

**REPUBLIC OF KENYA**  
**IN THE ENVIRONMENT & LAND COURT**  
**AT ELDORET**  
**ELC CASE NO.E060 OF 2021**

**SAMSON MECHA BOTA.....PLAINTIFF**

***VERSUS***

**THE COUNTY GOVERNMENT OF**

**UASIN                      GISHU.....1<sup>ST</sup>**

**DEFENDANT**

**THE COUNTY SURVEYOR**

**UASIN              GISHU              COUNTY.....2<sup>ND</sup>**

**DEFENDANT**

**THE COUNTY DIRECTOR, PHYSICAL  
PLANNING & URBAN DEVELOPMENT,**

**UASIN              GISHU              COUNTY.....3<sup>RD</sup>**

**DEFENDANT**

**THE COUNTY DIRECTOR OF ROAD &  
PUBLIC WORKS**

**UASIN              GISHU              COUNTY.....4<sup>TH</sup>**

**DEFENDANT**

**DIRECTIONS**

1. The Plaintiff herein did file this suit in the year 2021 seeking a declaration to be the owner of a portion known as PLOT.NO.52 measuring a Quarter an Acre (hereinafter referred to as **“the suit property”**) within the property known as LR.NO.8500 LANGAS.

2. Secondly, the Plaintiff sought an injunction against the 1<sup>st</sup> to 4<sup>th</sup> Defendants prohibiting them from interfering with the suit property in anyway whatsoever including purporting to construct a road which alters the nature and size of the Plaintiff's suit property.
3. During the hearing of the Plaintiff's testimony, he did inform the Court that he had purchased the suit property from one KIPKOECH KOGO through an Agreement for Sale dated 10.11.1984.
4. According to the Plaintiff, the 1<sup>st</sup> Defendant herein had begun an exercise of demarcating the property known as LR.NO.8500 LANGAS with a view of preparing a proposed Development Plan for approval by the Director of Survey through a Letter dated 10.07.1991.
5. During the demarcation exercise, the occupants within LR.NO.8500 LANGAS were given various Plot Numbers by the 1<sup>st</sup> Defendant's agents and/or officials which were then used to describe the portions of land which they occupied.
6. The Plaintiff did seek to rely on a sketch map of the various portions within LR.NO.8500 LANGAS which identifies where each Plot Number is located on the ground.
7. In recognition of the various portions within the property known as LR.NO.8500 LANGAS which had been issued with numbers, the Plaintiff did testify that he had faithfully and regularly paid rates to the 1<sup>st</sup> Defendant.
8. The Plaintiff was of the view that Plot Number 52 within the Sketch Map of LR.NO.8500 LANGAS was a corner plot which abets an internal road.

9. The Plaintiff did inform the Court that the 1<sup>st</sup> Defendant herein in the year 2021 did start an exercise of opening up roads within the property known as LR.NO.8500 LANGAS.
10. Based on these actions, the 1<sup>st</sup> Defendant did encroach into the Plaintiff's portion of land known as PLOT.NO.52 thereby altering its size to his detriment.
11. To be able to appreciate the location and size of the Plaintiff's suit property, the Court did summon the County Land Registrar, Uasin Gishu to provide the Cadastral Map and/or Registry Index Map of the suit property herein.
12. The County Land Registrar, Uasin Gishu known as ALICE GISEMBA did honour the summons and testify that the Parcel File and the supporting Cadastral Map and/or Registry Index Map in regards to the property known as LR.NO.8500 LANGAS was not within their registry but possibly in the Nairobi Central Registry.
13. In other words, the County Land Registrar, Uasin Gishu did inform the Court that the Uasin Gishu Land Registry did not possess any records of either the ownership of the property known as LR.NO.8500 and/or any Cadastral Maps and/or Registry Index Maps creating the resultant portions therein.
14. With the above information, the Court did Summon the Director of Physical Planning from the 1<sup>st</sup> Defendant to comment if the Sketch Map that had been presented by the Plaintiff herein creating the suit property which was legitimate or not.
15. The Director of Physical Planning from the 1<sup>st</sup> Defendant namely DANIEL KIBET KOECH did attend Court on the 16.07.2025 in honour of the Summons.

16. In his testimony, the Director of Physical Planning from the 1<sup>st</sup> Defendant did inform the Court that the Sketch Map presented by the Plaintiff was not within their records.
17. In essence, the Director of Physical Planning from the 1<sup>st</sup> Defendant did admit that the Sketch Map before the Court was not a legal document that would be relied upon to establish the size and/or location of the neither the internal roads nor the sub-divisions within the property known as LR.NO.8500 LANGAS.
18. Further to the above, the Director of Physical Planning from the 1<sup>st</sup> Defendant did further disclose that the property known as LR.NO.8500 LANGAS was a private property belonging to a deceased person and administration of the said Estate had not been concluded.
19. In conclusion therefore, the Director of Physical Planning from the 1<sup>st</sup> Defendant did confirm to the Court that the property known as LR.NO.8500 LANGAS was not public property.
20. It is based on this information that the Court was of the view that directions should be issued to the general public and the 1<sup>st</sup> to 4<sup>th</sup> Defendants as regards the use of the Sketch Map(s) of the property known as LR.NO.8500 LANGAS, the various proceedings before this Court, the High Court as well as the sub-ordinate Courts and lastly the collection of rates from the occupants of the property known as LR.NO.8500 LANGAS by the 1<sup>st</sup> Defendant.
21. To begin with, the first issue for directions is the legality of the Sketch Map and/or Maps relating to the property known as LR.NO.8500 LANGAS.
22. According to the evidence from the Director of Physical Planning of the 1<sup>st</sup> Defendant, it is true that a letter dated

10.07.1991 was issued to the general public informing them of a demarcation exercise being undertaken within the property known as L.R.NO.8500 LANGAS.

23. It is not disputed that picking of the various portions within which various occupants were in possession did happen and, in the process, various numbers were issued to the occupants to acknowledge their occupation and locations within LR.NO.8500 LANGAS.
24. The picking and/or demarcation exercise was to facilitate the preparation of a proposed Development Plan which would then be discussed by the 1<sup>st</sup> Defendant and other members of the District Development Committee under the Physical Planning Act, Cap 286 before submission for approval by the Director of Survey.
25. In other words, the Director of Physical Planning from the 1<sup>st</sup> Defendant was of the view that the Sketch Map presented by the Plaintiff herein was neither a proposed Development Plan nor any legal document that could be used to identify the suit property in terms of its size and/or location within the property known as LR.NO.8500 LANGAS.
26. Based on this disclosure by the Director of Physical Planning from the 1<sup>st</sup> Defendant, it is clear that the Sketch Map presented by the Plaintiff herein is neither a proposed Development Plan and/or a copy of an existing Cadastral Map.
27. The absence of any proposed Development Plan by the 1<sup>st</sup> Defendant or a Cadastral Map by the County Land Registrar, Uasin Gishu as relates to the various sub-divisions within the property known as LR.NO.8500 LANGAS, then this Court is of a clear mind that there are no legal boundaries either for the portions of land occupied by various persons and/or entities

within LR.NO.8500 LANGAS and/or any internal roads and/or public utilities thereof owned by the 1<sup>st</sup> Defendant.

28. In essence, the property known as LR.NO.8500 LANGAS is still intact as one block of land and until the occupants within this property obtain either an Approved Development Plan from the Director of Survey with defined boundary markings and registrable numbers for the portions they occupy, the various sub-divisions therein are not legally identifiable for purposes of protection by the Courts of Law.
29. The second issue for issuance of directions is the legitimacy of the proceedings being undertaken before this Court, the High Court and/or the sub-ordinate Courts.
30. To begin with, it is clear from the finding in the first issue that the property known as LR.NO.8500 LANGAS has no Approved Development Plan or Cadastral Map regarding the sub-divisions alleged to exist therein.
31. Further to that, the Court did make a finding that due to the absence of an Approved Development Plan in relation to LR.NO.8500 LANGAS, the various sub-divisions thereof did not have any legal defined boundaries either in favour of the occupants therein and/or the 1<sup>st</sup> Defendant herein.
32. Order 4 Rule 3 of the Civil Procedure Rules, 2010 provides as follows; -

***“Where the subject matter of the suit is immovable property, the plaint shall contain the description of the property sufficient to identify it”***

33. The fundamental question to be answered in this issue is whether in the absence of an approved Development Plan and/or Cadastral Map in relation to the property known as LR.NO.8500 LANGAS, can the sub-divisions created therein be sufficiently described for identification by this Court or the High Court as well as the sub-ordinate Courts where various litigations are pending.
34. To answer this question, the provisions of Section 15 of the Land Registration Act, No.3 of 2012 provides as follows; -
- (1) The office or authority responsible for the survey of land shall prepare and thereafter maintain a map or series of maps, to be known as cadastral maps, for every registration unit.**
- (2) The Parcel boundaries on such maps shall be geo-referenced and surveyed to such standards as to ensure compatibility with the other documents under this act or any other law.**
35. Section 18 of the Land Registration Act, No. 3 of 2012 further provides as follows; -
- (1) Except where, in accordance with section 20, it is noted in the register that the boundaries of a parcel have been fixed, the cadastral map and any filed plan shall be deemed to indicate the approximate boundaries and the approximate situation only of the parcel.**
36. Lastly, Section 20 (1) of the Land Registration Act, no. 3 of 2012 provides as follows; -

**(1) Every proprietor of land shall maintain in good order the fences, hedges, stones, pillars, beacons, walls and other features that demarcate the boundaries pursuant to the requirements of any written law.**

37. The Court's interpretation is that any proposed Development Plan which has been recommended for approval by the National Director of Survey will be formally approved by the National Director of Survey and issued with registrable plot numbers.
38. Once the proposed Development Plan has been approved by the National Director of Survey, there is an exercise of placing the boundary markings either in the form of a beacon or a hedge or a stone or any other acceptable manner of marking.
39. Once the boundary markings are placed on the ground as provided in the Approved Development Plan by the Director of Survey, then the approved Development Plan is held as the Cadastral Map of the said registrable unit.
40. Clearly therefore, for a suit property to be sufficiently described and identifiable, the same must have a legally registrable number and a legally defined boundary are envisaged in Sections 15, 18 and 19 of the Land Registration Act, No. 3 of 2012.
41. Turning back to the sub-divisions within the property known as LR.NO.8500 LANGAS, it is clear from the testimony of the Director of Physical Planning in the 1<sup>st</sup> Defendant and well as the County Land Registrar, Uasin Gishu that there is no cadastral map of the property known as LR.NO.8500 LANGAS and therefore there is no legal document authorised by the National Director of Survey that can be used to describe and

identify the sub-divisions within the property known as LR.NO.8500 LANGAS.

42. This being the scenario, it is clear in this Court's mind and therefore its finding that the proceedings filed before this Court and the High Court as well as the sub-ordinate Courts contravene the provisions of Order 4 Rule 3 of the Civil Procedure Rules, 2010 and should be stayed until when an Approved Development Plan has been issued by the National Director of Survey and the boundary marks placed on the ground to create a lawful Cadastral Map that can be used to enforce the provisions of Section 18 and 19 of the Land Registration Act, No. 3 of 2012.
43. The Last issue for directions is the legality of the rates collection exercise by the 1<sup>st</sup> Defendant from the occupants within the property known as LR.NO.8500 LANGAS.
44. During the testimony of the Director of Physical Planning from the 1<sup>st</sup> Defendant, it was duly admitted that the property known as LR.NO.8500 LANGAS was not public property but a private asset registered in the name of a deceased person.
45. Based on this admission by the 1<sup>st</sup> Respondent, it is clear that the 1<sup>st</sup> Defendant acknowledges the fact that there is a third party who still holds and enjoys the rights created under the original ownership document of the property known as LR.NO.8500 LANGAS.
46. To this extent, the 1<sup>st</sup> Defendant has all the rights and benefits to collect rates from the registered owner of the property known as LR.NO.8500 LANGAS.
47. However, it was clear in the testimony of the Plaintiff herein that the 1<sup>st</sup> Defendant is also collecting rates from the occupants within the property known as LR.NO.8500 LANGAS.

48. To begin with, this Court has in the earlier issue found that the sub-divisions within the property known as LR.NO.8500 LANGAS are not founded in law as no approved Development Plan and/or Cadastral Map has been created in line with Section 15 of the Land Registration Act, No. 3 of 2012.
49. As such, unless and until the original title to LR.NO.8500 LANGAS is either compulsory acquired by the Government through the National Land Commission, surrendered by the registered owner and/or cancelled by a lawful Court Order, the occupants within the said property known as LR.NO.8500 LANGAS cannot impeach the lawful registrable rights of the existing registered owner.
50. In essence therefore, the exercise of collecting rates from the occupants of the property known as LR.NO.8500 LANGAS who have no defined sub-divisions and/or ownership rights as provided under Section 24 and 25 of the Registered Land Act, No. 3 of 2012 is illegal and unlawful.
51. In conclusion therefore, the Court hereby gives the following directions in relation to the three issues discussed hereinabove; -

**A. DUE TO THE LACK OF AN APPROVED DEVELOPMENT PLAN AND CADASTRAL MAP ON THE PROPERTY KNOWN AS LR.NO.8500 LANGAS, THE SUB-DIVISIONS THEREIN DO NOT CONFORM WITH THE PROVISIONS OF ORDER 4 RULE 3 OF THE CIVIL PROCEDURE RULES, 2010 AND THEREFORE ALL PROCEEDINGS IN RELATION TO THE SAID SUB-DIVISIONS WITHIN THE PROPERTY KNOWN AS LR.NO.8500 LANGAS ARE HEREBY STAYED PENDING THE ISSUANCE OF AN APPROVED DEVELOPMENT PLAN AND A LAWFUL CADASTRAL MAP.**

**B.THE 1<sup>ST</sup> DEFENDANT WHO IS THE COUNTY GOVERNMENT OF UASIN GISHU BE AND IS HEREBY PROHIBITED BY WAY OF AN INJUCTION FROM COLLECTING AND/OR DEMANDING FOR ANY RATES FROM THE OCCUPANTS OF THE SUB-DIVISIONS WITHIN THE PROPERTY KNOWN AS LR.NO.8500 LANGAS PENDING THE ISSUANCE OF ANY APPROVED DEVELOPMENT PLAN AND A LAWFUL CADASTRAL MAP.**

**C.THE 1<sup>ST</sup> DEFENDANT AND/OR ITS AGENTS, EMPLOYEES AND/OR SERVANTS ARE FURTHER PROHIBITED FROM INTERFERING WITH THE OCCUPATION OF THE OCCUPANTS WITHIN THE PROPERTY KNOWN AS LR.NO.8500 LANGAS PENDING THE ISSUANCE OF AN APPROVED DEVELOPMENT PLAN AND A LAWFUL CADASTRAL MAP.**

**D.THE MATTER WILL BE MENTIONED IN SIX MONTHS TIME TO BE INFORMED ON THE WAY FORWARD ON THE CREATION AND/OR EFFORTS MADE BY THE COUNTY GOVERNMENT OF UASIN GISHU ON THE PREPARATION OF THE DEVELOPMENT PLAN AND ISSUANCE OF A LAWFUL CADASTRAL MAP FOR THE OCCUPANTS OF THE PROPERTY KNOWN AS LR.NO.8500 LANGAS AS ENVISAGED IN THE PUBLIC NOTICE DATED 10.07.1991.**

**DATED, SIGNED and DELIVERED in ELDORET this 4<sup>TH</sup> DAY OF MAY,2026.**

**EMMANUEL.M. WASHE  
JUDGE**

**IN THE PRESENCE OF:**

Court Assistant: Brian

Advocate For The Plaintiff: Present in person

Advocates For The Defendants: Mr. Githaiga for the 1<sup>st</sup>  
Defendant

Ms. Odeyo for the 2<sup>nd</sup> and 3<sup>rd</sup>  
Defendants (N/A)