



**REPUBLIC OF KENYA**  
**IN THE ENVIRONMENT AND LAND COURT**

**AT MERU**

**ELC PETITION 3 OF 2018**

**AKITHI RANCHING DIRECTED AGRICULTURAL**

**COMPANY LIMITED.....PETITIONER**

**VERSUS**

**THE DISTRICT LAND ADJUDICATION AND SETTLEMENT**

**OFFICER TIGANIA EAST AND WEST DISTRICT.....1<sup>ST</sup> RESPONDENT**

**MERU COUNTY GOVERNMENT.....2<sup>ND</sup> RESPONDENT**

**MERU COUNTY COMMISSIONER.....3<sup>RD</sup> RESPONDENT**

**THE HON. ATTORNEY GENERAL.....4<sup>TH</sup> RESPONDENT**

**RULING**

1. Petitioners have filed an application dated 6.4.2018 seeking for orders that;

***“This honourable court be pleased to issue an order of temporary injunction restraining the 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup>, respondents, by themselves, their employees, juniors officers, agents, servants, representative and/or anybody else whomsoever acting for and/or on their behalf from continuing with the Land Adjudication process and or any other acts of interference in respect of the petitioner’s land, measuring approximately 33,000 acres, situate within Tigania West and/or East Districts pending interpartes hearing of this application”.*** The application was scheduled for hearing on 16.4.2018, but it was not heard. Instead the court gave further directions for the respondents to file their response to the application.

2. The petitioners however prayed for interim orders on the basis that petitioners have a lease and that under section 13 of the land act, the petitioners have pre-emptive rights pending renewal of the lease. Petitioners aver that this issue is before the National Land Commission.

3. Further petitioners contend that the guidelines on renewal of leases were not formulated until June 2017 and therefore there was no frame work for renewal.

4. Petitioners contend that there are activities going on, on the suit land and there are new breaches

occasioned by the 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> respondents.

5. The Meru County Government has opposed the granting of the interim orders of injunction averring that the lease expired, that section 13 of the land act is not applicable, that the land is 33,000 acres, of undemarcated land and that adjudication process under cap 284 is under way.

6. The Attorney General has associated himself with the arguments of the county government of Meru.

7. It emerged during the oral submissions that an almost similar case had been filed by the petitioners, the same being petition no. 23/12. Petitioners aver that vide the ruling of the court in petition 231/12, the court upheld the rights of the petitioners.

8. I find that this matter is still at the infancy stage and even the application itself has not yet been argued. I have seen the ruling of Judge Njoroge dated 2.10.2013 where petitioners case was allowed in terms of the following;

**“It is declared that the 1<sup>st</sup> respondent’s actions in relation to the petitioner’s Ranch Land (measuring approximately 33,000 acres), are unconstitutional, arbitrary, wrongful, null and void and should be stopped forthwith.**

**A permanent injunction do issue restraining the respondents by themselves their agents, employees, representatives and/or anybody else whomsoever acting for/or on their behalf from continuing with the adjudication process in respect of the petitioner’s Ranch Land measuring approximately 33,000 acres until expiry of the petitioners’ term of 33 years”.**

9. Another ruling (annexture JMI) was also delivered by Judge Njoroge on 31.7.2017, still in petition no. 23/12, where an issue of interpretation of the earlier ruling of 2.10.2013 was raised before the Judge. The court clarified that; ***“In the circumstances, I clarify that the permanent injunction alluded to in my ruling dated 23<sup>rd</sup> day of October, 2015 (it certainly ought to be 2<sup>nd</sup> October,2013), ceased to exist upon expiry of the opposite lease. In other words, the injunction died with the expiry of the lease. It is no longer in existence. Anything not in existence cannot confer duties and rights”.***

10. Petitioners claim that the court upheld their rights to claim the land is hence unfounded since such rights were limited to a certain period only.

11. The issue of whether the lease is should be renewed or not is one that should be canvassed either in the application or in the petition.

12. This is a situation whereby petitioners admit that there are activities ongoing on the ground. 2<sup>nd</sup> respondent avers that adjudication process is already under way and that half of the land has already been worked on. In such a scenario, it is paramount that the court be informed of the nature and extent of what is being preserved. Therefore, parties need to furnish the court with more particulars on the matter and this can only be done if the application and or the suit is heard.

13. In the circumstances, I decline to grant any interim orders at this stage.

**DATED, SIGNED AND DELIVERED IN OPEN COURT AT MERU THIS DAY OF 25<sup>th</sup> APRIL, 2018 IN THE PRESENCE OF:-**

**Court Assistant:** Janet/Galgalo

Ngunjiri Michael for petitioners present

Karei holding brief for Ngunjiri Patrick for Intended interested parties

K. Gitonga holding brief for Mwirigi for 2<sup>nd</sup> respondent present

Kimathi B for 1<sup>st</sup> and 4<sup>th</sup> respondents

**HON. LUCY. N. MBUGUA**

**ELC JUDGE**