



**Mariba & 4 others v Cabinet Secretary, Ministry of Lands and
Physical Planning & 3 others (Environment & Land Petition
2A of 2022) [2024] KEELC 13757 (KLR) (28 October 2024) (Ruling)**

Neutral citation: [2024] KEELC 13757 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT MIGORI
ENVIRONMENT & LAND PETITION 2A OF 2022**

GMA ONGONDO, J

OCTOBER 28, 2024

**IN THE MATTER OF ARTICLE 2 (1),4(1),10,12,2223,40
(1),47,61 AND 258 OF THE CONSTITUTION OF KENYA**

AND

**IN THE MATTER OF ALLEGED CONTRAVENTION OF
ARTICLES 10,12,40 (1) AND 47 OF THE CONSTITUTION OF**

BETWEEN

**JACKSON MAGOIGA MARIBA 1ST PETITIONER
LUCAS TABU MARIBA 2ND PETITIONER
JOHN WANKURU MARIBA 3RD PETITIONER
TOBIAS MATENGO MARIBA (ALL SUIING ON THEIR BEHALF AND AS
THE LEGAL REPRESENTATIVES OF MICHAEL MARIBA MATENGO MWITA
ALIAS MARIBA MARENKO - DECEASED) 4TH PETITIONER
ANTHONY CHACHA MWITA 5TH PETITIONER**

AND

**CABINET SECRETARY, MINISTRY OF LANDS AND PHYSICAL
PLANNING 1ST RESPONDENT
CABINET SECRETARY, MINISTRY OF FOREIGN AFFAIRS 2ND
RESPONDENT
HEAD, KENYA INTERNATIONAL BOUNDARIES OFFICE . 3RD RESPONDENT
THE HON ATTORNEY GENERAL 4TH RESPONDENT**



RULING

1. This ruling is in regard to an application by Ms Esther Opiyo learned counsel for the respondents for fourteen days to file and serve a reply to the petition and an application for leave and other orders regarding filing of various documents in this matter.
2. The application is based on grounds, inter alia, that;
 - a. The respondents are yet to file and serve response(s) to the present petition,
 - b. the petitioners filed and served submissions
 - c. The issues are many due to many stakeholders involved in this matter.
 - d. In the interest of justice herein.
3. Mr. Paul Amuga learned counsel for the petitioners has opposed the application on the grounds which include; the respondents have taken long to respond to the petition and that the petitioners' submissions filed and served late as the responses to the petition were awaited.
4. It is not in dispute that the respondents have not filed and served responses and the petitioners' counsel filed and served submissions herein.
5. So, is the respondents' application merited?
6. It is noteworthy that a fair opportunity to be heard is a fundamental principle of justice; see Halsbury's Laws of England 5th Edition 2010 Volume 61 at paragraph 639.
7. Moreover, the unlimited right to fair trial and the right of access to justice are enshrined in Articles 25 (c), 50 (1) and 48 of *the Constitution* of Kenya 2010.
8. In the circumstances, the respondents should be let in to respond to this petition; see also *Philip Chemwolo and another -vs- Augustine Kubende* (1986) eKLR.
9. A fortiori, the application is merited and allowed on terms that the respondents' counsel to file and serve response (s) to the petition and or requisite application within the next fourteen days from this date.
10. This petition is fixed for 21st November 2024 to confirm compliance and for further directions.
11. It is so ordered.

DATE AND DELIVERED AT MIGORI THIS 28TH OCTOBER 2024

GEORGE M. A. ONGONDO

JUDGE

In Presence of;-

Paul Amuga learned counsel for the Petitioners

Ms Esther Opiyo learned counsel for the respondents

Tom Maurice, Court Assistant

