to first urge her application for amendment. I cannot say more since the application will have to be objectively considered on its merits. The court however still reserves the discretion to revisit the issue of veracity of the suit at a later stage if so inclined.
6. It is so ordered.

DATED AND DELIVERED THIS 14 DAY OF OCTOBER 2025

JUSTICE MUNYAO SILA
JUDGE, ENVIRONMENT AND LAND COURT
AT KISII

Delivered in presence of :

Mr. Ogolla for the plaintiffs

Mr. Mwenesi for 289 defendants

Mr. Akang'o for 91 defendants

Mr. Nyambati for the 72nd , 266th and 449th defendants

Mr. Wabwire for 599th – 607th defendants

Court Assistant – Michael Oyuko