



REPUBLIC OF KENYA



KENYA LAW
THE NATIONAL COUNCIL FOR LAW REPORTING
Where Legal Information is Public Knowledge

**Naingisa & 2 others v Director of Land Adjudication and Settlement & 3 others
(Judicial Review 4 of 2019) [2019] KEELC 664 (KLR) (11 November 2019) (Ruling)**

*Samuel Letangues Naingisa & 2 others v Director of Land
Adjudication & Settlement & 3 others [2019] eKLR*

Neutral citation: [2019] KEELC 664 (KLR)

REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT NAROK

JUDICIAL REVIEW 4 OF 2019

MN KULLOW, J

NOVEMBER 11, 2019

**IN THE MATTER OF AN APPLICATION FOR LEAVE TO APPLY
FOR ORDERS OF CERTIORARI, PROHIBITION AND MANDAMUS**

AND

**IN THE MATTER OF INFRINGEMENT AND THE CONTRAVENTION OF
FUNDAMENTAL RIGHTS AND FREEDOM UNDER THE CONSTITUTION OF
KENYA 2010 ARTICLES 22,23,24,27(1) (2) (3) (4) AND (5),40,47(1),60,64,69,259 AND 260**

AND

**IN THE MATTER OF THE LAND ADJUDICATION
ACT CAP 284 SECTIONS, 5,6,25,26 AND 30**

AND

IN THE MATTER OF THE ENVIRONMENT ND LAND ACT, 2012 SECTIONS 12 AND 13 (1)

AND

**IN THE MATTER OF FAIR ADMINISTRATION ACT SECTIONS 1,2,3,7 AND 10
THE ILLEGAL, WROGPNFUL AND IRREGULAR NOTICE OF COMPLETION
OF ADJUDICATION REGISTER NAI SOYA ADJUDICATION SECTION NAROK
NORTH SUB COUNTY- NAROK COUNTY BY THE LAND ADJUDICATION AND
SETTLEMENT OFFICER NAROK NORTH/EAST SUB COUNTIES DATED 8TH MAY, 2019**

AND

IN THE MATTER OF THE NAI SOYA LAND ADJUDICATION SECTION

AND



**IN THE MATTER OF SAMUEL LETANGUES NAINGISA, DANIEL LELEPO
TIKANI AND PATIYIE OLE NAIKUMI AND OVER 344 OTHER REGISTERED
LAND OWNERS WITHIN THE NAI SOYA LAND ADJUDICATION
SECTION NAROK NORTH SUB COUNTY NAROK COUNTY SECTIONS**

BETWEEN

SAMUEL LETANGUES NAINGISA 1ST APPLICANT
DANIEL LELEPO TIKANI 2ND APPLICANT
PATIYIE OLE NAIKUMI 3RD APPLICANT

AND

**THE DIRECTOR OF LAND ADJUDICATION AND SETTLEMENT 1ST
RESPONDENT**
**THE LAND ADJUDICATION & SETTLEMENT OFFICER NAROK NORTH/
EAST SUB-COUNTIES 2ND RESPONDENT**
**THE OFFICIALS OF THE NAI SOYA LAND ADJUDICATION
SECTION 3RD RESPONDENT**
THE ATTORNEY GENERAL 4TH RESPONDENT

RULING

1. By a Notice of Motion dated 15th August, 2019 the Applicant sought for leave of the court to apply for orders of certiorari to quash the decision of the 2nd Respondent contained in a Notice of Completion of Adjudication Register of Naisoya Adjudication Section issued on 8th May, 2019 and further for an order to compel the 2nd Respondent to rescind the decision contained in the Notice dated 8th May, 2019 and also that the leave granted do operate as a stay the decision of the Respondent. The Application is based on the grounds that the closure of the register will affect a number of people and thus lead to displacement and disposition of land following a notice issued by the Narok South Land Adjudication Section on 8th May, 2019 in which the District Lands Adjudication and Settlement Officer issued an eviction notice.
2. It is the Applicants contention that the aforesaid notice is illegal, irregular as it does not adhere to the provisions of Articles of *the constitution* they further allege that the said notice will subject the applicants to abuse, exploitation and harassment.
3. The Respondents had opposed the application by filing a joint Replying Affidavit. The Respondents content that the orders that the Applicants are seeking were denied by the court in Narok Environment and Land Court Petition No.17 of 2019. They further averred that the issuance of the subject Notice was not an Administrative decision but one that was issued in accordance with the provisions of Section 25 of the *Land Adjudication Act* and that there is a hearing to be stayed as the Applicants are beneficiaries of parcels of land as evidenced in the demarcation register.
4. The 3rd Respondent in his Replying Affidavit stated that he is the Chairman of the Land Adjudication Committee and that the entire adjudication process was undertaken according to the law. He



contended that the 1st Applicant is a beneficiary of Parcel No. 3 that is registered in the name of his late father.

5. The 3rd Respondent further averred that there were previous matters being Misc. Civil Application No. 612 of 1999 and Misc. Application No. 93 of 2006 which were previously either withdrawn and/or dismissed.
6. I have read the application before me and the submissions filed by the parties and the issue for determination at this stage is whether to grant leave to the applicants to apply for orders of certiorari and prohibition against the Notice issued by 1st Respondent on 8th May, 2019 and whether the said leave shall operate as a stay.
7. Having considered the Application and the submissions by counsel what the court needs to determine is whether the Applicants have established the necessary ingredient to warrant the grant for leave and in the circumstances I am satisfied that they have satisfied the said conditions and consequently I grant leave to the Applicants to commence Judicial Review proceedings against the Respondents but I do decline the said leave to operate as a stay.
8. The Applicants are directed to file the said application within 21 days.

DATED, SIGNED AND DELIVERED IN OPEN COURT AT NAROK ON THIS 11TH DAY OF NOVEMBER, 2019

Mohammed Kullow

Judge

11/11/19

In the presence of: -

CA:Chuma/Kimiriny

N/A for the Applicant

Mr. Masikonde for the 3rd respondent and holding brief for Fatma for 1st, 2nd, and 4th respondent

Mohammed Kullow

Judge

11/11/19

