



Tuwei & 2 others v Tanui & 2 others (Environment and Land Miscellaneous Application E024 of 2025) [2025] KEELC 5518 (KLR) (23 July 2025) (Ruling)

Neutral citation: [2025] KEELC 5518 (KLR)

REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT KAPSABET
ENVIRONMENT AND LAND MISCELLANEOUS APPLICATION E024 OF 2025
GMA ONGONDO, J
JULY 23, 2025

BETWEEN

DAVID KIPLAGAT TUWEI & 2 OTHERS & 2 OTHERS APPLICANT

AND

KIPTABUT ARAP TANUI & 2 OTHERS & 2 OTHERS DEFENDANT

RULING

1. This ruling pertains to an application generated today, 23rd July 2025 by Ms E. Koech learned counsel for the three applicants for correction of errors captured in the orders of this court given on 22nd July 2025 regarding the applicant's application by way of Notice of Motion dated 21st July 2025.
2. Counsel has urged the court to correct and clarify order number 2 sought in the application and granted by the court. Further and therefore, that the names; 'Tabarnoi' and 'Songor' be corrected to read 'Tabarno' and 'Songhor' respectively in the said order.
3. Also, the court has noted that there was an error in numbering order numbers 3 and 4 in the orders. Thus, the first order number 3 and the second order number 3 should be orders 3 and 4 respectively while order 4 should be order 5 therein.
4. Further, counsel informed the court that the orders have not been served upon the respondents. That the application is deserved in the interest of justice.
5. Having heard counsel for the applicants and upon careful consideration of the orders of 22nd July 2025, do the same orders deserve correction?
6. It must be noted that the orders sought to be corrected do not touch on the merits of the application dated 21st July 2025. The correction sought by the applicants is an exercise of discretion of this court; see Shah-vs Mbogo & another (1967) EA 116 affirmed by the Supreme Court of Kenya in Parliamentary Service Commission-vs-Martin Nyaga Wambora & another (2018) eKLR.



7. Section 99 of the *Civil Procedure Act* Chapter 21 Laws of Kenya mandates this court to correct clerical or arithmetical mistakes, or errors arising from any accidental slip or omission relating to judgment, ruling or order of the court. The correction can be done either by the court's own motion or upon an application by a party.
8. The errors or mistakes for correction must be apparent on the face of the record and obvious. That the said correction should not alter the clear intention of the court as held in the case of Monica Wangu Wamwere & 5 others-vs-The Attorney General, SC Petition No. 26 of 2019 (2019) eKLR which cited the decision in the case of Fredrick Otieno Outa-vs-Jared Odoyo & 3 others, SC Petition No. 6 of 2014 (2017) eKLR where it was observed;

'...this is the true import of the Slip Rule.'

9. Sections 3 and 3A of the *Civil Procedure Act* Chapter 21 Laws of Kenya as read with sections 3 and 19 of the Environment and Land Court 2015 (2011) empower this court to make necessary orders for the ends of justice. The correction of the errors would ensure that the orders accurately reflect the court's true intention and to prevent injustice arising from minor errors or any unintended consequences herein.
10. A fortiori, I find merit in the applicants' application for correction of orders of this court and in particular, I hereby order thus;

- a. Order number 2 in the orders given on 22ND July 2024 shall read as follows;

'THAT pending the hearing and determination of the application dated 21st July 2025, a temporary injunction do issue restraining the respondents, their agents, family members or anyone acting on their behalf from carrying out meetings and or harambees, attempting to bury, interring or burying the remains of Tabarno Jepkemei-Deceased on land parcels Nos. Songhor/Songhor Block 9 / (Soy Sitet) 157, 160 and 162.'

- b. The first number 3, the second number 3 and number 4 orders of 22nd July 2025 to be orders 3, 4 and 5 respectively.

11. There having been no service of the orders of 22nd July 2025, I make no orders as to costs.
12. It is so ordered

DATED AND DELIVERED AT KAPSABET THIS 23RD DAY OF JULY 2025

G M A ONGONDO

JUDGE

Present

Ms E. Koech, learned counsel for the applicants

Mr Walter Kipkorir, court assistant

