



**REPUBLIC OF KENYA**

**IN THE ENVIRONMENT AND LAND COURT AT NAROK**

**CONSTITUTION PETITION NO. 4 OF 2018**

**IN THE MATTER OF ARTICLES**

**1,2,3,10,19,20,22,23,35,40,43,47(1),50,60,63,165(3)(B),258 AND 259 1(B) OF THE CONSTITUTION OF KENYA**

**AND**

**IN THE MATTER OF THE SUPREMACY OF THE CONSTITUTION PRSUANT TO ARTICLE 1 OF THE CONSTITUTION OF KENYA 2010**

**AND**

**IN THE MATTER OF THE CONSTITUTION OF KENYA (SUPERVISORY JURISDICITON AND PROTECTION OF FUNDAMENTAL RIGHTS AND FREEDOMS OF THE INDIVIDUAL) HIGH COURT PRACTICE AND PROCEDURE RULES, 2006, RULES 11-23**

**AND**

**IN THE MATTER OF ALLEGED CONTRAVENTION OF FUNDAMENTAL RIGHTS AND FREEDOM UNDER ARTICLES 20,27,28,40,43,53,56 AND 57 OF THE CONSTITUTION OF KENYA**

**AND IN THE MATTER OF THE COMMUNITY LAND ACT SECTIONS 4,5,6,7,8,9,10,11,12 AND 13**

**AND**

**IN THE MATTER OF THE ADJUDICATION AT NAROSUURA GROUP LR NO. NAROK/NAROSUURA/1, IN NAROK COUNTY**

**BETWEEN**

**SARUNI OLE LOONKUSHU & 9 OTHERS ..... PETITIONERS**

**-VERSUS-**

**THE ATTORNEY GENERAL & 14 OTHERS ..... RESPONDENTS**

**RULING**

The Applicants had by a Notice of Motion dated 25<sup>th</sup> April, 2018 sought to be enjoined in Petition as an interested party on the ground that the Applicant is a bonafide member of Narosoora Group Ranch being member No. 2725 and that he has been in occupation of parcel No. 1085 which he has developed and carries out farming activities and he contends that during the adjudication exercise his parcel was allocated to the Chairman of the adjudication committee and hence the same will deprive off his livelihood.

The Application was supported by the affidavit of Tajeu Sadera who in essence deponed to the grounds I stated above and he annexed to the said affidavit a copy of his certificate of membership. He further averred that he has through his advocate filed a complaint with the area adjudication committee but his complaint was not addressed.

The Application was opposed by the 6<sup>th</sup> Respondent by way of a Replying Affidavit arguing that the issues that the interested party wishes to argue are the same issues that the Petitioners will argue and the same will not add any value to the hearing of the Petition and that hearing of the same will amount to hearing a Petition within another Petition. He further averred that allowing the Interested Party to be enjoined will

open a floodgate of others to enjoin the Petitioner.

I have read the Application before me and the opposing submissions which were filed by the interested party and the 6<sup>th</sup> Respondent who is the only one who opposed the application.

The Applicant seek to join the Petition as Interested Party to simply protect his parcel of land that is 1051 within Naroosora Group Ranch. The Respondent has not demonstrated to the group that the Interested Party is neither a member of the Naroosora Group Ranch nor the owner of parcel No. 1085 within the Group Ranch.

It is my finding that on the basis of the above alone the Interested Party has demonstrated that he has legitimate interest in the Petition and his joinder as an Interested Party will adequately assist the court in determining the issues in the petition and further that to exclude the proposed Interested Party from the Petition will negate the constitutional guarantee to own property and to the protection of the same.

In view of the above I find that the application dated 25<sup>th</sup> April, 2018 is merited and I do grant leave to the interested party to be enjoined in the petition.

I further direct the Petitioner to serve the Interested Party with a copy of the Petition and all other pleadings and costs be in the cause.

**DATED, SIGNED and DELIVERED** in open court at **NAROK** on this **31<sup>st</sup>** day of **July, 2018**

**Mohammed Noor Kullow**

**Judge**

**31/7/18**

In the presence of:-

Mr Mburu for the Petitioners and holding brief for Mbugua for the proposed interested party

Mr Kambo holding brief for Mr Ochang for 5<sup>th</sup> to 15<sup>th</sup> Respondents

N/A for the Attorney General

CA:Chuma

**Mohammed Noor Kullow**

**Judge**

**31/7/18**