

REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT KAJIADO

ELC CIVIL CASE NO. 528 OF 2017

PARIKIEN OLE NAIKUNI

OSEUR.....PLAINTIFF

VERSUS

AGRICULTURAL FINANCE CORPORATION.....1ST

DEFENDANT

NKOSERA KILELU SIRERE.....2ND

DEFENDANT

RULING

1. This **Ruling** is in respect of the **Notice of Motion** dated **30th June 2025** brought under; **Article 159 (2) (d) of the Constitution of Kenya, Sections 1A, 1B, 3(A) and 63 (e) of the Civil Procedure Act Cap 21, Section 146 (4) of the Evidence Act, Chapter 80 Laws of Kenya and Order 18 Rule 10 and Order 51 Rule 1 of the Civil Procedure Rules)**

2. It seeks orders that;

1) THAT the second Defendant be recalled to adduce further evidence in his behalf by putting in the Judgement and sentence in KAJIADO CRIMINAL CASE NUMBER 743 OF 2020 - REPUBLIC OF KENYA - VERSUS - PARIKIEN OLE NAIKUNI OSUER.

2) THAT the Second Defendant be allowed to file a further List of Documents these being the judgement and sentence in KAJIADO CRIMINAL CASE NUMBER 743 OF 2020 - REPUBLIC OF KENYA - VERSUS - PARIKIEN OLE NAIKUNI OSUER.

3) THAT the cost of this application be provided for.

3. The grounds are on the face of the Application and are set out in paragraphs 1 to 17.

4. The Application is supported by the affidavit of Nkoseru Kilelu Sirere the 2nd Defendant/Applicant herein sworn on the 30th June 2024 and a supporting Affidavit sworn on 21st October 2025.

5. Counsel for 2nd Defendant intimated to the court that they did not oppose the Application.
6. The Plaintiff has filed Grounds of dated 14th October 2025.
7. The Application was canvassed by way of oral submissions on the 23rd October 2025.
8. I have considered the Notice of Motion, the affidavits in support, the Grounds of Opposition, rival submissions and the authorities cited. The issue for determination is whether the Notice of Motion is merited.
9. I have gone through the Judgement in **Kajiado Criminal Case No. 743 of 2020; Republic Vs. Parikien Ole Naikuni Oseur**. The same was delivered on the 2nd April 2025. The Plaintiff herein was convicted and fined Kshs.30,000/= in default six (6) months imprisonment.
10. The 2nd Defendant herein testified on the 20th June 2023. This was before the Plaintiff was convicted and sentenced.
11. I find that this Application has been brought without inordinate delay.

12. I also find that the court is not *functus officio* as Judgment has not been rendered

13. I find that no prejudice will be occasioned to the plaintiff in any way, if the 2nd Defendant is allowed to produce the said Judgement.

14. In conclusion I find merit in this Application and the same is allowed in the following terms;

a) That the 2nd Defendant be recalled to adduce further evidence on his behalf by putting in Judgement and Sentence in KAJIADO CRIMINAL CASE NUMBER 743 OF 2020 - REPUBLIC OF KENYA -VERSUS- PARIKIEN OLE NAIKUNI OSEUR

b) That the Second Defendant is allowed to file a further List of Documents these being the Judgement and Sentence in KAJIADO CRIMINAL CASE NUMBER 743 of 2020 - REPUBLIC OF KENYA -VS- PARKEN OLE NAIKUNI OSEUR within seven (7) days from the date of this ruling.

c) That costs of this Application be borne by the 2nd Defendant/Applicant.

**Dated, Signed and Delivered virtually at Kajiado
this 27th day of November 2025.**

L.KOMINGOI

JUDGE.

IN THE PRESENCE OF:

Mr. Musesya for the Plaintiff.

Ms. Kinoti for the 1st Defendant.

Ms. Wahito for the 2nd Defendant.

Court Assistant - Peter.