

REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT KAJIADO

JUDICIAL REVIEW APPLICATION NO. E005 OF 2023

IN THE MATTER OF AN APPLICATION BY MAILUA GROUP

RANCH FOR ORDERS OF CERTIORARI, PROHIBITION AND

MANDAMUS

AND

IN THE MATTER OF THE LAND (GROUP REPRESENTATIVES)

ACT CAP 287

AND

IN THE MATTER OF THE CONSTITUTION OF KENYA 2010

AND

IN THE MATTER OF THE FAIR ADMINISTRATIVE ACTIONS

ACT

BETWEEN

1. DANIEL KOIKAI KIRONUA

2. PARMERES NINA

3. SHAPAPA MPAPA

4. JOSHUA LENGETES ARBABI

5. KOILEKEM SEMPETA

6. MEIBUKO MOSILA

7. TOBIKO NKULANA

8. MASHIPEI TIRATI

9. SINJALE OLE KANORE - suing as Representatives of

10. MAILUA GROUP RANCH.....

EXPARTE APPLICANTS

VERSUS

**THE DIRECTOR LAND ADJUDICATION AND
SETTLEMENT.....1ST**

RESPONDENT

**MR. STEPHEN G. MAYAKA, REGISTRAR OF GROUP
REPRESENTATIVES IN THE DIRECTORATE OF LAND
ADJUDICATION & SETTLEMENT OFFICE NAIROBI (IN
PERSON).....2ND**

RESPONDENT

**THE KAJIADO LAND ADJUDICATION & SETTLEMENT
OFFICER.....3RD**

RESPONDENT

THE HON. ATTORNEY GENERAL.....4TH

RESPONDENT

VERSUS

**LESHONKO NKONERI SIAMITO.....1ST INTERESTED
PARTY**

**SARUNI MPAPA NAKOYO.....2ND INTERESTED
PARTY**

**JACKSON NTUYOTO MARASUA.....3RD INTERESTED
PARTY**

**RAIGOT MASERI.....4TH INTERESTED
PARTY**

**JOSEPH KARANTEI NKONYEK ONGUAN.....5TH INTERESTED
PARTY**

**TOBIKO SHAANKWA.....6TH INTERESTED
PARTY**

**LEKITONY SAITOTI.....7TH INTERESTED
PARTY**

**SETEI LARMOI.....8TH INTERESTED
PARTY**

**LEMARON MUTENTE NKAISERRI.....9TH INTERESTED
PARTY**

**NKAITOLE MARORO.....10TH INTERESTED
PARTY**

RULING

1. The **Notice of Motion** dated **23rd September 2025** is brought under; **(the provisions of sections 1A & B & 3A of the Civil Procedure Act as read with Order 51 50 rule 6 and order 51 rule 1 Civil Procedure Rule and Order 51 Rules 1)**
2. It seeks orders;
 - 1) Spent.
 - 2) Spent.
 - 3) This court do issue an order directing the Kajiado Land Adjudication & Settlement Officer in

furtherance of the Court's Orders of 17th July, 2025 to issue NOTICE calling for Mailua Group Ranch Annual General Meeting for the purposes of carrying out fresh Elections for Group Representatives of the Mailua Group Ranch and supervise to the said elections and file official returns with the Registrar of Group Representatives and for issuance of a Certificate of Election/Incorporation of Group Representatives on or before the end of 90 days from the date of this Courts order sought herein.

4) Costs be in the cause.

3. The grounds are on the face of the Application and are set out in paragraphs 1 to 7.
4. The Application is supported by the affidavit of Daniel Koikai Kironua, Chairman of the Mailua Group Ranch, sworn on the 23rd September 2025.
5. It appears the Respondents did not file any response to the Notice of Motion.

6. There are grounds of opposition filed by the 1st to 10th Interested Parties.

7. There is also the **Notice of Motion** dated **8th August 2025** by the 1st to 10th interested parties dated 8th August 2025 brought under;

(Rule 5 (2) (b) of the Court of Appeal Rules, 2010, Order 42 Rule 6(2) of the Civil Procedure Rules and all other enabling provisions of the law)

8. It seeks orders;

1) Spent.

2) Spent.

3) Spent.

4) THAT there be a stay of execution of the Judgement or orders of Honourable Lady Justice L. Komingoi of 17th July 2025, pending the hearing and determination of the Appeal.

5) THAT the court be pleased to issue directions on the procedure of how the elections shall be carried out considering the judgement bars the

current local Director Land Adjudication and Settlement.

6) THAT the costs of this Application be provided for.

9. The grounds are on the face of the application and are set out in paragraphs 1 to 12.

10. The Application is supported by the affidavit of Leshonko Nkoneri Siamito, the 1st Applicant/Interested Party, sworn on the 8th August 2025.

11. The Application is opposed.

There is a Replying Affidavit sworn by Daniel Koikai Kironua the 1st Ex Parte Applicant, herein.

12. There is also the **Notice of Motion** dated **30th September 2025** brought **(Pursuant to Sections 1A, 1B, 3A and 80 of the Civil Procedure Act, Chapter 21 Laws of Kenya, Order 1 Rule 3, Order 22, Order 45 rules, 1, 2, 3 & 4 and Order 53 Rule 6 of the Civil Procedure Rules, Article 159 of the Constitution of Kenya (2010) and all other enabling Provisions of Law).**

13. It seeks orders;

1) Spent.

2) Spent.

3) THAT this Honourable Court be pleased to grant an order of stay of execution of the orders made pursuant to the Judgement of this Honourable Court dated 17th July, 2025.

4) THAT this Honourable Court be pleased to review, vary and/or set aside the Judgement of the Honourable Court dated 17th July, 2025 and all consequential orders.

5) THAT the costs of this application be provided for.

14. The grounds are on the face of the Application and are set out in paragraphs 1 to 11.

15. The Application is supported by the affidavit of Kisanpei Tantaine, member of the Mailua Group Ranch, on the 30th September 2025.

16. The 1st to 10th Interested Parties stated that they were not opposing the Notice of Motion dated 30th September 2025.

17. The Application is opposed by the Exparte Applicants. There's is a Replying Affidavit sworn by Daniel Koikai Kironua, the 1st Ex parte Applicant on the 14th October 2025.
18. On the 8th October 2025, the court with the consent of the parties directed that the three Notice of Motions be heard together. The court also directed that they be canvassed by oral submissions.
19. Counsel submitted orally on the 6th November 2025.
20. Upon hearing the Notice of Motion dated 21st November 2023. This court delivered Judgement on the 17th July 2025. The following orders were granted;

“ a) That an order of certiorari is hereby issued to remove into this court for quashing and is hereby quashed, the certificate of Incorporation of Representatives of Mailua Group Ranch issued by the Registrar of Group Representatives Mr. S.G. Mayaka under the office of the Director Land Adjudication and Settlement issued on 6th October 2023 purportedly designating the Interested Parties as the Representatives of Mailua Group

Ranch for being illegal, null and void and issued illegally and in Contempt of the Courts Orders and without due and proper process and being an Administrative action in violation of court orders, the Constitution and the relevant statutes.

b) That an order of Prohibition is hereby issued prohibiting the Respondents being the Director Land Adjudication and Settlement and the Registrar Group Representatives from interfering with the operations of Mailua Group Ranch and the Applicants as it's representatives by arbitrarily calling for meetings elections and allegedly supervising its operations outside the orders and Directions of the court as issued in Kajiado HCT JR Application 1 of 2015, (Now Kajiado JR 968 of 2017) and in Kajiado JR APP No. 009 of 2021, the constitution of Kenya and the relevant statutes.

c) That the Mailua Group Ranch is directed to conduct election of Representatives within Seventy five (75) days from the date of this Judgement.

d) That each party shall bear own costs."

21. The gist of the Exparte Applicants' application is that the said Judgement has not been implemented because the 3rd Respondent has misinterpreted the same to mean the orders bar the office from doing anything at Mailua group ranch.

22. I have gone through order No.2 of the said judgement. It is my view that there ought to be some clarity from the court. Court orders are not made in vain. The Court of Appeal in **Marete & 2 Others Vs. Kinyua (sued as the legal representative of the Estate of Patrick Kinyua Iringo - Deceased) (2025) KECA 1003 (KLR)** held;
".....In National Bank of Kenya Limited Vs. Ndungu Njau (1997) eKLR this court had this to say regarding a review arising from a mistake or error apparent on the face of the record;

“A review may be granted whenever the court considers that it is necessary to correct an apparent error or omission on the part of the court. The error or omission must be self-evident and should not require an elaborate argument to be established. It will not be a sufficient ground to review that another judge could have taken a different view of the matter. Nor can it be a ground for review that the court proceeded on an incorrect-exposition of the law and reached on erroneous conclusion of law. Miscontinuing a statute or other provision of law cannot be a ground of review...”

23. It is my view that there is Order No. 2 as read with Order No. 3 directing that elections be undertaken within Seventy Five (75) days shows that there is contradiction.
24. While this is not a clerical mistake I find that it is an error apparent on the face of the record which can be reviewed by the court even on its own motion. It is clear that the intention of the court was to direct that elections be

conducted within Seventy Five (75) days. The 3rd Respondent is the office mandated to oversee the elections.

25. I hereby amend the final order in the Judgement by deleting Order No. 2 that prohibited the Respondents from calling any meetings for purposes of conducting and supervising the elections.

26. Having done so I find merit in the Notice of Motion dated 23rd September 2025 and I grant the orders sought. This court is not *functus officio* as the judgement has not been implemented.

This means that Prayer No. 3 of the Notice of Motion is allowed. The elections to be conducted within the Ninety (90) days extended period.

27. Order 5 Rule 6 of the Civil Procedure Rules gives this court powers to extend the time within which the elections are to be held. This court did not err by granting the extension *ex parte*.

28. The Notice of Motion dated 8th August 2025 lacks merit. No Appeal has been filed. As things stands there is no

appeal in the court of Appeal. The same is dismissed with no orders as to costs.

29. With respect to the Notice of Motion dated 30th September 2025, I find that the Applicants have not demonstrated what prejudice they will suffer if the fresh elections are conducted. The said notice of motion is incompetent as there is nothing pending before this court. The same is dismissed with no orders as to costs.

30. The notice of motion dated 23rd September 2025 is hereby allowed in terms of prayer No. 3. I make no orders as to costs.

Dated, Signed and Delivered virtually at Kajiado this 19th day of November 2025.

L. KOMINGOI

JUDGE.

IN THE PRESENCE OF:

Mr. Namada for Exparte Applicants.

N/A for the Respondents.

Ms. Kirisiet with Mr. I. Nyaribo for the 1st to 10th Interested Parties.

Mr. Ngaira for the 11th Interested Party.

Court Assistant – Peter.