



REPUBLIC OF KENYA
IN THE ENVIRONMENT & LAND COURT AT MERU
CIVIL SUIT NO.163 OF 2014

MOHAMUD ILTARAKWA KOCHALE.....1ST A
 KOCHALE SOMO CHALE.....2ND PLAINTIFF
 ISSA JITEWE GAMBARE.....3RD PLAINTIFF
 DAVID TAMASOT ARAKHOLE.....4TH PLAINTIFF
 WILLIAM LENGOYIAP.....5TH PLAINTIFF
 SEKOTEY SEYE.....6TH PLAINTIFF

(Suing on behalf of the residents of Laisamis Constituency and Karare Ward of Marsabit County)

-VERSUS-

LAKE TURKANA WIND POWER LTD.....1ST DEFENDANT
 MARSABIT COUNTY GOVERNMENT.....2ND DEFENDANT
 THE ATTORNEY GENERAL.....3RD DEFENDANT
 CHIEF LAND REGISTRAR.....4TH DEFENDANT
 THE NATIONAL LAND COMMISSION.....5TH DEFENDANT

AARON ILTELE LESIANTAM.....1ST INTERESTED PARTY
 HENRY PARASIAN SAKALPO.....2ND INTERESTED PARTY
 STEPHEN NAKENO.....3RD INTERESTED PARTY
 JOB LMALASIAN LENGOYA.....4TH INTERESTED PARTY
 DAIR LENTIPAN.....5TH INTERESTED PARTY

(As representatives of the residents of Loiyangalani District, Marsabit County)

RULING

This matter came up for directions on 9.11.2015. Miss Hashi for the plaintiffs highlighted submissions relating to their application dated 14.10.2014.

Mr. Nyaoga gave the respondents' and Interested parties' highlights. All parties reiterated that they were going to rely on their written submissions.

Mr. Abdi for the 2nd defendant, Marsabit County Government, requested to be allowed to defer his highlights until unresolved negotiations with the National Government had borne fruits or collapsed.

Mr. Nyaoga asked the Court to order a visit to the *locus in quo* so that it could appreciate the issues at hand. This position was supported by Mr. Abdi, for the County Government of Marsabit, who said that his position had been agreed upon by all the respondents and all interested parties.

Mr. Nyaoga told the court that the 1st Defendant/Respondent would meet all the costs of the visit to the *locus in quo*, if the court is persuaded to allow it to take place.

This matter involves a massive project. It also involves weighty issues. In the interest of justice, I will allow Mr. Abdi for the Marsabit County government, to highlight his issues after a reasonable period of time when the matter of negotiations between the County Government of Marsabit and the National Government will have either succeeded or failed. I cannot, however, allow this matter to be delayed indefinitely. I will give him 4 months to do so. I will allow this even though the main issues in this application do not concern revenue collection sharing between the two forms of government. Perhaps at the end of the day it will have a bearing on the negotiations parties in this matter had alluded to in their consent dated 22.6.2015.

Regarding a visit to the disputed land, I opine that it will not be prejudicial to any of the parties. In the circumstances it will be allowed.

I rule as follows:

- 1. In terms of section 63 CPA, the interim orders extant in this matter, to the effect that status quo should be maintained and the activities of the 1st and 2nd respondents be confined to 87.5 acres they have been utilizing, are extended.***
- 2. The disputed land to be visited by the litigants and their advocates, in the company of this Court's Deputy Registrar, who will give a report to this Court regarding the disputed land and the issues the advocates for the litigants will raise during the visit.***
- 3. All parties to cooperate in facilitating the intended visit, and as has been undertaken by Advocate Nyaoga for the 1st Defendant, 1st Defendant to meet all the costs germane to the visit.***
- 4. Directions on 9.3.2016 to confirm filing of the Deputy Registrar's report and for Mr. Abdi, if he will still be so desiring, to give his highlights for the County Government of Marsabit, in 10 minutes or less.***

It is so ordered.

Delivered in Open Court this 9th day of November, 2015 in the presence of:

Cc. Daniel/Lilian

Sagana/Hashi for Plaintiffs/Applicants

Nyaoga/Wetangula for 1st Respondent

Abdi for the 2nd respondent

Miss Kungu for 3rd to 5th Respondents

Kiprop for Interested Parties.

P. M. NJOROGE

JUDGE