

**REPUBLIC OF KENYA**  
**IN THE ENVIRONMENT AND LAND COURT AT**  
**KITALE**  
**ELC NO. 118 OF 2013**  
**(AS CONSOLIDATED WITH KITALE ELC NO.93 OF**  
**2018)**

**VINCENT NARISA KROP-----1<sup>ST</sup> APPLICANT**  
**COX PATRICK NARISA-----2<sup>ND</sup> APPLICANT**  
**CHEMUTUKEN PALEE LOUKOTUM-----3<sup>RD</sup> APPLICANT**  
**JANE NARISA CHEPOTUM EDHIO-----4<sup>TH</sup> APPLICANT**

**VERSUS**

**COUNTY COMMANDER-  
WEST POKOT COUNTY-----1<sup>ST</sup> RESPONDENT**  
**MARTIN SEMERO -----2<sup>ND</sup> RESPONDENT**  
**KAPCHENGO SHARTI -----3<sup>RD</sup> RESPONDENT**  
**SAMUEL ALUKURENG-----4<sup>TH</sup> RESPONDENT**  
**RIONGOSIA SAMAKITUK-----5<sup>TH</sup> RESPONDENT**  
**JACKSON KANAWAI SHARTI-----6<sup>TH</sup> RESPONDENT**  
**STEPHEN KAKUKO CHELOPEI-----7<sup>TH</sup> RESPONDENT**  
**CHEPARKONG DOMONYANG-----8<sup>TH</sup> RESPONDENT**

<b>CHEPTANGAT LEKERN</b> -----	<b>9<sup>TH</sup></b>
<b>RESPONDENT</b>	
<b>JOSEPH P. LOPOTIO</b> -----	<b>10<sup>TH</sup></b>
<b>RESPONDENT</b>	
<b>POWON LONYANG</b> -----	<b>11<sup>TH</sup></b>
<b>RESPONDENT</b>	
<b>CHEPOCHENDO LIMAN</b> -----	<b>12<sup>TH</sup></b>
<b>RESPONDENT</b>	
<b>JOAKIM K. ALEMUSIN</b> -----	<b>13<sup>TH</sup></b>
<b>RESPONDENT</b>	

## **RULING**

- 1.** By a ruling dated **26/2/2025**, this court found some respondents and citees guilty of contempt of court. Summons were thereafter issued for the said person(s), to appear and show cause why they should not be punished for contempt of court.
- 2.** By a ruling dated **12/3/2025**, warrants of arrest were issued against some of the citees who did not attend court. The Senior Superintendent of Police Joseph Yatan, on behalf of the County Commander, West Pokot County, was fined a suspended fine of **Kshs.50,000/=**. Summons were also issued for the County Police Commander to attend court on **12/3/2025**.
- 3.** Come **19/3/2025**, SSP. Samuel Njoroge Mbugua appeared before the court on behalf of the 1<sup>st</sup> respondent and explained the efforts made to

execute the decree, the difficulties which they were facing, and how they could be assisted by not only the parties but the court to effectively comply with the decree.

4. The court granted the police **1 ½** months to effect the arrests of the named persons. As to eviction, the auctioneer, M/s John Agunja Auctioneers, was directed to liaise with the County Police Commander and his team on the best way forward to execute the court's decree in line with the law.
5. Efforts were made to arrest Jackson Kanawai Sharti by the County Police Commander, who brought him to court on **11/6/2025**. He also explained that the remaining eight persons were still at large but were on their radar and trail. The County Police Commander told the court that he had made a request to the Police Headquarters because he requires at least **100** police officers for security to effect the eviction through the auctioneer, which personnel he does not have, and was awaiting clearance from the headquarters.
6. The court was informed that, in view of past experience in the attempted eviction where the police came under attack from the intruders opposed to the same, and due to the expansive parcel of land, they expect resistance due to the

hostility of the trespassers therein, some of whom have been arraigned before Kapengurai Law Courts. Learned counsel Mr. Kariuki Mwaniki for the decree holder conceded to the same.

- 7.** Come **8/10/2025**, the decree holder came to court and orally sought directions since no action had been taken for **6** months. A formal application was directed to be filed.
- 8.** Before the court is an application dated **17/11/2025**. When it came up on **18/11/2025**, the court directed that it be served upon the auctioneer and the respondents for an interpartes hearing on **27/11/2025**. The court has not seen an affidavit of service to that effect. Mr. John Anguja Onyango, the auctioneer attend the court and explained that he obtained an eviction order dated **21/12/2021**, which he served upon the parties, OCS, OCPD, and County Police Commander, West Pokot, only for the same to be suspended after a stay order was issued.
- 9.** The auctioneer said that after he was given a go-ahead, the County Police Commander told him that they had referred the issue to the Deputy Inspector General of the Police for directions, who, to date, he has been told, has yet to respond. The Auctioneer said that he was therefore unable to execute the

decree without security, despite preparing and handing over a preliminary report on what security he requires and discussing the same with the County Security personnel.

**10.** Learned counsel for the decree holder submitted that the County Police Commander appeared in court on **11/6/2025** and though he requested **3** months, his excuses should not be taken without proof; otherwise, he is the stumbling block. Learned counsel asked that the application be allowed.

**11.** The prayers sought are:

- i. ...spent.**
- ii. The court be pleased to grant the plaintiffs/applicants leave to institute contempt of court proceedings against the 1<sup>st</sup> respondent (Commander, West Pokot County) and the 2<sup>nd</sup> to 13<sup>th</sup> defendants/respondents.**
- iii. That upon the grant of leave, the court be pleased to issue a notice to show cause why an order of committal to civil jail and/or a warrant of arrest should not be made against the 1<sup>st</sup> respondent, and the 2<sup>nd</sup> to 13<sup>th</sup> respondents for contemptuously disobeying the decree herein and the court order issued on 11/06/2025.**
- iv. That pending the hearing and determination of the resultant notice to show cause, the court be pleased to issue a temporary injunction restraining the 2<sup>nd</sup> to 13<sup>th</sup> respondents from interfering with,**

**cultivating, or otherwise utilizing the suit land West Pokot/Chepareria/716.**

- 12.** The application is supported by an affidavit of Vincent Cox Narisa Krop, sworn on **17/11/2025**. He refers to the judgment, decree, ruling of **26/2/2025**, orders of **11/6/2025**, efforts by the auctioneer to attend the office of the County Police Commander, the suffering which he is undergoing due to non-execution of the decree, letters written to the officers by his lawyer dated **1/10/2025**, all as per annexures marked **VNK (1)-(3)**, showing that the officer is unco-operative.
- 13.** In the ruling dated **26/2/2025**, the issue of contempt of court was adequately addressed, and as indicated above, liability and sentencing were made against the citees, among them the 2<sup>nd</sup> - 16<sup>th</sup> respondents.
- 14.** The doctrine of *res judicata* is a fundamental principle of law that precludes parties from relitigating issues that have already been determined by a court of competent jurisdiction on the merits. The rationale is to avoid endless litigation, misuse of court resources, vexing of parties twice, the end of litigation, and finality in decision-making. See **John Florence Maritime**

**Services Ltd -vs- Cabinet Secretary; Transport & Infrastructure & Others [2015] eKLR.**

**15.** The ingredients of *res judicata* were set out in **Maina Kiai -vs- Independent Electoral & Boundaries Commission (2017) eKLR.** They include:

- i. The issue was decided by a competent court.*
- ii. The parties were similar or had litigation over the same title.*
- iii. The issues were determined to finality and merits.*
- iv. The court in which the second matter is filed had jurisdiction to hear the previous suit and vice versa.*

**16.** In this application, the reliefs sought as prayers No. **2, 3, and 4** have already been dwelt with in the rulings and judgment alluded to above on merits and to finality. The **8** contemnors at large are yet to be apprehended by the police.

**17.** The County Police Commander attended court and gave an assurance that he was coordinating security personnel with the police headquarters to assist the auctioneers with the eviction. Arrests have been made for those who resisted the aborted eviction. The magnitude of the exercise and the expected resistance and risks involved have been laid bare to the court.

- 18.** This court takes judicial notice of the draft guidelines for the execution of court orders on eviction developed by the National Council on the Administration of Justice. The standard operating procedure aims to promote compliance with the law, standardize eviction procedures, safeguard rights and dignity, clarify the rules, facilitate inter-agency coordination, prevent abuse and unlawful eviction, enhance accountability and oversight, promote victim centered approach, mitigate harm and ensure safety, and build public confidence in the justice system and compliance with international best practice.
- 19.** The court is aware of **Section 152** of the Land Act, which requires verification and authentication, risk assessment and planning, notification in line with LA **57** set out in the Third Schedule in the Land Act Regulations **2017**, general conduct, safety considerations, prohibited conduct, rules and responsibilities of the participating actors. Auctioneers have to comply with the Auctioneers Act and its Rules, issue required notices, engage a security committee, assess the situation, and engage the National Police Service. The decree holder has to serve the court decrees and notice of eviction.

**20.** In *Musembi & Others -vs- Moi Education Centre Co. Ltd & Others [2021] KESC 40 [KLR]*,

the crux was the alleged forceful eviction of persons from private land. The court held that an evicting party must carry out the eviction in a manner that respects the rights of those affected. See also *Mitubell Welfare Society -vs- Kenya Airport Authority & Others [2021] eKLR*. The draft eviction standard operating procedures are therefore a response to the above binding jurisprudence from the apex court.

**21.** With this background and noting the intricacies involved in eviction in this matter, the decree holder and the auctioneer, while blaming the security personnel, must confirm that they have followed the law and complied with the basic legal procedures on eviction. The auctioneer has not sworn an affidavit or shared with the court any documentation in line with **Section 152B** of the Land Act and **Section 22** of the National Police Service Act.

**22.** In the premises, I find no basis to issue the reliefs sought. The application dated **17/11/2025** is found to be *res judicata*. It is dismissed with no order as to costs. Compliance with the execution of the decree is to be undertaken in line with **Section 38** of the

Civil Procedure Act and **Section 152B** of the Land Act.

**23.** Once there is compliance, the decree holder is at liberty to move the court for any post-judgment application; otherwise, the file is marked as closed.

**24.** Orders accordingly.

**Ruling dated, signed, and delivered** via **Microsoft Teams/Open Court** at **Kitale** on this **4<sup>th</sup>** day of **February 2026**.

**In the presence of:**

Court Assistant - Dennis

Mr. Kariuki for the plaintiffs present

No appearance for the respondents.



**HON. C.K. NZILI  
JUDGE, ELC KITALE.**