

REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT OF KENYA

AT KAPSABET

ELC PETITION CASE NO. E007 OF 2025

PIUS KIPKOSGEI KETER.....1ST
PETITIONER/APPLICANT

RICHARD TARUS2ND
PETITIONER/APPLICANT

SAMSON CHEBON.....3RD
PETITIONER/APPLICANT

-VERSUS-

SAMSON CHERAMBOS.....1ST
RESPONDENT

**THE MANAGING DIRECTOR, AGRICULTURAL
DEVELOPMENT CORPORATION (ADC).....**
.....2ND RESPONDENT

THE NATIONAL LAND COMMISSION.....3RD
RESPONDENT

**THE CABINET SECRETARY, MINISTRY OF LANDS, PUBLIC
WORKS, HOUSING & URBAN
DEVELOPMENT.....4TH RESPONDENT**

**THE CHIEF LAND REGISTRAR.....5TH
RESPONDENT**

**THE COUNTY LAND REGISTRAR.....6TH
RESPONDENT**

**THE HONOURABLE ATTORNEY GENERAL.....7TH
RESPONDENT**

RULING

1. In the Notice of Motion application dated 16th October 2025, the petitioners/applicants are seeking the following orders;

- a) That upon inter partes hearing, this Honourable Court be pleased to issue an injunction restraining the Respondents, and in particular the 1st Respondent, from entering upon, taking possession of, evicting, harassing, threatening, or in any other manner interfering with the Petitioner’s occupation and possession of the suit properties **(LR Nos.**

21959/13, 21959/14, 21959/15, 24095/12 and **24095/16** herein) pending the hearing and determination of the petition.

b) That this Honourable Court be pleased to issue orders maintaining the prevailing status quo on the ground as related to occupation, possession and use of the suit properties pending the hearing and determination of this petition.

2. The 1st respondent through Maritim and Company Advocates, opposed the application and the petition by the Preliminary Objection dated 17th November 2025 on the grounds infra;

a) That the petition has not met the threshold envisage in the Anarita Karimi case that prescribes that a party seeking a constitutional remedy is required to set out with reasonable precision that which is complained of, noting to stipulate which constitutional provisions have been infringed and how they have been infringed.

b) That the petition as filed, discloses no cause of action against the 1st Respondent, and is

therefore incompetent, misconceived and an abuse of the Court process

c) that the petition has been improperly instituted against a private individual who does not bear any constitutional or statutory obligation capable of enforcement through this petition.

d) That the petition and the Notice of Motion are misconceived and bad in law and ought to be struck out with costs to the Respondents.

3. Mr. Kibet instructed by Mr. Ngarngar learned counsel for the petitioners/applicants sought to abandon the application for hearing of the petition in the interest of justice.

4. In the same vein, Mr. Maritim learned counsel for 1st respondent applied to abandon the Preliminary Objection.

5. Ms. Masaka learned counsel for the 4th 5th and 7th respondents and Ms. Chebet learned counsel for the 6th respondent, do not have any opposition to the withdrawal sought in paragraphs 3 and 4 hereinabove.

6. Order 25 of the Civil Procedure Rules 2010 provides for the discontinuance and withdrawal of a suit or part of a claim. The preliminary objection to the application and the petition is part of the 1st respondent's claim.
7. It is established law that a party is at liberty to withdrawal of a matter before court which has the discretion to allow the withdrawal; see **In the Matter of Council of Governors -vs- Senate; Senate (Interested party) {2014} eKLR.**
8. In the instant petition, the applicants and the 1st respondent have the liberty to withdrawal the application and the preliminary objection respectively.
9. Wherefore, both the application and the preliminary objection are hereby marked as withdrawn with no orders as to costs.
10. It is so ordered.

Dated and Delivered at Kapsabet this 19th day of March 2026.

HON. G.M.A Ong'ondo

JUDGE

In the presence of;-

1. Mr. A. Kibet instructed by Kibet learned counsel for the petitioners/applicants
2. Mr. Maritim learned counsel for the 1st Respondent
3. Ms. Masaka learned counsel for the 4th, 5th and 7th Respondents
4. Ms. Chebet learned counsel for the 6th Respondent
5. Walter - Court Assistant