

REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT
AT KILGORIS
ELCLC E009 OF 2026

RUTH JEPKORIR MAIYO.....1ST
APPLICANT
PARAKUO ENE KONOKOI.....2ND
APPLICANT

VERSUS

JACKSON SANSARE OLE NKURUMUA.....1ST
RESPONDENT
SUBCOUNTY LAND ADJUDICATION AND SETTLEMENT OFFICE
TRANSMARA EAST/WEST.....2ND
RESPONDENT
ATTORNEY GENERAL.....3RD
RESPONDENT

RULING

1. Two applications, the one dated 26th of February 2026 and the one dated 12th of March 2026 come up for determination in this composite Ruling.
2. Both applications seek injunctive reliefs, temporary in nature over Transmara/Nkararo/759. The 2nd application was filed before the first application was determined by dint of the fact that the prayers sought therein, which sought to restrain the Defendants/Respondents from entering, cultivating, occupying, fencing, constructing on or alienating the suit property which was erroneously described as Transmara/Nkararo/757 but was later amended to Transmara/Nkararo/759.
3. It would seem that once the 1st Respondent were served with the first application they moved and gained entry to the suit property necessitating the filing of the 2nd application which introduced an

alternative prayer seeking the restoration of the status quo ante pending hearing and determination of the suit as the substantive prayer.

4. The actions by the 1st Respondent of gaining entry to the suit parcels rendered the 1st application otiose having been overtaken by events, and the court shall not dwell on its merits.
5. The court shall now dwell with the 2nd application which is grounded on grounds *inter alia* that the 1st Applicant is the beneficial owner of the suit property having been allocated thereof during the adjudication and is occupied by the 2nd applicant who purchased the same.
6. The Respondents fraudulently and illegally altered and/or cancelled the name of the 1st Applicant from the adjudication register and entered the name of the 1st Respondent through an illegal or unprocedural without reasonable notice; and eventually obtained a title deed in 2021.
7. The Application is equally supported by the supporting and supplementary affidavit of the 1st Applicant who has reiterated the grounds in support of the application and has annexed a copy of authority to act, photographs of fences, photographs of livestock.
8. The 1st Respondent has filed a Replying affidavit as well as a supplementary affidavit in opposition to the application, in which he depones, *inter alia*, that the orders sought have an effect of determining the substantive dispute at an interlocutory stage.
 - (i) That the principles of grant of an injunction have not been met as no prima facie case has been demonstrated.
9. The 1st Respondent seeks that the application be dismissed.
10. The application proceeded by way of written submissions which the court has taken into account, and the only issue for determination is whether or not the application is merited?

Analysis and Determination

11. In so far as the 2nd application seeks injunctive reliefs as the main prayers, and the orders of status quo ante, and in so far as there is an admission that the Application is not on the entire suit property hence the alternative prayer of status quo ante, the prayer for injunction as sought cannot issue as whatever it seeks to prohibit has already occurred and noting that courts do not issue orders in vain, the injunctive orders as prayed cannot issue.
12. The alternative prayer for status quo ante cannot equally issue as that will be tantamount to determining the suit at the interlocutory stage as submitted by the 1st Respondent.
13. It follows therefrom that the orders sought in the application dated 12th of March 2026 cannot issue hence the application is not merited and it is destined to fall.
14. The court however notes that there is need to preserve the suit property in its current state and therefore issues an order of maintenance of status quo, status quo to mean the current occupiers (Applicant and 1st Respondent) to remain in possession of their respective portions but not to undertake any new developments, whatsoever on the suit property, and the suit property to remain in the name of the current registered owner so as not to transfer and charge and/or lease the same to any third party pending hearing and determination of this suit.
15. The order for maintenance of status quo as issued above is issued in exercise of powers of the court under practice direction 12(K) of Gazette Notice 5178/2014 which empowers the court to issue orders for maintenance of status quo in order to preserve a suit property.
16. Costs of the application are awarded to the Applicant.

Dated at Kilgoris this 27th day of April, 2026

Hon. M.N. Mwanyale
Judge

In the presence of

CA - Sylvia/Sandra

Ms. Mireri for 1st Respondent

Mr. Obare for Applicant