



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(REPEALED)**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 OF

MAJIMOTO GROUP RANCH.....PETITIONERS

AND

MANYONE DAVID MATUNKE.....1ST RESPONDENT

JAMES PASHAMAI AHIRE.....2ND RESPONDENT

SENET RIAMIT.....3RD RESPONDENT

MAINKA MUNTET.....4TH RESPONDENT

TUMATE PARMUAT.....5TH RESPONDENT

SALANKAT MERKU.....6TH RESPONDENT

NGERE MOROMBA.....7TH RESPONDENT

ORKUNEE NKONG'ONI.....8TH RESPONDENT

PATRICK KIMURSOI.....9TH RESPONDENT

DAVID NANTEYA.....10TH RESPONDENT

THE DISTRICT LAND REGISTRAR.....	11 TH RESPONDENT
THE DISTRICT LAND ADJUDICATION & SETTLEMENT OFFICER...	12 TH RESPONDENT
THE MINISTRY OF LANDS, URBAN AND, PHYSICAL PLANNING....	13 TH RESPONDENT
THE HONOURABLE ATTORNEY GENERAL.....	14 TH RESPONDENT
THE NATIONAL LAND COMMISSION.....	15 TH RESPONDENT

RULING

The Application before me is the one dated 19th September, 2017 by the interested parties herein. The Application was brought to me pursuant to order 8 Rule 1,2(a) and (b) order 51 of the civil procedure rules section 24 of the Land Registration Act Article 40 sub article (3) section 4 (3, a- g) of the fair administrative Act Cap 5 and Articles 50 of the constitution 2010.

The Interested Parties are seeking leave of the court to be enjoined in the suit and further a stay and prohibitory orders issued on 16th March, 2017 restraining the registrar from registering any transfer instruments emanating from the sub-division of Majimoto Group Ranch.

The Applicants have based their application on the ground that at the time of instituting the suit herein they were in occupation and have been issued with their titles which are not in dispute, that they were not party to the suit and their parcels of land not in dispute being **CIS MARA/MAJIMOTO/908, 3013 and 482** registered in the names of the Interested Parties herein and the interested party will suffer irreparable damage if not heard.

The Application was further supported by the Affidavit of the 1st proposed interested party. He states that the Majimoto Group Ranch was closed and land sub-divided in 2012 and that they learnt of the prohibitory order while they visited the land registry to change their respective parcel of land, that the said orders are for the detriment of the collective inhabitants of the Majimoto Ranch and that they have no partisan interest in the matter, that their Application is made in good faith.

The Application was opposed by the Group Ranch by way of a Replying Affidavit sworn by the 2nd Petitioner as the Chairman of the group.

The Petitioner has termed the application as one that is defective and above the court process.

The Petitioner has averred that whether or not the proposed Interested Party are lawful owners is not an issue for determination and that the petitioner is seeking to determine there was irregular allocation during the sub-division and that the petition does not adversely affect the proposed interested parties.

I have read the application and I have heard counsel representing the parties herein when they made their submissions before me on 4th October, 2017. The proposed Interested Party are merely seeking to be enjoined in the suit because they are registered owners of 3 parcels of land situated within the wider Majimoto Group Ranch to which this petition relates and that a prohibitory order that was issued affects them in that they are unable to transact any dealings on the land since the orders granted were so general and is to their detriment.

The Petitioner/Respondent says that the petition does not affect them in that the petition is about whether there was irregular allocation by the 1st to 12th Respondents and further the petition is not about whether the proposed interested party are the lawful owners of the land.

The Interested Party states they were beneficial members of the Group Ranch and that they were issued

with their titles in 2013, 2015 and 2016, respectively. This fact has not been disputed by the Petitioner.

Since the petition relates to whether there was irregular allocation

The grounds upon which a party may be joined in a suit has been settled and the test is whether by joining the party the court will be able to determine all the issues. It is trite law that nobody be condemned unheard and since the orders sought at the conclusion of the petition may affect the titles that the interested party hold I will allow the application to have them joined as an interested party, since I have already issued conservatory orders in respect of the titles on the land I will not put or set aside the same because in so doing it will defeat the purpose for which the petition was filed.

I direct that the interested party file their answer to the petition within the next 14 days and serve the Petitioners and the Respondents.

Orders accordingly.

DATED, SIGNED and DELIVERED in open court at **NAROK** on this **3rd day of November, 2017.**

Mohamed N. Kullow

Judge

3/11/17

In the presence of:

Ms Thiongo for Petitioners

Ms Nchoe holding brief for Muigai for the Interested parties

Mr Kilele for 1st, 2nd, 3rd, 5th, and 10th Respondents

CA:Chuma

Mohamed Kullow

Judge

3/11/17