



**Mutai & 4 others (Representing 31 families /squatters at the Riparian Section in Majengo/
Talai Settlement Scheme) v Kericho County Government & 4 others (Environment and Land
Constitutional Petition E001 of 2025) [2025] KEELC 8641 (KLR) (11 December 2025) (Ruling)**

Neutral citation: [2025] KEELC 8641 (KLR)

REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT KERICHO
ENVIRONMENT AND LAND CONSTITUTIONAL PETITION E001 OF 2025
LA OMOLLO, J
DECEMBER 11, 2025

BETWEEN

JULIUS KIPKIRUI MUTAI 1ST PETITIONER
ROBERT KIPSANG SIELE 2ND PETITIONER
**CHARLES KIPSANG CHEPKWONY SUING AS THE OFFICIALS OF
KERICHO CHELIMO ORIENT SQUATTERS ORGANIZATION (KECOSO) -
REPRESENTING SQUATTERS IN CHELIMO SS) 3RD PETITIONER**
MOSES KIPROTICH KORIR 4TH PETITIONER
GEOFFREY CHELULE 5TH PETITIONER
**REPRESENTING 31 FAMILIES /SQUATTERS AT THE RIPARIAN SECTION
IN MAJENGO/TALAI SETTLEMENT SCHEME**

AND

KERICHO COUNTY GOVERNMENT 1ST RESPONDENT
THE COUNTY ASSEMBLY OF KERICHO 2ND RESPONDENT
NATIONAL LAND COMMISSION 3RD RESPONDENT
**THE PRINCIPAL SECRETARY - STATE DEPARTMENT OF LANDS & P/
PLANNING 4TH RESPONDENT**
THE ATTORNEY GENERAL 5TH RESPONDENT



RULING

Introduction.

1. This ruling is in respect of the Petitioners/Applicants Notice of Motion application dated 22nd January, 2025. The application is expressed to be brought under Sections 1A, 1B & 3A of the [Civil Procedure Act](#) and Order 8 Rule 3 & 51 of the Civil Procedure Rules.
2. The application seeks the following orders;
 1. Spent
 2. That pending the hearing and determination of this Application and the Constitutional Petition the Honourable Court be pleased to issue a temporary preservative order restraining the 1st, 2nd, 3rd, 4th & 5th Respondents, its agents, servants and or employees from implementing, processing and or issuing title deeds to allottees using the lists prepared by the Respondents through the Multi-Agency Task Force on the identification and Settlement of the Chelimo Settlement Scheme (hereinafter referred as the Multi-Agency Task Force).
 3. That pending the hearing and determination of this application and the Constitutional Petition, the Honourable Court be pleased to order that the primary data both in soft and hard copies that was prepared by the Multi-Agency Task Force be deposited in Court in their original formats.
 4. That pending the hearing and determination of this application and the Constitutional Petition, the Honourable Court be pleased to issue an order staying the implementation of the Respondents' Report that was prepared and signed off by the Multi-Agency Task Force dated 30/08/2024.
 5. That pending the hearing and determination of this application and the Constitutional Petition, the Honourable Court be pleased to order that an independent firm of Registered Auditors be appointed and gazetted by the Respondents to undertake an audit, review and verify the lists of Chelimo and the 31 Majengo/Talai squatters against the primary data collected by the Respondents through the Multi-Agency Task Force and lists of squatters in Majengo/Talai Settlement Scheme prepared by KISIP/WB.
 6. That pending the hearing and determination of this application and the Constitutional Petition, the Honourable Court be pleased to order that the final list prepared by the independent Firm of Registered Auditors be published in the Kenya Gazette before title deeds are issued.
 7. That pending the hearing and determination of this application and the Constitutional Petition, the Honourable Court be pleased to quash all the approvals and validations by the Respondents of the lists and or reports and or minutes prepared by the Multi-Agency Task Force pending the conclusion of the audit by an independent audit firm.
 8. That the cost of this application be borne by the Respondents herein.
3. The application is based on the grounds on its face and the supporting affidavit of the 1st Petitioner/Applicant sworn on 22nd January, 2025.



Factual Background.

4. The Petitioners/Applicants commenced the present proceedings vide the Petition dated 22nd January, 2025 where they seek the following prayers;
 1. A temporary preservative order restraining the 1st, 2nd, 3rd & 4th Respondents, its (sic) agents, servants and or employees from implementing, processing and or issuing title deeds to allottees at Chelimo Settlement Scheme in pursuance of the Report of the Multi-Agency Task Force on the Identification and Settlement of the Chelimo Settlement Scheme.
 2. An order for stay of implementation of the Report of the Multi-Agency Task Force on the identification and Settlement of the Chelimo Settlement Scheme.
 3. An Order that the Multi-Agency Task Force deposits in the Court the primary data capture lists of squatters both in its original manual and electronic form. (sic)
 4. An order that an independent audit firm be appointed to review and verify the lists of Chetimo and Majengo/Talai Squatters and the entire Report of the Multi-Agency Task Force on the identification and Settlement of the Chelimo Settlement Scheme.
 5. An order that the audited lists and final audited report that shall be generated after the audit be published in the Kenya Gazette before the allocation and the title deeds are issued to the squatters.
 6. An order quashing all the approvals and validations by the 1st, 2nd, 3rd and 4th Respondents of the squatters allotment lists, proceedings and the entire report of the Multi-Agency Task Force on the identification and Settlement of the Chelimo Settlement Scheme.
 7. Any further relief that this Honourable Court may deem just and fit to grant.
 8. An order that the cost of this application (sic) be borne by the Respondents herein.
5. As at the time of writing of this ruling, the Respondents have not filed their responses to the Petition.
6. The application under consideration first came up for hearing on 3rd February, 2025 when the Court issued directions that it be served upon the Respondents.
7. The application came up for hearing on 26th February, 2025 which hearing was re-scheduled to 19th March, 2025. On 19th March, 2025, the Respondents were granted more time to file their responses to the application.
8. On 6th May, 2025, the Court issued directions that the application be heard by way of written submissions.
9. It was mentioned to confirm filing of submissions and on 16th July, 2025 it was reserved for ruling.

The Petitioners/Applicants Contention

10. The affidavit in support of the application is sworn by the 1st Petitioner/Applicant.
11. He contends that he is the Chairman of a Community Based Association of squatters known as Kericho Chelimo Orient Squatters Organization (KECOSO).
12. He also contends that the said association represents the social welfare of the squatters who live in the villages of Lalangkaa, Koita and Moi Tea villages in Chelimo Settlement Scheme.



13. He further contends that he has the authority to swear the said affidavit on behalf of KECOSO.
14. It is his contention that on 7th August, 2023, the National and County governments appointed a multi-agency task force whose mandate was to visit Chelimo Informal Settlement, identify, list and manually capture the squatters. The multi-agency task force was to execute its mandate through a google assisted system.
15. It is also his contention that the multi-agency task force was to capture the squatters under the following headings;
 - a. Farm
 - b. New houses.
 - c. Households.
 - d. Households under households. (sic)
16. It is further his contention that the Taskforce executed its mandate and was able to capture the data of 2080 squatters under the above listed headings.
17. He contends that he and his village managers were not involved in the compilation of the report by the Taskforce. However, they were informed that the data of 2080 squatters was captured which data was sent by the Taskforce to Nairobi.
18. He also contends that the members of the Multi-Agency Taskforce visited the settlement scheme and held a public meeting. He goes on to state that at the public meeting, the names of the allottees of Chelimo Settlement Scheme were read out.
19. He further contends that the public meeting was held on 30th August, 2024.
20. It is his contention that at the end of the public meeting, it emerged that only 1056 households had been captured by the Taskforce.
21. It is also his contention that the Multi-Agency Taskforce in its report stated that 227 households were left out and yet the households that were left out were 323 in number.
22. It is further his contention that they found out that the households that were left out were 323 in number after re-checking the report by the Taskforce. He adds that the said households were at No's 399-450 and 949-1000 on the comprehensive lists.
23. He contends that none of the families who live along the riparian land in Majengo/Talai and which families were recommended by the KISIP/WB were included in the List provided by the Multi-Agency taskforce. He goes on to state that the Taskforce's list contained only 31 families.
24. He also contends that he went to the offices of the Chairman of the Multi-Agency Taskforce in the company of his fellow officials. The offices are situated at the Kericho County Commissioner's Office and the office of the County Executive Committee Member of the Department of Lands and Settlement, Kericho.
25. He further contends that they were denied audience but they were able to serve the said offices with the petition prepared by the squatters.
26. It is his contention that he instructed the advocates who represent the squatters to write letters to the offices of the



Respondents herein.

27. It is also his contention that a letter dated 6th November, 2024 was written and it demanded that the anomalies on the list presented on 30th August, 2024 be corrected.
28. It is further his contention that they visited the office of the Governor, Kericho County. Upon visiting the said office, they were informed that their issues had been delegated to the Office of the County Executive Committee Member of the Department of Lands and Settlement Kericho.
29. He contends that when they visited the said offices, they were informed that they would have a meeting on 12th December, 2024 which meeting did not take place.
30. He also contends that his committee sat and resolved that any deliberations on the list prepared by the Multi-Agency Taskforce should be stopped until their issues are heard. A notice to that effect was served upon the County Assembly of Kericho.
31. He further contends that despite service of the said notice, the 1st and 2nd Respondents debated and ratified the Multi-Agency Report on the identification and settlement of the Chelimo Settlement Scheme.
32. It is his contention that upon the said ratification, issuance of title deeds of the Chelimo Settlement Scheme commenced.
33. It is also his contention that their efforts to have the multi-agency taskforce report amended to include the 323 squatters were ignored by the Respondents. Instead the Respondents have pushed for the implementation of the report.
34. He ends his deposition by stating that the Court should uphold justice and fairness and ensure that the allocation of the Chelimo Settlement Scheme does not result in the condemnation of the 323 Chelimo squatters and 31 Majengo/Talai squatters.

The 1st Respondent's Response .

35. In response to the application, the 1st Respondent filed Grounds of Opposition dated 15th May, 2025.
36. They are as follows;
 - a. That the Petition does not disclose any reasonable cause of action or any legal interest capable of protection under the law.
 - b. That the specific parcel of land claimed has not been indicated nor evidence of registrable documents provided.
 - c. That the Petitioners have not pleaded in particularity and specificity how their rights have been violated, infringed or threatened but have only cited various Articles of *the Constitution* as having been violated.
 - d. That the Petitioners have not indicated the genesis of their claim under the provisions of the Land Law or any other law hence do not have locus to bring this Petition.
 - e. That the application as a whole offends the relevant provisions of the law thus cannot stand the test of law. The application is based on general assumptions.
 - f. That the entire petition as instituted is a gross and blatant abuse of the process of the Court, bad in law and irredeemably defective and the same ought to be dismissed entirely with costs.



The 3rd and 4th Respondents Response.

37. In response to the Petitioners/Applicants application, the 3rd and 4th Respondents filed Grounds of Opposition dated 13th March, 2025.
38. They are as follows;
- a. That the Applicants are not entitled to any of the orders sought as they lack locus standi to institute the suit.
 - b. That the 1st, 2nd and 3rd Applicants have not submitted a registration certificate for KECOSO to prove its existence, neither have they submitted a written resolution signed by its members to recognize them as the officials authorized to act on behalf of the alleged organization.
 - c. That the 4th and 5th Applicants have not identified the alleged 31 families, neither have they submitted a written and signed authority to act on behalf of the alleged organization.
 - d. That the application and the petition are fatally defective in entirety, as they offend the provisions of Order 1, Rule 8 and Order 1, Rule 13 of the Civil Procedure Rules.
 - e. That the application is prematurely invokes (sic) the jurisdiction of the Honourable Court and is in violation of the doctrine of exhaustion.
 - f. That the Respondents are public entities as defined under Article 260 of *the Constitution* of Kenya and Section 2 of the *Access to Information Act*.
 - g. That the Applicants have not complied with Section 8 of the *Access to Information Act* and Rule 13 of the Access to Information Regulations, which clearly outline the procedure the Applicants ought to have followed when seeking information held by a public entity.
 - h. That if the Applicants followed the aforementioned due process and were unsatisfied, they were well within their rights to seek review from the Commission on Administrative Justice, in accordance with Section 14 of the *Access to information Act*.
 - i. That the auditing of public entities and independent commissions is conducted by the Office of the Auditor General, in accordance with Article 254 of *the Constitution* of Kenya and Section 7(1)(f) of the *Public Audit Act*.
 - j. That this Honourable Court does not have jurisdiction to order an audit of the report by the Multi-Agency Task Force.
 - k. That the orders sought are not founded in law and the Applicants seek to frustrate a matter of public interest for their personal enrichment.
 - l. That the Application lacks merit and ought to be dismissed with costs to the Respondents.

Issues for Determination.

39. The Petitioners/Applicants filed their submissions on 15th July, 2025, the 1st Respondent filed its submissions on 29th May, 2025 while the 3rd and 4th Respondents filed their submissions on 16th July, 2025.
40. The Petitioners/Applicants submit on the following issues;



- a. Did the Multi-Agency Task Force perform its work as it outlined in its methodology on identification of the genuine squatters and was the signed list a true representation of the genuine persons physically seen and captured through the GPS in the households, farms and new houses?
 - b. Was the legitimate expectation of the genuine squatters met by the National and County Governments through the Multi-Agency Task Force?
 - c. Costs of the Petition herein.
41. The Petitioners/Applicants reiterate the averments of the 1st Petitioner/Applicant in the affidavit in support of the application and submit that the Court should find that they have proved that their constitutional rights have been violated.
 42. The Petitioners/Applicants submit that the Court should grant the prayers sought and also issue a declaration that 323 squatters who live in Chelimo were left out in addition to 31 other families.
 43. The Petitioners/Applicants also submit that their rights under Articles 27, 28, 29 (a) and 49(1) of *the Constitution* have been violated and they rely on the judicial decision of *Obiero v Metal Crows Limited* (Petition 53 of 2019) [2024] KEELRC 1107 (KLR) (8th May, 2024) in support of their submissions.
 44. On the second issue, the Petitioners/Applicants submit that their legitimate expectations were not met as some of the families who live in Chelimo were not included in the report by the Multi-Agency Taskforce.
 45. The Petitioners/Applicants also submit that the government through the Task Force ought to have acted fairly and included all the squatters.
 46. The Petitioners/Applicants further submit the failure to include the 323 squatters and the 31 families who live in Majengo/Talai, violated their rights under Article 47 of *the Constitution* of Kenya and the Fair Administrative Actions Act.
 47. The Petitioners/Applicants rely on the judicial decisions of *Pastoli v Kabale* [2008] 2 EA 300 as was cited in *Republic vs Vice Chancellor Moi University & 2 Others Ex parte Benjamin J Gikenyi Magare* [2019]eKLR, *Oindi Zaippeline & 39 Others v Karatina University & another* [2015]eKLR and *Communications Commission of Kenya & 5 Others vs Royal Media Services Limited & 5 Others* (citation not given) in support of their submissions.
 48. The Petitioners/Applicants submit that they have met the description (sic) of squatters under the law and they therefore have the locus standi to make a claim on the basis of legitimate expectations.
 49. The Petitioners/Applicants rely on the judicial decisions of *Republic vs Kenya Revenue Authority ex parte Aberdare Freight Services Limited* [2004] 2 eKLR 530 (sic), *South African Veterinary Council vs Szymanski* 2003 (4) S.A 42 (SCA) and urge the Court to allow the Petition as prayed.
 50. The Petitioners/Applicants conclude their submissions by relying on the judicial decision of *Jasbir Singh Rai & 3 Others vs Tarlochan Singh Rai & 4 Others* [2014]eKLR and urge the Court to grant them costs of the Petition.
 51. The 1st Respondent submits on the following issues;
 - a. Whether the Petition has been pleaded with reasonable precision as per the required standard in Constitutional Petitions.



- b. Whether the Petitioners rights have been violated or infringed under the cited articles of *the Constitution*.
52. On the first issue, the 1st Respondent relies on the judicial decisions of Anarita Karimi Njeru vs the Republic (1976-1980) KLR 1272, Mumo Matemu vs Trusted Society of Human Rights Alliance & 5 Others (citation not given) and submits that the Petitioners/Applicants have not proved the alleged violations of *the Constitution* to the required standard.
53. The 1st Respondent submits that the Petitioners/Applicants have at paragraph 14 of the Petition alleged that they are squatters but they have not stated the particular parcel of land that they are claiming.
54. The 1st Respondent relies on the judicial decision of Abdirashid Adan Hassan v The Estate of W H E Edgley [2022] eKLR and urge the Court to dismiss the Petition.
55. On the second issue, the 1st Respondent reiterates that the Petitioners/Applicants have not pleaded with specificity how their rights have been infringed.
56. The 1st Respondent relies on the judicial decision of Meru Cultural Center & 17 Others vs Kisima Farm Limited & 24 Others (Constitutional Petition E006 of 2022) [2023] KEELC 19863 (KLR) (20th September 2023) (Ruling) and submit that the Petitioners/Applicants have not demonstrated how the Respondents have violated Articles 2, 3, 10, 19, 20, 21, 22(1), 23(1), 24, 26, 27, 30, 35, 40, 43, 47, 48, 50, 53, 54, 56, 60, 62, 63, 66, 67, 68, 159, 176, 185, 189, 190, 199, 249, 258 and 259 of *the Constitution* of Kenya.
57. The 1st Respondent concludes its submissions by urging the Court to dismiss the Petitioners/Applicants application.
58. The 3rd and 4th Respondents submit on the following issues;
- a. Whether the Applicants have locus standi to institute this suit.
 - b. Whether the Application violated the doctrine of exhaustion.
 - c. Whether the orders sought by the Applicants are merited.
59. On the first issue, the 3rd and 4th Respondents rely on Order 1 Rule 8 & 13 of the Civil Procedure Rules, the judicial decisions of Alfred Njau and Others versus City Council of Nairobi [1983] eKLR, Andrew Ileri Njeru vs Embu Nyangi Ndiiri Proposed Society Chairman & others versus Daniel Nganga Kangi & another [2015] eKLR and submit that the Petitioners/Applicants have not demonstrated that KECOSO is a registered entity and neither have they availed a resolution authorizing them to act on behalf of their members.
60. On the second issue, the 3rd and 4th Respondents rely on the judicial decision of Ramogi & 3 others v Attorney General & 4 others; Muslims for Human Rights & 2 others (Interested Parties) [2020] KEHC 10266 (KLR) and submit that the 4th Respondent is a public entity.
61. The 3rd and 4th Respondents rely on Article 260 of *the Constitution*, Sections 2, 8 & 9 of the *Access to Information Act* and submit that the Petitioners/Applicants ought to have followed the requisite procedure in requesting for access to information from public entities.
62. The 3rd and 4th Respondents rely on Section 14 of the *Access to Information Act* and submit that the Commission on Administrative Justice has the power to review decisions of a public or private officer in relation to a request to access information.



63. It is the 3rd and 4th Respondents submissions that the jurisdiction of this Court has been prematurely invoked and they rely on the judicial decisions of Geoffrey Muthinja Kabiru & 2 Others vs Samuel Munga Henry & 1756 Others [2015] eKLR, County Public Service Board & another vs Hulbhai Gedi Abdile [2017] eKLR in support of their submissions.
64. On the third issue, the 3rd and 4th Respondents rely on Section 7(1) of the *Public Audit Act* and submit that the Petitioners/Applicants prayer for an appointment of an independent auditor is unfounded.
65. The 3rd and 4th Respondents rely on the judicial decisions of Transparency International (TI Kenya) vs Attorney General & 2 others [2018] KEHC 8951 (KLR), Kenya National Examination Council vs Republic Ex parte Godfrey Gathenji Njoroge & 9 Others [1997] KECA 58 (KLR) and submit that only an order of certiorari can quash the report of the Multi-Agency Task Force.
66. They conclude their submissions by urging the Court to dismiss the Petitioners/Applicants application.

Analysis and Determination.

67. I have considered the Petitioners/Applicants application, the responses thereto and the rival submissions.
68. It is my view that the following issues arise for determination;
 - a. Whether the Petitioners/Applicants have locus standi to commence the present proceedings.
 - b. Whether the Petitioners/Applicants application dated 22nd January, 2025 has merit.
 - c. Who should bear costs of the application.

A. Whether the Petitioners/Applicants have locus standi to commence the present proceedings.

69. The 3rd and 4th Respondents contend that the 1st, 2nd and 3rd Petitioners/Applicants lack locus standi to commence the present proceedings as they have not availed a registration certificate of the Kericho Chelimo Orient Squatters Organization that they allege to be officials of.
70. The 3rd and 4th Respondents also contend that the 1st, 2nd and 3rd Petitioners/Applicants have not availed a written resolution authorizing them to commence the present proceedings.
71. The 3rd and 4th Respondents further contend that the 4th and 5th Petitioners/Applicants have not also availed a written authority authorizing them to commence the present proceedings.
72. The 3rd and 4th Respondents therefore submit that the Petitioners/Applicants do not have locus standi to commence the suit.
73. In response, the Petitioners/Applicants submit that they have locus standi to commence the present proceedings as they are squatters.
74. The Court of Appeal in *Njau & 5 others v City Council of Nairobi* [1983] KECA 56 (KLR) held as follows;

“The term locus standi means a right to appear in Court and, conversely, as is stated in Jowitt’s Dictionary of English Law, to say that a person has no locus standi means that he has no right to appear or be heard in such and such a proceeding.”



75. In the Petition, the 1st, 2nd and 3rd Petitioners/Applicants aver that they are suing as residents of Chelimo Village and as officials of Kericho Chelimo Orient Squatters Organization.
76. The 4th and 5th Petitioners/Applicants aver that they are suing as allottees of land in Majengo/Talai Settlement Scheme.
77. The Petitioners/Applicants allege violations of their rights under Articles 2(5), 10, 22, 28, 30, 40, 43 & 63 of *the Constitution* of Kenya among other provisions of the Law.
78. Article 22(1) & (2) of *the Constitution* of Kenya provides as follows;

“ 22.

- (1) Every person has the right to institute Court proceedings claiming that a right or fundamental freedom in the Bill of Rights has been denied, violated or infringed, or is threatened.
- (2) In addition to a person acting in their own interest, Court proceedings under clause (1) may be instituted by—
 - (a) a person acting on behalf of another person who cannot act in their own name;
 - (b) a person acting as a member of, or in the interest of, a group or class of persons;
 - (c) a person acting in the public interest; or
 - (d) an association acting in the interest of one or more of its members.

79. In the judicial decision of Sanghani & 2 others (For and on Behalf of Parklands Residents Association) v Nairobi City County Government & 5 others; 108 (Interested Party) [2025] KEELC 6985 (KLR) the Court while considering the issue of whether or not the Petitioners in the said suit had locus standi, relied on Articles 22 and 70 of *the Constitution* of Kenya and held as follows;

“ Guided by these constitutional provisions, it is correct to say that any person seeking for enforcement of rights under the Bill of Rights and environmental rights may file petitions on their own behalf and even on behalf of the general public. The Petitioners as such have the requisite locus.” (Emphasis mine)

80. In the above cited judicial decision, the Court held that any person seeking enforcement of rights under the bill of rights can file petitions on their own behalf and on behalf of the general public.
81. That being the case, my view is that, the Petitioners/Applicants have locus standi to institute these proceedings.

B. Whether the Petitioners/Applicants application dated 22nd January, 2025 has merit.

82. The prayers sought by the Petitioners/Applicants in their application dated 22nd January, 2025 have been set out in the preceding paragraphs but I will nonetheless replicate them as hereunder;
 - a. Spent



- b. That pending the hearing and determination of this Application and the Constitutional Petition the Honourable Court be pleased to issue a temporary preservative order restraining the 1st, 2nd, 3rd, 4th & 5th Respondents, its agents, servants and or employees from implementing, processing and or issuing title deeds to allottees using the lists prepared by the Respondents through the Multi-Agency Task Force on the identification and Settlement of the Chelimo Settlement Scheme (hereinafter referred as the Multi-Agency Task Force).
 - c. That pending the hearing and determination of this application and the Constitutional Petition, the Honourable Court be pleased to order that the primary data both in soft and hard copies that was prepared by the Multi-Agency Task Force be deposited in Court in their original formats.
 - d. That pending the hearing and determination of this application and the Constitutional Petition, the Honourable Court be pleased to issue an order staying the implementation of the Respondents' Report that was prepared and signed off by the Multi-Agency Task Force dated 30/08/2024.
 - e. That pending the hearing and determination of this application and the Constitutional Petition, the Honourable Court be pleased to order that an independent firm of Registered Auditors be appointed and gazetted by the Respondents to undertake an audit, review and verify the lists of Chelimo and the 31 Majengo/Talai squatters against the primary data collected by the Respondents through the Multi-Agency Task Force and lists of squatters in Majengo/Talai Settlement Scheme prepared by KISIP/WB.
 - f. That pending the hearing and determination of this application and the Constitutional Petition, the Honourable Court be pleased to order that the final list prepared by the independent Firm of Registered Auditors be published in the Kenya Gazette before title deeds are issued.
 - g. That pending the hearing and determination of this application and the Constitutional Petition, the Honourable Court be pleased to quash all the approvals and validations by the Respondents of the lists and or reports and or minutes prepared by the Multi-Agency Task Force pending the conclusion of the audit by an independent audit firm.
 - h. That the cost of this application be borne by the Respondents herein.
83. The prayers sought in the Petition have also been set out in the preceding paragraphs but I will, nonetheless, replicate them as hereunder;
- 1. A temporary preservative order restraining the 1st, 2nd, 3rd & 4th Respondents, its (sic) agents, servants and or employees from implementing, processing and or issuing title deeds to allottees at Chelimo Settlement Scheme in pursuance of the Report of the Multi-Agency Task Force on the Identification and Settlement of the Chelimo Settlement Scheme.
 - 2. An order for stay of implementation of the Report of the Multi-Agency Task Force on the identification and Settlement of the Chelimo Settlement Scheme.
 - 3. An Order that the Multi-Agency Task Force deposits in the Court the primary data capture lists of squatters both in its original manual and electronic form. (sic)
 - 4. An order that an independent audit firm be appointed to review and verify the lists of Chetimo and Majengo/Talai Squatters and the entire Report of the Multi-Agency Task Force on the identification and Settlement of the Chelimo Settlement Scheme.



5. An order that the audited lists and final audited report that shall be generated after the audit be published in the Kenya Gazette before the allocation and the title deeds are issued to the squatters.
 6. An order quashing all the approvals and validations by the 1st, 2nd, 3rd and 4th Respondents of the squatters allotment lists, proceedings and the entire report of the Multi-Agency Task Force on the identification and Settlement of the Chelimo Settlement Scheme.
 7. Any further relief that this Honourable Court may deem just and fit to grant.
 8. An order that the cost of this application (sic) be borne by the Respondents herein.
84. A cursory look at the prayers sought by the Petitioners/Applicants in their application dated 22nd January, 2025 shows that they are a replica of the prayers sought in the Petition except that they are sought pending hearing and determination of the Petition.
 85. For instance, prayer (2) of the application seeks a preservative order to restrain the Respondents from issuing title deeds using the list prepared by the Multi-Agency Taskforce. This prayer is similar prayer (1) of the Petition.
 86. Prayer (3) of the application seeks for an order that the primary data captured by the Multi-Agency Taskforce be deposited in Court in its original format. This prayer of the application is the same as prayer (3) of the Petition.
 87. Prayer (4) of the application seeks an order staying the implementation of the Respondent's report that was prepared by the Multi-Agency Taskforce. This prayer is the same as prayer (2) of the Petition.
 88. Prayer (5) of the application seeks an order for the appointment of an independent auditor to audit and/or review the primary data captured by the Respondents through the Multi-Agency Taskforce. This prayer is similar to prayer (4) of the Petition.
 89. Prayer (6) of the application seeks an order for the gazetting of the Independent Auditor's report. This prayer is the same as prayer (5) of the Petition.
 90. Prayer (7) of the application seeks that the Court issues an order quashing the approvals and validations by the Respondents of the Reports and/or lists prepared by the Multi-Agency Taskforce. This prayer is the same as prayer (6) of the Petition.
 91. Essentially the prayers in the application are substantive prayers in the Petition and granting them is akin to determining the Petition at the interlocutory stage. That being the case, the questions of whether or not the primary data captured by the Multi-Agency Task Force should be deposited in Court and whether or not an independent auditor should be appointed together with all the other issues raised in the application under consideration, shall be addressed during the hearing and determination of the Petition.
 92. This Court notes that the 1st Respondent has raised the issue whether or not the Petition has been pleaded with specificity. This will also be addressed at the hearing and determination of the Petition.
 93. Further, the 3rd and 4th Respondents have raised the issue whether or not the Petitioners/Applicants have violated the doctrine of exhaustion. Having found that the issues raised in the application are similar to the issues raised in the Petition, my view is that this issue should be addressed and shall be dealt at the hearing of the Petition.



C Who should bear costs of the application.

94. It is now settled that costs shall follow the event. This is in accordance with the provisions of Section 27 of the *Civil Procedure Act* (Cap. 21 Laws of Kenya). A successful party should ordinarily be awarded costs of an action unless the Court, for good reason, directs otherwise.

Disposition.

95. Taking the foregoing into consideration, I find that that the Petitioners/Applicants application dated 22nd January, 2025 lacks merit and it is hereby dismissed with costs.

96. It is so ordered.

DATED, SIGNED AND DELIVERED VIRTUALLY AT KERICHO THIS 11TH DAY OF DECEMBER, 2025.

L. A. OMOLLO

JUDGE.

In the presence of: -

Chebet for the Petitioners/ Applicants.

Mr Ojwang holding brief for the 1st Respondent.

No appearance for the 2nd Respondent.

Mr. Ojwang for the 3rd and 4th Respondent.

Court Assistant; Mr. Joseph Makori.

