



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT OF KENYA

AT NAROK

PETITION NO. 268 OF 2017

**IN THE MATTER OF: ARTICLES 19, 20, 22, 23, 24, 40, 47, 60, 61, 63,
64, 165, 258 and 259 OF THE CONSTITUTION OF KENYA, 2010**

IN THE MATTER OF: THE LAND ACT, 2012

IN THE MATTER OF: THE LAND REGISTRATION ACT, 2012

**IN THE MATTER OF: THE LAND (GROUP REPRESENTATIVES)
ACT, CAP 287 (REPEALED)**

IN THE MATTER OF: THE COMMUNITY LAND ACT (2016)

BETWEEN

THE REGISTERED GROUP REPRESENTATIVES O

MAJIMOTOGROUP RANCH.....PETITIONERS

AND

MANYONE DAVID MATUNKE.....1ST RESPONDENT

JAMES PASHAMAI AHIRE.....2ND RESPONDENT

SENET RIAMIT.....3RD RESPONDENT

MAINKA MUNTET.....4TH RESPONDENT

TUMATEPARMUAT.....5TH RESPONDENT

SALANKATMERKU.....6TH RESPONDENT

NGEREMOROMBA.....7TH RESPONDENT

ORKUNEENKONG'ONI.....8TH RESPONDENT

PATRICK KIMURSOI.....9TH RESPONDENT

DAVIDNANTEYA.....10TH RESPONDENT

THE DISTRICT LAND REGISTRAR.....11TH RESPONDENT

THE DISTRICT LAND ADJUDICATION &

SETTLEMENT OFFICER.....12TH RESPONDENT

THE MINISTRY OF LANDS, URBAN AND,

PHYSICAL PLANNING.....13TH RESPONDENT

THE HONOURABLE ATTORNEY GENERAL.....14TH RESPONDENT

THE NATIONAL LAND COMMISSION.....15TH RESPONDENT

RULING

MajiMoto Group Ranch a body corporate established under the (Group Representative) Act, Cap 287 Laws of Kenya, through their registered representatives (where hereinafter I will refer to as the Petitioners) filed a Petition in court dated the 16th day of March, 2017.

A Notice of Motion hereinafter referred to as Application was filed together with said Petition seeking various declaratory and prohibitory orders.

The Application was supported by the Affidavit of **MANKI OLE TWALA** the Chairman of the Applicant and it relied on a number of grounds that were outlined on the face of the application.

The Supporting Affidavit reiterated the grounds on which the Application is based.

When the Notice of Motion was filed I did grant interim orders in terms of prayer B and D of the application which were interim in nature prohibiting and restraining the respondents from dealing and in any manner registering any transaction or transfer on the subject land pending the hearing and determination of the Application interparties hearing on 27th April 2017.

The Application was canvassed before me on 10th March, 2017 and Ms Thiongo appearing for the Applicants stated that the ill bedeviling the Group Ranch is solely perpetuated by the 1st to 10th Respondents who were the officials of the Group who acted irregularly by contravening their statutory obligations and their fiduciary duties to the members of the Group Ranch.

While relying on the supporting affidavit she stated that as a result of their irregular dealing the 1st to the 10th Respondents were suspended out of office by the Registrar of Group Ranch who accused them of irregular land allocations and embezzlement of funds.

The 6th, 8th and 9th Respondents are the only Respondents that filed Replying Affidavits to the Application each of the said Respondents merely corroborated the fears of the Applicant herein. They feigned ignorance of the ongoing at the Group Ranch and in fact stated that they were supportive of any action that will repossess land regularly allocated and accounting for community funds held by the officials.

I have heard submissions by Counsel for the Applicant and read the Replying Affidavit of the three Respondents Replying affidavits. I am satisfied that the Applicants herein have established a prima facie

case with probability of success and I do make the following orders:-

1. **THAT the 11th Respondent herein do place restrictions on all public utilities land within MajiMoto Ranch pending the hearing and determination of the petition.**
2. **That the 11th Respondent is hereby ordered to recall all titles in respect of all public land which were either transferred and/or registered in the names of the 1st to 10th Respondents.**
3. **THAT the 1st to 10th Respondents are hereby ordered to submit to court and tender a true and full record of all allocations of land and records of their subsequent transfer. The records should include original registers and minutes authorizing such allocations and/or transfer.**

The upshot of the above is that I allow the Notice of Motion dated 16th March, 2013.

It is best that no further transactions are carried out on the suit land pending the hearing and determination of the petition herein.

The costs of the application shall be to the Applicant. These shall be the orders accordingly.

DATED, SIGNED and DELIVERED in open court at **NAROK** on this **12th** day of **May, 2017**

Mohammed Noor Kullow

Judge

In the presence of:-

Ms. Thiongo for the Petitioners

Ms. Kilele holding brief for Ms Simiyu for the 1st, 2nd, 3rd, 5th and 10th Respondents

CA:Chuma