



THE JUDICIARY



REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NAROK
ELCL PET NO. E015 OF 2025

KETITI **LEMEIN.....1ST**
PETITIONER/RESPONDENT
KONCHELA **GREGORY** **MERITEI....2ND**
PETITIONER/RESPONDENT

VERSUS

OTUMA OLE LEPERES.....RESPONDENT/APPLICANT
AND
8 OTHERS

RULING

1. The matter before the court is a **Notice of Motion Application** dated **15th December 2025**, filed by the 1st to 7th Respondents/Applicants. The Applicants have sought for a **stay of execution and/or enforcement of the orders** issued by the Honourable Court on **9th December 2025**, which directed the **maintenance** of the **status quo** regarding the suit property, **CIS MARA EWASO NGIRO/417**.

2. The Applicants further sought for **review, variation**, and/or **setting aside** of the said orders, arguing that these orders were obtained through **misrepresentation and non-disclosure** by the Petitioners/Respondents. The Applicants asserted that they are the **rightful occupants** and

- possessors** of the suit property, which was lawfully subdivided pursuant to a valid court order, rendering the **status quo orders** inapplicable and unenforceable.
3. They also alleged that the Petitioners/Respondents quickly moved to engage the **OCS Ololulunga Police Station**, in an attempt to remove the applicants from the land, which acts amount to actual eviction even before hearing of the suit.
 4. The Applicants emphasized the urgency of the matter, stating that they will suffer substantial prejudice and irreparable loss if the orders are not reviewed and/or set aside immediately.
 5. The Petitioners/Respondents filed their Replying Affidavit dated **7th October 2025**, and averred that the instant application is **frivolous, an abuse of the court process**, meant to mislead the court and should be dismissed with costs. They also contended that they are the registered owners of land parcels **No. CIS/MARA-EWASO NGIRO 877 and No. CIS/MARA-EWASO NGIRO 878**, which arose from the subdivision of land parcel **No. CIS/MARA-EWASO NGIRO 417**, and that the land was further subdivided without notice to them, giving rise to new title deeds being **CIS/MARA EWASO NGIRO/4397, 4398, 4399 and 4400** in the year **2025**.
 6. The Petitioners/ Respondents further contended that the subdivisions were done after the **8th Respondent** enforced a decree in **Narok SPMC Misc. Land Case No. 26 of 2009**,

which adopted the 10th Respondent's award dated **10th September, 2009**, to the effect that the land was a family asset, and was ordered to be reversed from **Nalamae Enole Leperes**, the registered owner, and subdivided into four equal portions so that each wife of the late **Ntangusa Ole Leperes** becomes a beneficiary.

7. It was their further contention that at the time of reversal and cancellation of their titles in **2025**, there was no order capable of being enforced as the **decree** had lapsed, pursuant to section **4(4) of the Limitation of Actions Act**; that the registered owner was not notified; and that although the award was made in **2009**, the 1st Petitioner had bought the land **in 2007**, and taken actual possession and occupation.
8. The Petitioners/Respondents further averred that when reversals were done **in 2025**, there existed a lease with **John Kiragu Wambugu**, who has been on the land since **2017**, and that the lessee was issued with a notice to vacate dated **7th August, 2025** and demanded to pay **Kshs. 3,000,000/=** as revenue lost, the notice referring to land parcel **No. CIS/MARA-EWASO NGIRO 417**, and noting occupation for eight years.
9. It was their further averment that the said **notice** prompted them to obtain the **green card** wherein they learnt that several entries had been entered and their lands moved to the applicants, which discovery caused the Petitioners to file the instant petition to protect their property rights.

10. They deponed that authorities have been involved to bring peace, but the Respondents/ applicants and/or their agents have become aggressive and violent; that court orders of **9th December 2025**, for **status quo** were made after the court satisfied itself that the Petitioners are in actual **possession** and **occupation**; that although titles may have changed, the mother title **CIS/MARA-EWASO NGIRO 417**, is being utilized by the Petitioners and not the Respondents; that there are no permanent houses as alleged; and that upon being served with the court order issued on **8th October, 2025**, the Respondents/ applicants destroyed their fence, moved onto the land and started ploughing it, prompting a contempt application dated **18th November, 2025**.
11. They contended that it is misleading for the Respondents/ Applicants to rely on photographs to suggest utilization of the suit property, that letters from the **Officer Commanding Station Ololulunga** and reliance on alleged contempt further prove their occupation, and that the prayers sought are akin to determining the Petition and should be declined. It was their further argument that the applicants have not met the threshold for grant of the orders sought, and the application should be dismissed with costs.
12. The application was canvassed by way of written submissions. The 1st to 7th Respondents/Applicants filed their submissions dated **18th December 2025**, through **C.K. Langat & Co. Advocates**. It was the Respondents/Applicants submission that the **adverse status quo orders** issued on **9th December 2025**, the basis of

which is on misrepresentation and material non-disclosure to the court by the Petitioner, should be vacated and/or reviewed.

13. The Applicants raised the issues for determination as follows:
- i) Whether there was misrepresentation and material non-disclosure preceding the status quo orders of 9th December 2025:**
 - ii) Whether substantial loss may result to the Applicants unless the order is made:**
 - iii) Whether the application has been made without unreasonable delay:**

14. **On whether there was misrepresentation and material non-disclosure preceding the status quo orders of 9th December 2025**, the Applicants argued that the Petitioners/ Respondents failed to make full and frank disclosure of material facts, including the absence of a valid notice to vacate, the questionable nature of the Petitioners' ownership documents, and the fact that the land was in the Applicants' possession. The Applicants argued that the orders issued on **9th December 2025**, were based on misrepresentation and material non-disclosure by the Petitioners.

15. The Applicants further submitted that the Petitioners' action amount to abuse of the court process and cited the case of **Kalya Soi Farmers Cooperative Society v Paul Kirui**

and Another (2013), which held that parties guilty of material non-disclosure should not benefit from court orders.

16. **On whether substantial loss may result to the Applicants unless the order is made**, they submitted that the orders issued on **9th December 2025**, expose them to eviction, causing substantial loss and irreparable harm. It was their further submission that there is evidence of their possession of the land, through legal ownership documents, and significant developments made on the property. They argued that the orders issued on **9th December 2025**, disregard their possession and ownership rights, which are supported by valid documents from the land registry.

17. **On whether the application has been made without unreasonable delay**, the Respondents/Applicants submitted that the application was filed on **18th December 2025**, only eight days after the impugned order was issued on **9th December 2025**, and this does not constitute unreasonable delay, and that the Petitioners/ Applicants were duly served with the application in a timely manner.

18. The Applicants further submitted that it is in the interest of justice for the court to set aside, vary, or stay the impugned orders, as the Petitioners/ Respondents acted to mislead the court. They argued that this act of misleading the court is sufficient grounds to set aside the orders issued on **9th December 2025** *ex debito justitiae* (as of right).

19. The Petitioners/Respondents filed their submissions dated **26th February 2026**, through the Law Firm of **Tororei & Company Advocates** in *opposition* to the application dated **15th December 2025**. It was their argument that the instant application sought orders to **stay, review, vary, or set aside** the court orders issued on **9th December 2025**, which maintained the status quo regarding the suit property, **CIS MARA EWASO NGIRO/417**.

20. The Petitioners/Respondents further submitted that these orders sought to be varied were obtained with full material disclosure, and that they have been in possession of the suit property since **2007**, supported by sale agreements, titles, and green card. They raised the following issued for determination;

i. Whether orders of stay of execution/enforcement of the orders issued on 9th December 2025 should be issued.

ii. Whether the court should review, vary, and/or set aside the orders issued on 9th December 2025.

iii. Who should remain in possession of the suit property pending the hearing and determination of the petition?

21. **On whether orders of stay of execution/enforcement of the orders issued on 9th December 2025 should be issue**, the Petitioners/ Respondents argued that the Court orders issued on **9th December 2025**, were valid and should remain in force until the Petition is fully determined. They

provided evidence of possession, including agreements and titles to land parcels **CIS MARA EWASO NGIRO/877 and 878**, lease agreements, the 1st Petitioner had an existing lease since **2017**, which was renewed **in 2019** and letters from the **OCS Ololulunga Police Station**, confirming their possession.

22. The Petitioners/ Respondents further submitted that the Respondents/ Applicants' claim of possession was **unsubstantiated** and based on **misleading evidence**, such as photographs previously submitted by the Petitioners in a contempt application.
23. The Petitioners/ Respondents cited the case of **Lemein v Kiplimo (Matrimonial Cause E001 of 2024) [2025] KEHC 8348 (KLR)**, where the court upheld the principle that status quo orders should maintain possession with the party in occupation at the time of issuance.
24. **On whether the court should review, vary, and/or set aside the orders issued on 9th December 2025**, the Petitioners argued that the Respondents/ Applicants failed to meet the requirements under **Order 45, Rule 1(b) of the Civil Procedure Rules**, which allows review or setting aside of court orders only under specific conditions:
 - **Discovery of new facts or evidence.**
 - **Mistake or error apparent on the face of the record.**
 - **Any other sufficient reason.**

25. The Petitioners/ Applicants also submitted that the Respondents/Applicants had not demonstrated any of these conditions, and argued that the claim of material misrepresentation and non-disclosure was baseless, as the Petitioners/Respondents provided all relevant documents, including a vacation notice dated **7th August 2025**, and letters from the **OCS Ololulunga**.
26. It was their argument that the application was an attempt to delay justice and cited **Article 159(2)(c) of the Constitution and Section 1B(1)(a) of the Civil Procedure Act**, which mandate efficient disposal of court matters to avoid delays.
27. **On who should remain in possession of the suit property pending the hearing and determination of the petition**, the Petitioners/ Respondents argued that they have been in possession of the suit property since **2007**, supported by sale agreements, titles, and lease documents. It was their submission that granting possession to the Respondents/Applicants would amount to eviction of the Petitioners, which is unjust.
28. For the above argument, reliance was sought in the case of **Master Power Systems Limited v Civicon Engineering Africa & Another [2021] KEHC 12814 (KLR)**, where the court held that setting aside **status quo orders** before hearing the merits of the case would be akin to the court sitting on appeal of its own decision.

29. The Petitioners/Respondents also submitted that the application dated **15th December 2025**, lacked merit and failed to meet the legal threshold for granting the requested orders. They urged the court to dismiss the instant application with costs and maintain the ***status quo orders*** issued on **9th December 2025**, until the petition is fully heard and determined.
30. The above are the pleadings by the parties herein, the argument for and against the instant application through the rival written submissions, which this court has carefully read and considered, and renders itself as follows;
31. The instant application seeks for stay of execution of the orders issued on **9th December 2025**, review, varying and setting aside of the said orders on the ground that the court did issue the said orders through misrepresentation and material non-disclosure by the Petitioners/Respondents herein.
32. To put the matter in perspective, on **9th December 2025**, the court directed as follows; “ *Being guided by the ELC PRACTICE DIRECTIONS AND ARTICLE 159(2)(C) of the Constitution , and the need to expedite matters before the Court, the Court directs that status quo be maintained, and the status quo is that the Petitioners/Applicants are in possession and occupation of the suit property, whether defined by the old/mother title or the new subdivisions; The Petitioners/Applicants will remain in such occupation until the Petition is heard and determined; the status quo order above*

*compromised the two applications dated **7th October 2025** and **18th November 2025**.*

33. The Court further directed the parties to expedite the hearing of the main Petition, and directions on timelines of filing pleadings were issued, and further directions were issued on how to proceed with the Petition after compliance.
34. However, before the mention date, this application was filed, which sought to set aside the above ***status quo orders*** of ***9th December 2025***. The issue for determination is whether the Respondents/Applicants are deserving of the ***ORDERS*** sought above.
- 35.** The suit herein is a constitutional petition, which petitions are governed by their own specific procedural regime, like the Constitution of Kenya (***Protection of Rights and Fundamental Freedoms***) ***Practice and Procedure Rules 2013, famously known as the Mutunga Rules***.
36. The Respondents/Applicants have invoked the provisions of ***sections 1A, 1B, 3A and 80 of the Civil Procedure Act, and Order 45 Rules 1& 2 of the CPR, 2010***, in seeking for the orders sought herein. Though the ***Civil Procedure Act***, and ***Rules*** do not apply directly to petitions, they may be invoked in certain circumstances to fill in the lacuna, where the ***Mutunga rules*** are silent on specific procedural issues.
37. The prayers sought herein are for ***review of Orders*** issued by this court, and therefore the provisions of ***Section 80*** of the ***Civil Procedure Act*** and ***Order 45*** of the ***Civil***

Procedure Rules can apply herein, even if this a constitutional petition. See the case of **Wafula & 8 others v OCPD-Kwanza & 6 others (Constitutional Petition 9 (E001) of 2020) [2026] KEHC 150 (KLR) (19 January 2026) (Ruling)**

38. While the **Mutunga Rules (2013)** are the primary procedural guide for constitutional petitions, courts have frequently allowed the use of **Order 45 of the CPR**, and **Section 80 of CPA** for review of judgments or orders. See the case of **The Supreme Court in Application No. 8 of 2017, Parliamentary Service Commission v Martin Nyaga Wambora & others [2018] eKLR**, where the **Supreme Court of Kenya** held as follows, while quoting the case of **Mbogo & Another vs Shah(1968) EA**;

- “i. A review of exercise of discretion is not as a matter of course to be undertaken in all decisions taken by a limited bench of this court.**
- ii Review of exercise of discretion is not a right; but an equitable remedy which calls for a basis to be laid by the applicant to the satisfaction of the court;**
- iii. An application for review of exercise of discretion is not an appeal or a chance for the applicant to re-argue his/her application.**
- iv. In an application for review of exercise of discretion, the applicant has to demonstrate, to the satisfaction of the court, how the court erred**

in the exercise of its discretion or exercised it whimsically.

- v. *During such review application, in focus is the decision of the court and not the merit of the substantive motion subject of the decision under review.*
- vi. *The applicant has to satisfactorily demonstrate that the judge(s) misdirected themselves in exercise discretion and:
a) as a result, a wrong decision was arrived at; or
b) it is manifest from the decision as a whole that the judge has been clearly wrong and as a result, there has been an apparent injustice.”*

39. Having found that the provisions of the **Civil Procedure Act** and **Rules** can apply in certain procedural issues in constitutional petitions, the court finds that for one to succeed under these provisions in a constitutional petition, the applicant must demonstrate and establish the following grounds:

- i. *Discovery of new and important evidence that was not available at the time of the judgment despite due diligence.*
- ii. *A mistake or error apparent on the face of the record.*
- iii. *Any other sufficient reason. (see the case of Kenya National Commission on Human Rights & 2 others v Attorney General [2025] KEHC 6 (KLR).*

40. It should be noted that review under **Order 45** of **CPR** is restricted, and cannot be used to **re-argue** the merits of a case or as a substitute for an appeal. See the case of **Tarus & 51 others v Attorney General & 4 others; Kebene & 16 others (Interested Parties) [2025] KEELC 6104 (KLR)**.

41. The Court of Appeal in **Civil Appeal No 2111 of 1996, National Bank of Kenya v Ndungu Njau**, held as follows;

A review may be granted whenever the court considers that it is necessary to correct an apparent error or omission on the part of the court. The error or omission must be self-evident and should not require an elaborate argument to be established. It will not be sufficient ground for review that another Judge could have taken a different view of the matter nor can it be a ground for review that the court proceeds on an incorrect expansion of the law.

42. Further, in the case of **Republic v Advocates Disciplinary Tribunal ex parte Apollo Mboya [2019] eklr**, the import of **Section 80 of CPA** and **Order 45 of CPR**, was considered as follows;

i. “ A court can review its decision on either of the grounds enumerated in Order 45 Rule 1 and not otherwise.

- ii. The expression "any other sufficient reason" appearing in Order 45 Rule 1 has to be interpreted in the light of other specified grounds.***
- iii. An error which is not self-evident and which can be discovered by a long process of reasoning cannot be treated as an error apparent on the face of record justifying exercise of power under Section 80.***
- iv. An erroneous order/decision cannot be corrected in the guise of exercise of power of review.***
- v. A decision/order cannot be reviewed under Section 80 on the basis of subsequent decision/judgment of a coordinate or larger Bench of the tribunal or of a superior court.***
- vi. While considering an application for review, the court must confine its adjudication with reference to material, which was available at the time of initial decision. The happening of some subsequent event or development cannot be taken note of for declaring the initial order/decision as vitiated by an error apparent.***
- vii. Mere discovery of new or important matter or evidence is not sufficient ground for review. The party seeking review has also to show that such matter or evidence was not within its knowledge and even after the exercise of due diligence, the same could***

not be produced before the court/tribunal earlier.”

43. Further, according to **Order 45 of the Rules**, for an Applicant to succeed on the ground of discovery of new evidence, the applicant must demonstrate ‘... ***the discovery of new and important matter or evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the decree was passed or the order made...’***

44. The above requirement can be equated to the evidence referred to as ‘***new and compelling evidence***’ in **article 50(6)** of the Constitution. The Supreme Court in the case of **Col. Tom Martins Kibisu v Republic Petition No. 3 of 2014 [2014] eKLR** , held as follows -

We are in agreement with the Court of Appeal that under article 50(6), "new and compelling evidence" means "evidence which was not available at the trial and which despite exercise of due diligence, could not have been availed at the trial"; and "compelling evidence" implies "evidence that would have been admissible at the trial, of high probative value and capable of belief, and which, if adduced at the trial would probably have led to a different verdict." A court considering whether evidence is new and compelling for a given case, must ascertain that it is, a prima facie, material to, or capable of

affecting or varying the subject charges; the criminal trial process, the conviction entered; or the sentence passed against the accused person.'

45. In the instant case, the Respondents/Applicants have averred that the ***Status Quo orders*** in place were issued out of ***misrepresentation and non-disclosure of material facts*** by the Petitioners/Respondents. It was there claim that the suit property as quoted by the Petitioners/ Respondents does not exist as the initial land was subdivided, and new titles issued. They further claimed that the ***Status quo orders*** are incapable of enforcement, and should thus be set aside.
46. The question that this court should answer is whether the instant application is merited.
47. The genesis of this application is the Constitution Petition dated ***7th October 2025***, wherein the Petitioners/Respondents sought for various reliefs against the Respondents/Applicants herein. Among the prayers sought are; *a declaration that the 1st and 2nd Petitioners are the absolute owners of land parcels known as **Cis Mara- Ewaso Nyiro/ 877 and 878**; a declaration that the award made by the 10th Respondent on **10th September 2009**, is null and void; a declaration that the action of the 8th Respondent of purporting to reverse and cancel titles over land parcel **No Cis Mara Ewaso Nyiro/877 and 878**, is unconstitutional and violated the property rights of the petitioners under **Article***

40 of the Constitution,; that the Land Registrar be ordered to reverse the cancellation of the petitioners titles and amend the register accordingly.

48. Simultaneously, the Petitioners/Respondents filed an interlocutory application seeking for **conservatory orders** to bar the Respondents from interfering with their peaceful occupation of the suit property, and for restraining orders from offering the suit property for sale and or transfer to third parties among other prayers.
49. In the first instant when the Petition and the Notice of Motion Application were filed, this court gave directions on **8th October 2025**, and allowed **prayers No 3 and 4, of the said Notice of Motion Application**, which orders restrained any further transfer of the suit land and prohibited the Land Registrar from entering any further transfers and other entries on the property known **as Cis Mara Ewaso Nyiro/417**.
50. The Petitioners averred that the initial land parcel **No Cis Mara / Ewaso Nyiro/ 417**, was registered in the name of **Nalamae Enole Leperes**, who later subdivided it into land parcels **No Cis Mara/ Ewaso Nyiro/ 877 and 878**. Further, that vide sale agreements dated **10th May 2007**, Nalamae Enole Leperes, sold these subdivisions to the Petitioners herein.
51. Further, that the title number **Cis Mara /Ewaso Nyiro/ 417**, was subdivided in **2012**, and the Petitioners obtained registration of their respective parcels of land **being 877**

and 878 in same year. However, the said titles were cancelled on **12th February 2025**, without their consent and / or Notice to them, pursuant to Decree issued in **Narok SPM Misc No 26 of 2009**, which Decree was incapable of enforcement pursuant to **section 4(4)** of the **Limitation of Actions Act**.

52. The Petitioners also averred that they have leased their respective parcels of land to one **John Kiragu Wambugu** from the **year 2017**, and who has been in possession and utilizing the said land as their lease.
53. However, he said **John Wambugu**, who is on the suit land as their lessee was issued with **Vacation Notice** on **7th August 2025**, which Vacation Notice was signed by **James Tobiko Leperes**, the 7th Respondent herein. The occupier of the suit property was given a vacation Notice of 7 days.
54. That due to the said **Vacation Notice** and illegal take over of a portion of the suit land by 1st to 4th Respondents, the Petitioners filed the instant Petition AND sought for the various reliefs.
55. The 1st to 7th Respondents opposed the Notice of Motion vide a Replying Affidavit sworn by **James Tobiko Leperes** on **23rd October 2025**, and averred that the claim made by the Petitioners is **untenable** since a court order and decree cancelled the irregular title held by **Nalamai Enole Leperes**, and any subdivisions arising from the revoked title

are illegal subdivisions and therefore, the Petitioners are not legal owners of the suit property.

56. He deposed that the suit property belonged to their late father **Ntangusa Ole Leperes**, but **Nalamai Enole Leperes** illegally caused the said land to be registered in her favour, which registration was reversed vide the **court order** and **decree** of 2009. It was his claim that the creation of **Cis Mara /Ewaso Nyiro/ 877 and 878**, claimed by the Petitioners herein was illegal as **Nalamai Enole Leperes** sold Land parcel **No 417**, illegally.
57. He admitted that a suit was filed before the **Land Disputes Tribunal at Ololulunga**, which held that **Nalamai Enole Leperes** obtained registration of the land parcel **No 417**, irregularly, and they directed that the said registration be cancelled and the suit land be subdivided into four portions since the late **Ntangus Ole Leperes** had four wives.
58. This subdivision was done in **2025**, and new titles were issued, The Respondents urged the court to dismiss the Petitioners' **Notice of Motion Application** dated **7th October 2025**.
- 59.** Before the said application dated **7th October 2025**, could be canvassed, the Petitioners filed an application dated **18th November 2025**, which sought to cite the Respondents for contempt of court, for defying the court order of **8th October 2025**.

60. It is on the above background that the court directed that the ***status quo be maintained***, to pave way for hearing of the main Petition, so that the issues in dispute could be determined expeditiously.
61. The court has been asked to review its orders of **9th December 2025**, and as stated above, **review** and/or **varying** of court orders is done upon satisfaction of various principles. Have the Respondents/Applicants herein met the criteria for review?
62. Is there evidence of discovery of new evidence? From the annextures on record, the suit land was sold to the Petitioners /Respondents in **2007**, and titles issued to them in **2012 and 2022**. The award of the tribunal was adopted as the order of the court in **2009**, but was not enforced until **2025**.
63. Further, there are annextures to show that the Petitioners/Respondents leased land parcels **No Cis Mara/ Ewaso Nyiro/ 877 and 878**, to one **John Kiragu Wambugu** from **2017**. Various Lease agreements have been attached to the pleadings.
64. Further, the court has seen a Notice to Vacate **dated 7th August 2025**, issued by **James Tobiko** to **John Kiragu Wambugu**, the lessee of the suit property. In the said Vacation Notice, **James Tobiko** alleged that **John Wambugu** has been in illegal occupation of the suit land for **8 years**.

65. Therefore, from the above referred **Vacation Notice**, the 1st to 7th Respondents have not been **in occupation and possession** of the suit land, but **John Wambugu** has been, and who is a lessee of the Petitioners/Respondents herein.
66. The 1st to 7th Respondents/Applicants claim of possession arise from the cancellation of the title/s held by **Nalamai Enole Leperes**, who later sold the land to the Petitioners, and the issuance of new titles in favour of the 1st to 4th Respondents in **2025**.
67. The Petitioners have alleged that their titles were **cancelled** without **their consent or notice**, and that action is an infringement of their right to property. Further, they claimed a **Court Decree** of **2009**, cannot be enforced in **2025**, as it is barred by Limitation of actions.
68. From the available evidence, there are very serious issues that have been raised by all the parties herein, be it in the main Petition or replies to the Notices of Motion. These issues need to be determined expeditiously; that is the root of the Petitioners titles; whether the **Land Disputes Tribunal's Award** of **2009**, was **valid, or null and void**; whether the order and decree of the **SPM Court of 2009**, could be enforced in **2025**. All the above issues are very pertinent in determining who are the actual owners of the suit land.
69. Bearing in mind all the above issues, the court on **9th December 2025**, directed that **status quo be maintained**; and the **status quo** that was to be maintained

was on the physical land, whether bearing **Registrations No 417, 877&878** or the recent subdivisions.

70. The Petitioners/Respondents are in **possession** and **occupation** through their lessee **John Kiragu Wambugu**, who is not a party to the suit, and that is the **status quo** that was and is to be maintained.
71. Further, on **9th December 2025**, the court directed that the Petition herein should be heard **expeditiously** as provided by **Article 159** of the Constitution, and the **ELC Practice Directions**. Given that there are lease agreements between the Petitioners/Respondents and a third party, who is not a party to this Petition, and who was the one issued with a **Vacation Notice**, and has been in **occupation and possession** for **8 Years**, then that should be the **status quo** that should be maintained.
72. Once the Petition herein is heard and determined, the **status quo** might change entirely depending with the findings of the court. For now, this court finds no good reasons to **stay, review, vary and / or set aside** the **status quo orders** that were issued on **9th December 2025**.
73. As the court pointed out earlier, there are a number of issues for determination being; who between the Petitioners and 1st to 7th Respondents are the rightful owners of the suit property; Did **Nalamai Enole Leperes** have capacity to sell the suit land to the Petitioners; Could **Land Disputes Tribunal** issue orders on a property that was already

registered, and had a title in place; could a decree of **2009** be enforced in **2025**?

74. The above are issues or questions that can only be determined and answered after calling of witnesses in the main trial. For now, this court finds and holds that ***status quo prevailing before the Vacation Notice was issued*** should be maintained as directed on ***9th December 2025***. There are no good reasons advanced to ***review and/ or set aside*** those orders.
75. Having considered the instant Notice of Motion Application and the rival written submissions, together with the evidence on record, the court finds the said application dated ***15th December 2025***, is ***not merited***, and the same is ***dismissed*** entirely withy costs to the Petitioners/ Respondents.
76. Further, the parties are encouraged to refrain from filing numerous interlocutory applications, which hinders progression of the ***main Petition***, and should concentrate on preparation and/or prosecution of the main Petition herein so that the issues in dispute can be determined at once.

Application is dismissed accordingly.

Dated, Signed and delivered virtually this 16th April 2026.

***L. Gacheru
Judge***

Delivered online in the presence of

Elijah Meyoki - Court Assistant.

Ms Nderitu for the Petitioners/ Respondents

***Mr Oltina H/B for Mr Langat for 1st -7th Respondents
/Applicants***

Mr Menge for the 8th to 9th Respondents.

***L. Gacheru
Judge
16th April 2026.***