



Presbyterian Foundation v Principal Secretary, Ministry of – Lands, Public Works and - Urban Development & 2 others; Wang’ola & another (Intended Interested Party) (Environment and Land Petition E011 of 2025) [2026] KEELC 152 (KLR) (22 January 2026) (Ruling)

Neutral citation: [2026] KEELC 152 (KLR)

REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT KAJIADO

ENVIRONMENT AND LAND PETITION E011 OF 2025

MD MWANGI, J

JANUARY 22, 2026

**IN THE MATTER OF THE CONSTITUTION OF
KENYA 2010, ARTICLES 1, 2, 10, 40, 64 AND 159**

AND

IN THE MATTER OF ARTICLE 162 (2) (B) OF THE CONSTITUTION OF KENYA 2010

AND

IN THE MATTER OF THE ENVIRONMENT AND LAND COURT ACT (NO. 19 OF 2011)

BETWEEN

THE PRESBYTERIAN FOUNDATION PETITIONER

AND

**THE PRINCIPAL SECRETARY, MINISTRY OF – LANDS, PUBLIC WORKS
AND - URBAN DEVELOPMENT 1ST RESPONDENT**

**THE PRINCIPLE SECRETARY, STAFF – DEPARTMENT FOR HOUSING AND
- URBAN DEVELOPMENT 2ND RESPONDENT**

THE HONOURABLE ATTORNEY GENERAL 3RD RESPONDENT

AND

JACOB WANG’OLA INTENDED INTERESTED PARTY

**ONGATA RONGAI ENVIRONMENTAL DEVELOPMENT
ORGANIZATION INTENDED INTERESTED PARTY**

(In respect of an oral application by Intended interested parties to be joined into the petition as such)



RULING

Introduction

1. This petition was initiated by the Presbyterian Foundation Limited, (hereinafter referred to as the Petitioner) who claim to be the registered proprietors of the parcel of land known as Ngong/Ngong/528 situated at Ongata Rongai Township within Kajiado County (hereinafter referred to as ‘the suit property’). The Petitioner seeks amongst other orders a declaration that the encroachment, entry or attempted entry by the Respondents into the suit property is a violation of its constitutional right to property.
2. According to the Petitioner, the petition was prompted by the actions of the 1st and 2nd Respondents, the Principal Secretary Ministry of Lands, Public Works and Urban Development and the Principal Secretary State Department for Housing and Urban Development, who allegedly visited the suit property sometime in the month of June 2025 and expressed intention to construct and or set up a project for affordable housing. They, according to the Petitioner, further proceeded to fence a portion of the suit property and drill the ground for soil profiling as a step towards the commencement of the project.
3. While the petition and an interim application were still pending in court, the court was informed by the State Counsel representing the Respondents herein, Ms. Chimau, that there were ongoing out of court negotiations with the Petitioner. The petitioner through its Advocate, Mr. Mbigi Njuguna, has severally confirmed to the court that the negotiations have indeed been going on.
4. The suit property herein was the subject of litigation in a previous case before this court, ELC 239 of 2017, which case had been initiated by the Petitioner against one Jacob Wang’ola, Ong’ata Rongai Environmental Organization and Kennedy Gitau, seeking to restrain them from entering, encroaching on or in any other way interfering with its possession and use of all that parcel of land known as Ngong/Ngong/528, the suit property. The 1st and 2nd Defendants in the case (the Intended Interested Parties herein), counter-claimed against the Petitioner and the end result of the case was that the Petitioner’s suit was dismissed while the counter-claim by the 1st and 2nd Defendants therein was upheld. The court entered judgment as prayed in the counterclaim directing that;
 - a. The register for the suit land being Ngong/Ngong/528 to be rectified by cancelling all entries showing the plaintiff as the proprietor.
 - b. The register for the suit land to be amended to reflect the registered owner as the County Government of Kajiado.
5. The petitioner filed an application for stay of execution in the ELC 239/2017 which, as Mr. Githuka Advocate for the intended parties told the court, was put in abeyance pending the conclusion of the out of court negotiations between the Petitioner and the Respondents in this petition. The two matters have subsequently been mentioned together before the court.
6. The Intended Interested Parties are the 1st and 2nd Defendants in ELC 239 of 2017 (the successful counter-claimants).
7. *The Constitution* of Kenya (Protection of Rights and Fundamental Freedoms, Practice and Procedure) Rules, 2013, (popularly referred to as the Mutunga Rules) apply to all proceedings, made under Article 22 of *the Constitution* on enforcement of the Bill of Rights. Under rule 2 thereof, an interested party



means a person or entity that has an identifiable stake or legal interest or duty in the proceedings before the court but is not a party to the proceedings or may not be directly involved in the litigation.

8. Rule 7 provides that a person may make an oral or written application, to be joined as an interested party in proceedings. The court too may on its own motion join any interested party to the proceedings before it.
9. The issue then for the court to consider and determine is whether the intended interested parties have an identifiable stake or legal interest in the proceedings before it.
10. The intended interested parties hold a valid decree issue in ELC 239 of 2017, in respect of the suit property. Obviously they do have a stake and legal interest in the proceedings before the court that concern the suit property. The County Government of Kajiado too has a stake in these proceedings in view of the judgment and decree in ELC 239 of 2017 declaring it to be the lawful proprietor of the suit property.
11. The application by the intended interested parties is therefore merited and is allowed as prayed. Jacob Wang'ola and Ongata Rongai Environmental Development Organization, are hereby joined into these proceedings as the 1st and 2nd interested parties respectively.
12. The court too exercising its authority under rule 7(2) of the Mutunga Rules joins the County Government of Kajiado as the 3rd interested party in these proceedings.
13. The interested parties shall henceforth be served with all the pleadings filed herein, in any event within 7 days of the date of this ruling. They are granted 21 days to file their appropriate responses to the petition and the notice of motion dated 1st August 2025.

It is so ordered.

DATED SIGNED AND DELIVERED AT KAJIADO VIRTUALLY THIS 22ND DAY OF JANUARY 2026.

M.D. MWANGI

JUDGE

In the virtual presence of:

Ms. Nyambura h/b for Mr. Mbigi Njuguna for the Petitioner

Ms. Omondi h/b for Mr. Mwongeli for the County Government of Kajiado

Mr. Githuka for the 1st & 2nd Interested Parties

N/A by the office of the AG

Court Assistant: Mpoye

