



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT MERU

ELC PETITION NO. 23 OF 2012

**AKITHII RANCHING (DIRECTED
AGRICULTURAL) COMPANY
LIMITED.....PETITIONER**

=VERSUS=

**DISTRICT LAND ADJUDICATION &
SETTLEMENT OFFICER,
TIGANIA WEST.....1ST
RESPONDENT**

**PRINCIPAL SECRETARY, MINISTRY OF
LANDS.....2ND
RESPONDENT**

**THE HON ATTORNEY GENERAL.....3RD
RESPONDENT**

RULING

1. Falling for determination in this ruling is the notice of motion dated 30/4/2025. It was brought by **M/s Akithii Ranching (Directed Agricultural) Company Limited [the applicant]**. Through it, the applicant sought various post-disposal reliefs. Prayer 1 was a plea for certification of the application as urgent. Prayers 2 and 3 were to abide

the interpartes hearing and determination of the application. Consequently, the three prayers are spent at this stage of disposing the application.

2. What remain for consideration are the following two reliefs:
(i) the plea for a finding that the 1st, 3rd and 4th respondents are in contempt of court for continuing with the adjudication process in the suit land; and (ii) the post-disposal plea for a declaration that the title deeds issued in **Tigania/New Kiare Adjudication Section** during the subsistence of a court order prohibiting the exercise are null and void.
3. The application was premised on the grounds outlined in the motion and in an affidavit sworn on 30/4/2025 by **Michael Kilemi Nabea**. It was canvassed through written submissions dated 1/9/2025, filed by **M/s C K Kimathi & Co Advocates**.
4. The case of the applicants is that, vide **Minute No. 31/82** (sic) the defunct **County Council of Meru** approved grant of a 33 year lease to them, relating to 33,000 acres of land. Subsequent to that, several attempts aimed at grabbing the suit land were made. They filed several cases to thwart the attempts. Among the cases filed was this petition, filed as **Meru HC Petition No. 23 of 2012** and later redesignated as **Meru ELC Petition No. 23 of 2012**. Upon considering the petition, this Court [**P M Njoroge J**] granted them the following reliefs: (i) an order declaring the 1st respondent's actions in relation to the suit land measuring 33,000 acres as unconstitutional, arbitrary,

wrongful, null and void and one that was to be stopped.; (ii) an order of permanent injunction restraining the respondents against continuing with the adjudication process in relation to the suit land until expiry of the term of 33 years; and (iii) an order awarding them costs of the petition. The applicant adds that vide a subsequent ruling rendered on 23/10/2015, this Court [**P M Njoroge J**] clarified that the above injunctive order ceased to exist on expiry of the 33-year lease.

5. The applicant argues that their rights for renewal of the lease were still valid and therefore the respondents could not purport to carry out the adjudication process without first extinguishing those rights through the process provided under the law. They contend that the lease was due to expire in 2015, adding that on 26/9/2001, they applied for extension of the lease and the now defunct **County Council of Nyambene** extended the lease for a period of 33 years from the date of the said letter [26/9/2001]. They state that in 2015, they similarly applied for extension of the lease, adding that on 27/2/2018, the **National Land Commission** acknowledged receipt of their application and on 24/10/2018, the Commission wrote to the County Government of Meru requesting for their recommendations.
6. The applicant contends that their rights of ownership of 33,000 acres have been recognized by the National Land Commission and the County Government of Meru but the Land Adjudication Committee and the respondents in this petition have disregarded court orders and have continued

to demarcate, and subdivide the suit land. They argue that the respondents are in contempt of court because they have disregarded the court orders issued in “Petition Number 23 of 2013” (sic). They urge the court to grant them the orders sought in the application.

7. The respondents opposed the application through a replying affidavit sworn on 4/7/2025 by **Samuel Thingiri Njau** and written submissions dated 10/10/2025, filed by **Eric Obura, Principal State Counsel**. The case of the respondents is that, through the ruling rendered by this Court [**P M Njoroge J**] on 2/10/2013, which disposed this petition, this Court issued an injunction that was to be in force up to the date of expiry of the lease. They add that vide a subsequent ruling rendered by this Court [**P M Njoroge J**], the Court found that the 33 year lease expired in June 2015 and held that the injunction of 2/10/2013 had lapsed in June 2015.
8. The respondents add that, thereafter, the petitioner filed **Meru ELC Petition No. 3 of 2018** seeking, among other reliefs: (i) an order compelling the National Land Commission to renew the expired 33-year lease for a further term of 33 years; and (ii) an injunction restraining the District Land Adjudication Officer against continuing with the adjudication process until the renewal process was completed. The Court [**Yano J**] considered the said petition in a judgment dated 15/2/2023 and dismissed it with costs for lack of merit. Unrelenting, the petitioner, yet again, filed **Meru ELC Petition No. E009 of 2024**. The said petition is still pending before this court.

9. The respondents argue that the Land Registrar has been improperly joined in the present application, emphasizing that the Land Registrar was not a party to the petition. They further argue that the declaratory order which is sought post-disposal of the petition is not available at this stage.
10. On whether the 1st, 3rd and 4th respondents are in contempt of the orders of this court, the respondents argue that the allegations of contempt are wild, unsupported and unsubstantiated, adding that the respondents have failed to prove contempt.
11. On whether all the title deeds issued in Tigania/New Kiare Adjudication Section are null and void, the respondents argue that through **Petition No. 9 of 2024** which is pending before this court, the applicant seeks an order quashing any title deed issued as a result of the impugned land adjudication exercise. The respondents add that the question as to whether the 1st and 2nd respondents were at liberty to proceed with land adjudication exercise is an issue that was considered in Petition No. 3 of 2018, adding that this court rejected the applicant's bid to stop the land adjudication exercise. They urge the court to reject and dismiss the application.
12. The court has considered the application; the response to the application; and the parties' respective submissions on the application. The following are the three key issues that fall for determination in the application: (i) Whether at this stage, the Land Registrar, Meru North, is a proper party to

these proceedings; (ii) Whether the applicants have established contempt by the respondents or any of them; and (iii) Whether the post-disposal declaratory relief sought in the application is available at this stage. I will be brief in my analysis and disposal of the above issues.

- 13.** Is the Land Registrar a proper party to this petition or to the application under consideration. The application under consideration is a post-disposal notice of motion brought on the platform of a disposed petition. At the stage of disposal, the petition had the applicant as the only petitioner. The petition had the following three respondents: (i) The District Land Adjudication and Settlement Officer, Tigania District; (ii) The Permanent Secretary, Ministry of Lands; and (iii) the Attorney General.
- 14.** With the above as the existing coram, the petitioner brought the application under consideration and named the Land Registrar, Meru North, as the 2nd respondent. As a requirement, the application for contempt ought to have been brought within the petition. It is for this reason that the court directed that the application dated 30/4/2025 be canvassed on the platform of this petition.
- 15.** Secondly, if the petitioner found it necessary to join the Land Registrar as a party to the application, they ought to have prayed for a joinder order and procured the order before proceeding to the stage of prosecuting the application. They elected not to follow the above procedure. They elected to prosecute an application against a stranger who had not been joined to the

proceedings. Consequently, it is the finding of the court that the Land Registrar has not been properly joined to these proceedings.

- 16.** Have the applicants established contempt on part of the respondents or any of them? Prayer 4 of the notice of motion dated 30/4/2025 reads as follows:

“This Honourable court finds that the 1st, 3rd and 4th respondents are in contempt of court for continuation of adjudication process in the applicant parcel of land against the orders issued by this Honourable court.”

- 17.** As crafted, the above prayer does not identify the precise order which the respondents are alleged to have breached. The application does not specify the day/date when the alleged contemptuous actions were carried out. It does not give the details of the adjudication exercise which took place in contempt of the court order. If it is a land adjudication exercise that constitutes the alleged contempt, the applicant was expected to exhibit the notice declaring the suit land an adjudication section and further demonstrate that the said declaration was made during the subsistence of a specific order of the court barring such declaration and such exercise. No adjudication notice was exhibited. No documentations relating to the alleged adjudication were exhibited.

- 18.** Coming to court after the ruling of 31/7/2017 in which this Court [P M Njoroge J] held that the preceding injunctive

order of 2/10/2013 had ceased to exist the moment the lease expired, the applicant was expected to bring evidence that would align their case to the above pronouncement by the court. Regrettably, they did not do that. They have failed to discharge their burden of proving contempt by the respondents. It is, therefore, the finding of this court that the applicant has not proved contempt by the respondents or any of them.

- 19.** Is the post-disposal declaratory order sought in the application under consideration available at this stage? In a proper case where it is established that specific land parcels have been created by a respondent in contempt of a duly served court order, the court can properly annul all the parcels and their corresponding titles in a post-disposal application of this nature. The application before court is, however, not one such case. In the present application, the applicant has failed to prove contempt. They have failed to identify any specific parcel that was created in contempt of a specific subsisting court order. Consequently, in the circumstances, the above post-disposal declaratory relief is not available in this petition at this stage.
- 20.** In light of the above findings, the petitioner's application dated 30/4/2025 fails. It is rejected and dismissed for lack of merit.
- 21.** The general principle is that costs follow the event. No special grounds have been demonstrated to warrant a

departure from the general principle. Consequently, the applicant shall bear costs of the application.

DATED SIGNED AND DELIVERED AT MERU THIS 15TH DAY OF DECEMBER, 2025.

**B M EBOSO [MR]
ELC JUDGE**

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