

**REPUBLIC OF KENYA**  
**IN THE ENVIRONMENT AND LAND COURT AT ISIOLO**

**ELC PETITION CASE NO.006 OF 2021**

**ABDIRAHIMAN OSMAN & 164 OTHERS** (*suing on their own behalf and on behalf of residents of Merti Sub-County, Chari ward and Cherab Ward in Isiolo County*).....**PETITIONERS**

**VERSUS**

**NORTHERN RANGELAND TRUST & 8 OTHERS**.....**RESPONDENTS**

**RULING**

1. This ruling is dated 27<sup>th</sup> September, 2021 and seeks orders that:
  1. **THAT** this **APPLICATION** and the annexed **PETITION** be certified as extremely urgent, service of the same be dispensed with in the first instance and the same be heard on priority basis;
  2. **THAT** pending the hearing and determination of this petition, this Honourable court be pleased to grant an ex parte interim injunction stopping, prohibiting and forbidding all the activities including establishing and management of conservancies on unregistered community land, whether by themselves, their agents, servants, assignees licensees, umbrella bodies or any other person working under their authority or contract of the 1<sup>st</sup>, 3<sup>rd</sup>, 4<sup>th</sup> 5<sup>th</sup> and 6<sup>th</sup> Respondents, within Cherab ward and Chari ward of Merti Sub-County, and within the rest of Isiolo County;
  3. **THAT** pending the hearing and determination of this petition, this Honourable Court be pleased to grant an ex parte interim injunction stopping, prohibiting and forbidding all the activities of the employed personnele engaged by the 1<sup>st</sup>, 3<sup>rd</sup>, 4<sup>th</sup>, 5<sup>th</sup> and 6<sup>th</sup> Respondents, including Rangers, drivers and other staff, without a valid license from the relevant authorities.
  4. **THAT** pending the hearing and determination of this Petition, this Honourable Court be pleased to issue an interim order compelling the

7<sup>th</sup> respondent, to take up all the activities relating to establishment and management of community conservancies within Cherab and Chari wards, and the rest of Isiolo County, to wit that all licenses or authority granted to the 1<sup>st</sup>, 3<sup>rd</sup>, 4<sup>th</sup>, 5<sup>th</sup> and 6<sup>th</sup> Respondents or any of its affiliates and/or umbrella bodies or their community based organizations be revoked immediately.

5. **THAT** pending the hearing and determination of this petition, this Honourable court be please to grant an ex parte interim injunction stopping, prohibiting and forbidding the 1<sup>st</sup>, 3<sup>rd</sup>, 4<sup>th</sup>, 5<sup>th</sup> and 6<sup>th</sup> Respondent, whether by themselves, their agents, servants, assignees, licensees, umbrella bodies or any other person working under their authority, instructions or contract, from entering, mapping, surveying, delineating or in any way disposing the unregistered community land, carrying out conservancy operation, evicting and intimidating community members, within Cherab Ward and Chari Ward of Merti Sub- County and within the rest of Isiolo County;
6. **THAT** pending the hearing and determination of this Petition, this Honourable court be pleased to grant interim orders compelling the 2<sup>nd</sup> Respondent to execute its trust mandate relating to the management of the unregistered community land in Cherab and Chari wards, as well as the rest of Isiolo County, to wit all licenses or authority granted to the 1<sup>st</sup> Respondent or any of its affiliates and umbrella bodies be revoked immediately;
7. **THAT** pending the hearing and determination of this Petition, this Honourable Court be pleased to grant an interim injunction against the advertisement, hiring, recruitment, employment or any other form of contractual engagement for or of services of Rangers, Drivers or other Conservancy personnel by the community Based Organizations run by the 1<sup>st</sup>, 3<sup>rd</sup>, 4<sup>th</sup>, 5<sup>th</sup> and 6<sup>th</sup> Respondents or any other Conservancy or Community Based Organization under the management or patronage of

the 1<sup>st</sup> Respondent either by themselves or through anyone acting under their authority or contract;

8. **THAT** pending the hearing and determination of this Petition, this Honourable Court be pleased to grant an interim injunction against the 1<sup>st</sup> respondent either by themselves or through anyone acting under their authority or contract stopping, prohibiting them from erecting any structures on the unregistered community land.

9. **THAT** pending the hearing and determination of this Petition, the County Commissioner Isiolo and the Isiolo County Police Commandant do oversee the implementation of the orders sought herein and to ensure that peace and order is maintained.

10. **THAT** the Honourable Court be pleased to certify the matter to be placed before the Honourable Chief Justice or such other person duly authorized to act in such capacity for the appointment of a Three-Judge Bench as it raises substantial questions of law.

11. The costs of this application be provided for;

2. On 15<sup>th</sup> May, 2023, Mr Innocent Makaka, asked the court to grant prayer 8 in the application until hearing of the application to forestall further construction on the suit property by the 1<sup>st</sup> respondent. Miss Nyasani told the court that the 1<sup>st</sup> respondent's advocate had not been served with the Petitioners' affidavit date 10<sup>th</sup> May, 2023.

3. Miss Nyasani who represented Mr Ogola told the court that Mr. Ogola was not aware that there was any construction going at the site. She denied this allegation.

4. The 1<sup>st</sup> respondent's advocate having denied that there was no construction going on the site, it is now clearly evident that the 1<sup>st</sup> respondent would not be prejudiced in any way by the interim grant of prayer No. 8. This accords appropriately with the precautionary principle.

5. The following orders are hereby issued;

- a) Prayer 8 in the application is granted pending hearing of this application.
- b) The Petitioners' advocate to serve the orders issued by the court upon the 7<sup>th</sup> respondent within 7 days of today.
- c) Directions on 6/6/2020.

Delivered in open court at Isiolo this 15<sup>th</sup> day of May, 2023 in the presence of; -

Court assistant: Balozi & Rahma

Innocent Makaka for the Petitioners.

Miss Nyasani holding brief for Ogola for the 1<sup>st</sup>, 3<sup>rd</sup>, 4<sup>th</sup>, 5<sup>th</sup> and 6<sup>th</sup> Respondents.

Miss Nyasani holding brief for Wangila for the 2<sup>nd</sup> Respondent.

Caleb Mwiti holding brief for Kimathi for the 8<sup>th</sup> and 9<sup>th</sup> Respondents.



**HON. JUSTICE P.M NJOROGE**

**JUDGE**