



**Sigunga v County Land Registrar, Busia County & 2 others; County Government of Busia & another (Interested Parties) (Environment and Land Petition E003 of 2024) [2025] KEELC 8151 (KLR) (26 November 2025) (Ruling)**

Neutral citation: [2025] KEELC 8151 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT BUSIA  
ENVIRONMENT AND LAND PETITION E003 OF 2024  
BN OLAO, J  
NOVEMBER 26, 2025**

**BETWEEN**

**EDWIN DENNIS SIGUNGA ..... PETITIONER**

**AND**

**THE COUNTY LAND REGISTRAR, BUSIA COUNTY ..... 1<sup>ST</sup> RESPONDENT  
LAND ADJUDICATION & SETTLEMENT OFFICER, BUSIA  
COUNTY ..... 2<sup>ND</sup> RESPONDENT  
THE COUNTY LAND SURVEYOR, BUSIA COUNTY ..... 3<sup>RD</sup> RESPONDENT**

**AND**

**THE COUNTY GOVERNMENT OF BUSIA ..... INTERESTED PARTY  
THE ESTATE OF JACKTONE WERE OKHUNGO ALIAS WERE OKHUNGO -  
DECEASED) ..... INTERESTED PARTY**

**RULING**

1. Although the parties appear to be addressing this Court on Petitioners, Petition dated 21<sup>st</sup> June 2024, what is actually pending for my determination is the Petitioner’s Notice of Motion of even date and filed on 25<sup>th</sup> June 2024 under certificate of urgency. When the same was placed before Cheronon J on 26<sup>th</sup> June 2024, the Judge directed that it be canvassed by way of written submissions. The Petitioner was to serve the Respondents and the Interested Parties with the Motion and submissions and the Respondents and Interested Parties would have 14 days to file and serve their responses and submissions. The Petitioner would then file and serve his supplementary affidavit and submission, if any, within 7 days from the date of service. The matter would then be mentioned before me on 29<sup>th</sup> July 2024 to confirm compliance. As is typical with parties and their legal advisers, those timeliness



were not complied with and by 25<sup>th</sup> March 2025, MR ASHIOYA for the Petitioner was still seeking time to file an amended Petition together with submission to the Motion. As at the time of this ruling, no amended Petition has been filed.

2. By the said Notice of Motion Edwin Dennis Sigunga (the Petitioner) seeks the following orders against the Land Registrar, The Land Adjudication & Settlement Officer Busia And The County Surveyor Busia (the 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> Respondents respectively).
  1. Spent
  2. Pending hearing and determination of this application and the suit, this Honourable Court be pleased to direct the 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> Respondents to cause a report to be presented to this Court touching on –
    - a. What were the boundaries set out on or about 1<sup>st</sup> January 1965 by the Land Adjudication Officer – Western Region declaring the entire Marachi location adjudication section.
    - b. Whether compilation and collection of records of existing rights were even undertaken in -
      - i. Bujumba Adjudication Section.
      - ii. Bumala Adjudication Section.
    - c. If the answer to the above question is in the affirmative, then was a Notice of completion of Record of existing rights over the two Adjudication Sections ever published as was required under cap 284 Laws of Kenya and where are the records?
    - d. What is the status or current activities of the suit land comprising of the Petitioner's land?
  3. Pending hearing and determination of this application and suit an order do issue compelling the 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> Respondents or their appointed agents on the hearing dates to produce all the adjudication records, maps, demarcation books, green cards and all other relevant document sin respect of parcel of lands No Marachi Bujumba 9, Marachi Bujumba 10 And Marachi Bujumba 13.
  4. Pending hearing and determination of this application and suit, an order do issue directing the officials hereinabove mentioned to file with this Court and serve copies of the documents referred to in prayers (2) and 93) above upon the Petitioner.
  5. The costs of this application be in the cause.
3. The Motion is premised on the grounds set out therein and supported by the Petitioner's affidavit of even date.
4. The gravamen of the Motion is that the Petitioner is the owner of the land parcel No Marachi Bujumba 10 which he inherited from his late father Dickson Manyala while the land parcel No Marachi Bujumba 9 and which is parallel to it belonged to his late uncle Anderea Erima Mukokwe. That before the completion of the adjudication of Bumala Section, the Petitioner's father and uncle each hived off half acre plots from their respective parcels of land which they then donated to the then Busia County Council for use as markets. However, the traders did not pay the expected rates to the council which abandoned the idea of a market and so the land reverted back to the Petitioner's father and uncle



who had donated it. The Petitioner and his family have since then been in constructive possession and occupation of the same.

5. In 2020, the Petitioner discovered that the above parcels of land and which had been donated for use as a market had been allocated a new number being Marachi Bujumba 13 And Allocated To The Estate Of Jacktone Were Okhungo alias Were Okhungo the 2<sup>nd</sup> Interested Party whose Administrator is Mitchell Parakenya Haemba Ogengo following orders in Busia Chief Magistrates Court Succession Cause No 413 of 2020. That was done despite the Petitioner's objection that infact the land parcel No Marachi Bujumba 13 was three (3) blocks away from the land parcel which belonged to JAcktone Were Okhungo alias Were Okhungo. It is the Petitioner's case that this was done fraudulently and with the connivance of one George Ogengo a District Land Registrar and nephew of the said Jactone Were Okhungo alias Were Okhungo. This has come to the attention of the Petitioner vide the Land Adjudication Settlement Officer's report dated 18<sup>th</sup> August 2020. It is the Petitioner's case that fraud was committed by the 1<sup>st</sup> and 2<sup>nd</sup> Respondents to ensure that the records relating to the land parcel No Marachi Bujumba 13 are not availed despite writing to the Land Registries in Kakamega and Siaya.
6. It is the Petitioner's case that he has a valid claim with regard to the land parcels No Marachi Bujumba 9 and 10 now registered as NO Marachi Bujumba 13 hence this Motion and the Petition herein.
7. Notwithstanding the directions issued by Cheronno J on 26<sup>th</sup> June 2024 and extended by me on 18<sup>th</sup> September 2024, neither of the Respondents filed any response or submissions to the Motion.
8. However, the County Government Of Busia the 1<sup>st</sup> Interested Party and successor of the Busia County Council filed a response dated 6<sup>th</sup> November 2024 and signed by Mabachi Stephen On behalf of the 1<sup>st</sup> Interested Party. It reads "1<sup>st</sup> Interested Party's Response To The Petition". The Estate of Jacktone Were Okhungo alias Were Okhungo was not represented despite my directions that the Estate Administrator be served.
9. I do not consider the document headed as "1<sup>ST</sup> Interested Party's Response To The Petition" and signed by Mr Mabachi Stephen on behalf of the County Attorney Busia County Government to be a response to either the Petition nor the Motion subject to this ruling. This is because Order 51 Rule 14 (1) of the Civil Procedure Rules provides that:

14(1) "Any Respondent who wishes to oppose any application may file any one or a combination of the following documents -

- (a) a notice preliminary objection: and or;
- (b) replying affidavit; and or
- (c) a statement of grounds of opposition"

The Motion is therefore not opposed by any of the Respondents or the Interested Parties. Indeed, the Response filed by Mr Mabachi Stephen is infact a "response to the Petition" yet no directions have been taken on the Petition todate. What this Court is considering at this state is the Notice of Motion dated 21<sup>st</sup> June 2024 and not the Petition itself. Further, although both Cheronno J and myself directed that submissions be filed, none of the parties, including the Petitioner, filed any submissions. All that this Court has to consider is therefore the Petitioner's un-opposed Notice of Motion dated 21<sup>st</sup> June 2024.

10. In my view, the fulcrum of the Petitioner's complaint by this Motion is what he considers to be a denial by the Respondents to provide him with the necessary information to enable him prosecute his



Petition with regard to the infringement of his fundamental rights and freedom over property. Article 35(1) of *kenya constitution the Constitution* provides that:

35(1) “Every citizen has the right of access to -

- (a) information held by the State; and
- (b) information held by another person and required for the exercise or protection of any right or fundamental freedom.”

Section 80 of the *kenya Evidence Act* provides that:

80(1) “Every public officer having the custody of a public document which any person has a right to inspect shall give that person on demand a copy of it on payment of the legal fees therefor, together with a certificate written at the foot of such copy that it is a true copy of such document or part thereof, as the case may be, and such certificate shall be dated and subscribed by such officer with his name and his official title, and shall be sealed whenever such officer is authorized by law to make use of a seal, and such copies so certified shall be called certified copies.

(2) Any officer who by the ordinary course of official duty is authorized to deliver copies of public documents shall be deemed to have the custody of such documents within the meaning of this section.”

Section 9 of the *kenya Land Registration Act* provides that:

9(1) The Registrar shall maintain the register and any document required to be kept under this Act in a secure, accessible and reliable format including -

- (a) publications, or any matter written, expressed, or inscribed on any substance by means of letters, figures or marks, or by more than one of those means, that may be used for the purpose of recording that matter;
- (b) electronic files; and
- (c) an integrated land resource register.

(2) The register shall contain the following particulars-

- (a) name, personal identification number, national identity card number, and address of the proprietor;
- (b) in the case of a body corporate, name, postal and physical address, certified copy of certificate of incorporation, personal identification numbers and passport size photographs of persons authorized and where necessary attesting the affixing of the common seal;
- (c) names and addresses of the previous proprietors;
- (d) size, location, user and reference number of the parcel; and
- (dd) passport number, telephone number and email address where applicable;
- (e) any other particulars as the Registrar may, from time to time, determine.”

Similarly, under the *kenya Survey Act*, it is provided in Section 30 that all survey plans and records shall be deposited with the Direction of surveyor and Section 44 provides



that any person may inspect any boundary plans. Section 4 of the *Access to Information Act 2016 31* replicates Article 35 of the *Kenya Constitution 2010* while Section 6 of the same Act sets out the circumstances when the access to information may be limited including national security, where such information will impede the due process of law or infringe professional confidentiality e.t.c. The Petitioner has averred, inter alia, that despite his request to the various public officer impleaded herein to provide him with the necessary documents in their custody and which are relevant in this Petition, all his efforts have been to no avail. It is instructive that the Respondents herein and who are the custodians of those documents have not bothered to respond to the Motion. The only conclusion which this Court can arrive at in the circumstances is that they have deliberately and for no good cause declined to comply with the law and avail the documents sought by the Petitioner. This Court must therefore grant the orders sought to enable the Petitioner prosecute his case.

11. Ultimately therefore and having considered the Notice of Motion dated 21<sup>st</sup> June 2024, this Court allows it and makes the following disposal orders:

1. The 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> Respondents shall within 60 days from the date of this ruling furnish the Petitioner with all the following documents at his cost;
  - a. Records of the Land Adjudication Officers set out on or about 1<sup>st</sup> January 1965 by the Land Adjudication Officer for the Marachi Location, Adjudication Section.
  - b. Records for the Bumala and Bujumba Adjudication Sections.
  - c. All the adjudication records, maps demarcation Books, green cards and all other relevant documents in respect of the land parcels No Marachi Bujumba 9, Marachi Bujumba 10 And Marachi Bujumba 13.
  - d. No orders as to costs.
  - e. Mention on 9<sup>th</sup> February 2026 for directions as to hearing of the Petition. Mention notice to issue.

**RULING DATED, SIGNED AND DELIVERED BY WAY OF ELECTRONIC MAIL ON THIS 26<sup>TH</sup> DAY OF NOVEMBER 2025 WITH NOTICE TO THE PARTIES.**

**BOAZ N. OLAO**

**JUDGE**

26<sup>TH</sup> NOVEMBER 2025

