



Lesingo & 4 others v Kenya Forestry Service & another (Constitutional Petition E014 of 2024) [2025] KEELC 5928 (KLR) (15 August 2025) (Judgment)

Neutral citation: [2025] KEELC 5928 (KLR)

REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT NAKURU

CONSTITUTIONAL PETITION E014 OF 2024

MAO ODENY, J

AUGUST 15, 2025

**IN THE MATTER OF THE THREATENED EVICTIONS FROM MARIASHONI
KIPTUNGA, SONGI AND TERTIT VILLAGES IN EASTERN MAU**

AND

**IN THE MATTER OF CONTRAVENTION OF ARTICLES 1, 10, 11, 19(2), 43, 44
(2) AND 56 OF THE CONSTITUTION OF KENYA.**

AND

**IN THE MATTER OF ARTICLE 165 (3) (D) (II) OF THE CONSTITUTION OF
KENYA 2010.**

BETWEEN

FREDERICK KIPLANGAT LESINGO 1ST PETITIONER
DAVID BARSALOI SAITOTI 2ND PETITIONER
WILSON T KISIOI 3RD PETITIONER
ELIJAH SITIENEI 4TH PETITIONER
DICKSON KIBET KISONGO 5TH PETITIONER

AND

KENYA FORESTRY SERVICE 1ST RESPONDENT
ATTORNEY GENERAL 2ND RESPONDENT

JUDGMENT

1. The Petitioners filed a Petition dated 11th November, 2024 seeking the following orders:



- a. In the first instance, the respondent whether acting in persons, through County Commissioner, Deputy County Commissioners, his agents, servants, employees or any other person acting at his behest be restrained by conservatory orders evicting the petitioners and the members of the Ogiek community living in Mariashoni, Kiptunga, Songi and Tertit Villages. (sic)
- b. A declaration that the petitioners and members of the Ogiek community living in Mariashoni, Kiptunga, Songi and Tertit Villages in Eastern Mau have a right to housing and to establish their homes within the said villages.
- c. A declaration that the cultural rights of the petitioners under articles 44 of *the Constitution* as members of the Ogiek community is a complex whole which includes a spiritual and physical association with their ancestral land which is in Mariashoni, Kiptunga, Songi and Tertit Villages in eastern Mau. (sic)
- d. An order of injunction restraining the respondents whether acting in persons, through County Commissioner, Deputy County Commissioners, their agents, servants, employees or any other person acting at his behest from evicting the petitioners and the members of the Ogiek community living in Mariashoni, Kiptunga, Songi and Tertit Villages.
- e. Costs of this petition.

Analysis and Determination

2. The Petitioners had filed a Notice of Motion for conservatory orders restraining the Respondents from evicting them from Mariashoni Kiptunga, Songi and, Terit Villages within Eastern Mau. Counsel for the Petitioners served the application but there was no response from the Respondents. Counsel therefore, urged the court to dispense with the Application and hear the main Petition.
3. Mr. Githui agreed to canvas the Petition by way of written submissions. Counsel was to file and serve the Respondents with submissions within 14 days with the Respondents having a corresponding leave of 14 days. By the time of writing this Judgment neither counsel for the Petitioners, nor the Respondents had filed any submissions. I perused the court file and the CTS portal but there were no submissions filed.
4. The orders the Petitioners are seeking have been subject to other Petitions where Judgments have been rendered. The Petitioners averred in their supporting affidavit that the High Court in ELC No 821 of 2012 directed a permanent solution to the problem directing the state to settle the Ogiek community. It is also their case that the African Court of Human and Peoples' Rights in Application number 006 of 2012 (The matter of African Commission on Human and Peoples' Rights vs Republic of Kenya) directed the government to permanently settle the Ogiek community.
5. This case involves the implementation of orders already granted. There would be no reason to file another case that would add to the ones that have not been implemented. The best that the Petitioners can do is to follow up on the implementation through the existing cases or through alternative dispute resolution mechanisms or Judicial Review to compel the state to implement the orders already granted.
6. I find that the Petition lacks merit and is therefore dismissed with no orders as to costs.

DATED, SIGNED AND DELIVERED AT NAKURU THIS 15TH DAY OF AUGUST 2025.

M. A. ODENY

JUDGE

