



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT KITALE

LAND CASE NO. 166 OF 2017

FREDRICK W. BARASA.....1ST PLAINTIFF

MAXWELL MUSUNGU.....2ND PLAINTIFF

HENRY ONZERE MOSETL.....3RD PLAINTIFF

MONICA MOKEIRA MANGERA.....4TH PLAINTIFF

VERSUS

FARM MANAGER KITALE MAIN PRISON.....1ST DEFENDANT

THE ATTORNEY GENERAL.....2ND DEFENDANT

TRANS-NZOIA LAND REGISTRAR.....3RD DEFENDANT

R U L I N G

1. This court has two applications before it; the application dated 13/10/2017 and the one dated 17/11/2017. Both seek orders of injunction against the defendants to restrain them from utilizing or interfering with parcels of land known as **Kapkoi/Mabonde Block 1/Ex Prison/496, 474, 475, 478, 495, 597 and 498**.

2. Before the parties filed their submissions this court on 31/1/2018 issued a directive that the Deputy Registrar of this court do visit the disputed land and issue a report. She did so on 22/2/2018 and filed a Report in the record.

3. From the report of the Deputy Registrar, the suit land can only be accessed through the main gate to the Prison which the court takes judicial notice, is a high security institution. The suit land is also said to be on orchard that is under the cultivation of the Prisons Department, on which they conduct training of convicts on grafting of mangoes and avocados and it is maintained by the Kitale Main Prisons.

4. For this reason, I believe that the Prison being a sensitive institution and the first and second defendants being in possession of the suit land, it would be not necessary to issue the orders of injunction sought by the plaintiffs at the moment. I find that this is a suit in which the parties should ventilate their cases on their merits and have the decision that adjudicates their rights with finality at the end of the legal process.

5. For that reason, all previous injunctive orders issued by this court against defendants in this matter are discharged and the parties are required to fix the main suit for hearing on the merits.

Dated, signed and delivered at Kitale on this 25th day of **April, 2018**.

MWANGI NJOROGE

JUDGE

25/4/2018

Coram:

Before: Mwangi Njoroge, Judge

Court Assistant - Picoty

Mr. Kiarie holding brief for Odongo for defendants

Mr. Analo holding brief for Shikhule for plaintiffs

COURT

Ruling read in open court.

MWANGI NJORGE

JUDGE

25/4/2018