



**Elerai Individual Ranching Association & 3 others v Kimiti & 6 others;
Satao Elerai Camp Ltd (Interested Party) (Environment and Land Case
E029 of 2025) [2025] KEELC 5784 (KLR) (30 July 2025) (Ruling)**

Neutral citation: [2025] KEELC 5784 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT KAJIADO
ENVIRONMENT AND LAND CASE E029 OF 2025**

**MD MWANGI, J
JULY 30, 2025**

BETWEEN

**ELERAI INDIVIDUAL RANCHING ASSOCIATION 1ST PLAINTIFF
LIPANDO NAKUITT 2ND PLAINTIFF
MORENO SUMARE 3RD PLAINTIFF
SOKOINE KIMIT 4TH PLAINTIFF**

AND

**NTIATI KIMITI 1ST DEFENDANT
IMPOTE KIMITI 2ND DEFENDANT
PARTEI MIKITI 3RD DEFENDANT
AGNES KASIKU 4TH DEFENDANT
BONIFACE MWATU 5TH DEFENDANT
MIKAEL KIIO 6TH DEFENDANT
JOHN TIMOTHY MATHENGE 7TH DEFENDANT**

AND

SATAO ELERAI CAMP LTD INTERESTED PARTY

(In respect of the Defendants’ preliminary dated 15th April, 2025 challenging the jurisdiction of this Court to entertain and determine the suit by the Plaintiffs)



RULING

Background

1. This Ruling is in respect of the Defendants Notice of Preliminary Objection dated 15th April, 2025 which is premised on grounds that;
 - a. The honorable court lacks jurisdiction to entertain the Application and suit.
 - b. The dispute between the parties herein is subject to arbitration pursuant to Clause 3.4.3 of the Deed of Variation of Lease dated 3rd September, 2024.
 - c. The Application/suit is misconceived, gravely incompetent and abuse of court process and ought to be struck out with costs to the Defendants.
2. The preliminary objection was to be prosecuted by way of written submissions. The Defendants who were the objectors did not however file any submissions as directed by the court. That is reason enough to strike out the preliminary objection. Nonetheless, the court will go farther to look into the merits of the objection as presented relying on the pleadings before it and the accompanying documents.
3. The Plaintiffs in their suit seek an order of injunction against the Defendants to restrain them from interfering with L.R. Loitokitoki/Endonet/510 in violation of the terms of the lease agreement dated 27th March, 2024 between them and the Interested Party. Even though the Plaintiffs have made reference to an agreement dated 27th March, 2024 in their pleading, the lease agreement attached in support of their claim is dated 3rd September, 2024.
4. According to the deed of variation of lease dated 3rd September, 2024, the lessors authorized their land to be used for wildlife conservation and high-quality tourism purposes. The Lessors are the registered and beneficial owners of L.R. Loitokitoki/Endonet/510-517 and L.R. Loitokitoki/Kimantikono/3492 and 3496. The Lessors who executed the deed includes Partei Ole Kimiti, Sokoine Ole Kimiti, Lemaron Ole Kimiti and Likamba Ole Kimiti.
5. Clause 3.3.2 and 3.4.3 of the Lease which is the basis of the preliminary objection by the Defendants stipulates as follows with respect to dispute resolution;

“Each party shall use its best efforts to settle amicably any dispute claim, controversy, or disagreement arising out of or in connection with this Agreement or in its validity, interpretation or termination.

Any dispute that is not resolved by the parties within fifteen [15] days after delivery of a request for amicable settlement shall be referred to and finally resolved by arbitration under the Rules of the Arbitration [Rules], which Rules are deemed to be incorporated by reference into this lease and an Arbitrator be appointed by agreement of the parties, and failing such agreement within twenty-one [21] business days of a request therefor by either party, by an Arbitrator appointed by the Chairman for the time being of the Kenya Branch of the Chartered Institute of Arbitrator.”
6. The above clauses are what the Defendants have placed reliance on as the basis of their preliminary objection. I find the preliminary objection misplaced and unfounded for the reason that the only parties who are bound by the terms of the Deed of variation of the Lease; the Lessors and the Interested Party. The defendants are for all intents and purposes strangers to the Deed.



7. Based on the foregoing, I hereby proceed to dismiss the Defendants' Notice of Preliminary Objection dated 15th April, 2025 with costs to the Plaintiffs.

8. It is so ordered.

DATED SIGNED AND DELIVERED AT KAJIADO VIRTUALLY THIS 30TH DAY OF JULY 2025.

M.D. MWANGI

JUDGE

In the virtual presence of:

Ms. Cherop h/b for Ms. Osoro for the Plaintiffs

N/A for the Defendants and Interested Party

Court Assistant: Edwin

