



**REPUBLIC OF KENYA**

**IN THE SUPREME COURT OF KENYA**

*(Coram: Koome; CJ & P, Mwilu; DCJ & VP, Wanjala, Njoki, Lenaola, & Ouko,  
SCJJ)*

**PETITION (APPLICATION) NO. E015 OF 2025**

– BETWEEN –

**ATTORNEY GENERAL ON BEHALF OF  
THE CABINET SECRETARY, MINISTRY OF  
INTERIOR AND COORDINATION OF  
NATIONAL GOVERNMENT ..... APPELLANT/ 1<sup>ST</sup> RESPONDENT**

– AND –

**NGURUMAN LIMITED ..... 2<sup>ND</sup> RESPONDENT**

**JOHN KAMANGA & ISAAC KIRESIAN**  
(Suing on their own behalf and on behalf of  
14,264 members and/or residents of  
Shompole Group Ranch, Ol Kiramatian Group Ranch,  
Pakase Irrigation Scheme and Entasopia Irrigation  
Scheme) ..... **1<sup>ST</sup> PROPOSED INTERESTED PARTY /APPLICANT**

**THE COUNTY GOVERNMENT  
OF KAJIADO ..... 2<sup>ND</sup> PROPOSED INTERESTED PARTY/APPLICANT**

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*(Being an application for joinder of the applicants as interested parties in SC Petition No.  
E015 of 2025)*

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Representation

Mr. Oscar Eredi for the Appellant/ 1<sup>st</sup> Respondent  
(Attorney General Chambers)

Ms. Jerioth Muthoni for the 2<sup>nd</sup> Respondent  
(Ahmednassir Abdullahi Advocates LLP)

Ms. Cecilia Misiati h/b for Prof. Tom Ojienda, SC for the Proposed Interested Parties  
(Prof. Tom Ojienda & Associates)

## **RULING OF THE COURT**

**[1] UPON PERUSING** the Notice of Motion dated 16<sup>th</sup> April 2025 and filed on 29<sup>th</sup> April 2025 by the proposed interested parties/applicants pursuant to Articles 50, 159(2) and 163(4)(a) of the Constitution; Rules 3(1), (2) & (6), 24 and 31 of the Supreme Court Rules, 2020 and Section 6 of the Community Land Act, Cap 287 which seek *inter alia* that:

“ ...

2. *This Honourable Court be pleased to grant leave to the applicants to be joined as interested parties in the present appeal;*
3. *Upon granting order no. 2 above, the Honourable Court be pleased to grant the applicants an opportunity to file a response and submissions to the appeal upon service; ...”;* and

**[2] UPON CONSIDERING** the grounds on the face of the Motion, the affidavit sworn on even date by John Kamanga, the chairman of Ol Kiramatian Group Ranch, and the submissions dated 28<sup>th</sup> April 2025 in support thereof, the tenor of which is that, John Kamanga is duly authorised to swear the affidavit on behalf of the 1<sup>st</sup> applicant. It is alleged that, the 1<sup>st</sup> applicant’s members are the legitimate owners of a portion of 20,000 Ha of Narok/Nguruman/Kamorora/1 (suit property) which was illegally excised from their land; following adjudication, Nguruman Kamorora Group Ranch was registered as the proprietor of the suit property on 19<sup>th</sup> June 1975 and a certificate of title issued thereto indicating the acreage as 6,970Ha.; however, on 28<sup>th</sup> August 1984 a new certificate of title was issued to Nguruman Kamorora Group Ranch and this time around the acreage was indicated as 26,993 Ha; subsequently, the title to the suit property was transferred to Nguruman Limited, the 2<sup>nd</sup> respondent herein; and

**[3] BEARING IN MIND** the 1<sup>st</sup> applicant's contention that, on account of their entitlement to the suit property, its members entered and grazed their livestock thereon. As a result, the 2<sup>nd</sup> respondent instituted a plethora of suits before the superior courts below premised on trespass, the last in time being **Narok ELC Petition No. 18 of 2018**, which culminated in the present appeal (**SC Petition No. E015 of 2025**) before this Court. The aforementioned suits purely dealt with the issue of trespass on the suit property and not ownership thereof. It is alleged that, the 2<sup>nd</sup> respondent intentionally omitted the 1<sup>st</sup> applicant from **Narok ELC Petition No. 18 of 2018** with the aim of circumventing the determination of the core question of ownership of the suit property and thereby misleading the court. The Attorney General, the 1<sup>st</sup> respondent herein, in the aforementioned suit vide a cross petition brought to the trial court's attention the existence of **Kajiado ELC 430 of 2017** which was instituted by the 1<sup>st</sup> applicant against the 2<sup>nd</sup> respondent amongst other persons. That, **Kajiado ELC 430 of 2017** relates to the question of ownership and/or validity of the 2<sup>nd</sup> respondent's title to the suit property, and is still pending before the Environment and Land Court; nonetheless, the trial court (*Kullow, J.*) by a judgment dated 28<sup>th</sup> July 2021 found in favour of the 2<sup>nd</sup> respondent and awarded it compensation for the suit property; and thereafter, the Court of Appeal by a judgment dated 28<sup>th</sup> February 2025, subject of the appeal before this Court, partially upheld the compensation awarded to the 2<sup>nd</sup> respondent; and

**[4] NOTING** that the 1<sup>st</sup> applicant claims that, the abovementioned superior courts violated its members' right to fair hearing and property contrary to Articles 50 and 40 of the Constitution respectively; in particular, by awarding the 2<sup>nd</sup> respondent compensation, the two courts summarily determined the issue of ownership of the suit property as well as **Kajiado ELC 430 of 2017** without according the 1<sup>st</sup> applicant a hearing; in turn, their right to property was violated; since the question of ownership of the suit property is in dispute and pending for determination in **Kajiado ELC 430 of 2017**, the issue of compensation for the suit property should have been held in abeyance until determination of the former. In totality, the 1<sup>st</sup>

applicant contends that, it has demonstrated its direct interest in the appeal before this Court; it would suffer prejudice if not accorded an opportunity to participate in the appeal to the extent of unearthing the true ownership of the suit property; in any event, any orders affirming or commenting on ownership of the suit property would affect the 1<sup>st</sup> applicant's claim in **Kajiado ELC No. 430 of 2017**; and

**[5] FURTHER NOTING** the contention that, the 2<sup>nd</sup> applicant's involvement in the appeal is anchored on its mandate to protect the interests of communities over unregistered community land; and that the applicants have met the requisite threshold to be joined as interested parties to the appeal before this Court as set out in, ***Muruatetu & Another Vs Republic; Kenya National Commission on Human Rights & 2 Others (Interested Parties); Death Penalty Project (Intended Amicus Curiae)*** [2016] KESC 12 (KLR) (***Muruatetu***); and

**[6] UPON EXAMINING** the 2<sup>nd</sup> respondent's replying affidavit sworn on 26<sup>th</sup> May 2025 by Martin Richard Steyn, its Director, and submissions dated 27<sup>th</sup> February 2026, the totality of which is that, John Kamanga and Isaac Kiresian lack *locus standi* to lodge the application on behalf of the applicants; since firstly, the Group Ranches are body corporates that can sue or be sued in their own capacities; secondly, the 2<sup>nd</sup> applicant can sue or be sued in its own name under Section 6(1) of the County Governments Act, and in any case, John Kamanga and Isaac Kiresian have not provided any authority to act or file pleadings on behalf of the Group Ranches; and consequently, the Motion ought to be struck out; and

**[7] FURTHERMORE** the 2<sup>nd</sup> respondent argues that, the 1<sup>st</sup> applicant has not attached any title to substantiate its claim of ownership of the suit property; moreover, upon completion of the Nguruman Kamorora Adjudication on 1<sup>st</sup> June 1973, the 1<sup>st</sup> applicant's members lodged their objections which were dismissed on 10<sup>th</sup> January 1974, and no appeal was lodged thereafter; therefore, a certificate of finality was published on 9<sup>th</sup> November 1974 to the effect that the Nguruman Kamorora Adjudication Register was final and Nguruman Kamorora Group Ranch

was registered as the absolute proprietor thereof on 19<sup>th</sup> June 1975; there was an error on the size of the suit property on the initial title when the register thereto was opened; the error was subsequently discovered, and on 12<sup>th</sup> July 1984, the Director of Survey recomputed the suit property's acreage within its existing boundaries, which resulted in the acreage of 26,993 Ha being indicated on the title; and as such, the acreage of the suit property has never changed since the boundaries as originally demarcated have never been altered; and

**[8] BESIDES**, the 2<sup>nd</sup> respondent asserts that, the proposed joinder of the proposed interested parties is a ruse meant to challenge the various decisions by the superior courts below on the suit property; this Court lacks jurisdiction to determine the contention on ownership of the suit property in the first instance; in any event, the ELC (*Gacheru, J.*) by a ruling dated 18<sup>th</sup> September 2025 in **Narok ELC No. 31 of 2018** (Formerly **Kajiado ELC No. 430 of 2017**) struck out the said suit, which the 1<sup>st</sup> applicant had alleged was pending and would be affected by the determination of the appeal before this Court; the suit was struck out on the ground that the it was *res judicata*; it follows that the applicants have neither demonstrated their interest in the suit property nor the prejudice they stand to suffer if they are not joined to the appeal; and mischief should be read into why the applicants did not seek joinder in the trial court or before the Court of Appeal; and

**[9] FURTHER NOTING** that by way of rejoinder the applicants through a further affidavit also sworn by John Kamanga on 12<sup>th</sup> June 2025 as well as further submissions of even date maintain that both John Kamanga and Isaac Kiresian have the requisite *locus* to institute the Motion on behalf of the Group Ranches. That, the interests of a particular community over ancestral land can be pursued either collectively or individually by virtue of the 2010 Constitution; nevertheless, both John Kamanga and Isaac Kiresian are members of the Group Ranches and they obtained the necessary consent of the other members to institute the Motion; and

[10] **COGNISANT** that the Attorney General who is the appellant/1<sup>st</sup> respondent opted not to file a response and remain neutral as far as this Motion is concerned; and

[11] **UPON DELIBERATIONS** on the Motion and the rival arguments, **WE NOW OPINE** as follows:

- i. It is apposite to begin with consideration of the applicants' *locus standi* to institute the current Motion as it goes to this Court's jurisdiction to entertain the same. We understand the 2<sup>nd</sup> respondent's contention on this issue to be two pronged. First, it argues that the 1<sup>st</sup> applicant lacks the requisite *locus* to file the Motion on behalf of the Group Ranches which are body corporates and therefore, capable of bringing the Motion in their own corporate names. Second, the 1<sup>st</sup> applicant likewise, lacks the capacity to file the Motion on behalf of the 2<sup>nd</sup> applicant.
- ii. It is common ground that John Kamanga (John) and Isaac Kiresian (Isaac) are not only members of Ol Kiramatian Group Ranch and Shompole Group Ranch respectively but they are also listed as some of the group representatives in the certificate of incorporation of the respective ranches under Section 7 of the Land (Group Representative) Act (Repealed). What is more, under Section 8 of the Land (Group Representative) Act, the group representatives were conferred with the power to sue and be sued in their corporate name. As far as the 2<sup>nd</sup> respondent is concerned the Group Ranches should have filed the Motion seeking joinder as interested parties in their respective corporate names. In this regard, the 2<sup>nd</sup> respondent relies in this Court's decision in ***Getao Vs Mokare & 4 others*** [2021] KESC 36 (KLR) (***Getao Case***) to support this line of argument.
- iii. The question of John and Isaac's capacity to institute proceedings on behalf of the Group Ranches was the subject of **Narok ELC No. 31 of 2018** wherein the 2<sup>nd</sup> respondent raised a similar objection. In that matter, John and Isaac

commenced the suit therein in their own names. The court (*Gacheru, J.*) considered the aforementioned provisions of the Land (Group Representative) Act and by a ruling dated 18<sup>th</sup> September 2025 found that they lacked the requisite *locus standi*. In doing so, the court held that firstly, courts have on numerous occasions held that it is only the Group Ranch through its representatives, that could sue on behalf of its members concerning land belonging to the Group Ranch. In other words, that a single representative of a Group Ranch cannot sue alone on behalf of Group Ranch by dint of the Land (Group Representatives) Act. Further, that there was no evidence of the other representatives of the Group Ranches granting authority to John and Isaac to file the suit. Secondly, that, a suit filed and or brought by the group's representatives must be in its corporate name.

- iv. It would appear that the 1<sup>st</sup> applicant took into account the aforementioned findings by the ELC in filing the current Motion. For starters, while the Motion is in the names of John and Isaac, they clearly set out that they have brought the same on their own behalf and on behalf of their respective group ranches. It is instructive to note that this time around they have annexed to the Motion an Authority to Act on behalf of the membership of the said Group Ranches which is duly signed by the membership thereof. To that extent, we find that John and Isaac are clothed with the requisite *locus standi* to file the Motion on their own behalf as well as the Group Ranches. Further, the ***Getao Case*** is distinguishable to the circumstances of this Motion. This is because in ***Getao Case***, the issue was whether the appellant therein could lay claim to a particular portion of land to the exclusion of any other member of the group ranch prior to subdivision and subsequent allocation of portions thereof to individual members.
- v. Moving to the 1<sup>st</sup> applicant's *locus* to file the Motion on behalf of the 2<sup>nd</sup> applicant, Kajiado County Government, it is submitted that the County Government is a necessary party due to its mandate to protect the interests of

communities over unregistered community land. While we appreciate the 2<sup>nd</sup> applicant's mandate, it not lost to this Court that it is a body corporate by virtue of Section 6(1) of the County Governments Act, Cap 265 and distinct from the 1<sup>st</sup> applicant. Equally, the 1<sup>st</sup> applicant through its further affidavit deposed that they never claimed to be acting on behalf of the 2<sup>nd</sup> applicant. However, it is clear that the Motion was filed by the 1<sup>st</sup> applicant's advocates. Therefore, on what basis is the 2<sup>nd</sup> applicant's joinder as an interested premised on? The answer is simply nothing and as such, we decline to join the 2<sup>nd</sup> applicant to the appeal before this Court.

- vi. The guiding principles that this Court ought to take into account when faced with an application for joinder of an interested party are well settled. See Rule 24 of the Supreme Court Rules and *Muruatetu*. They include:

***“... Enjoinment is not as of right, but is at the discretion of the Court; hence, sufficient grounds must be laid before the Court, on the basis of the following elements:***

- i. The personal interest or stake that the party has in the matter must be set out in the application. The interest must be clearly identifiable and must be proximate enough, to stand apart from anything that is merely peripheral.***
- ii. The prejudice to be suffered by the intended interested party in case of non-joinder, must also be demonstrated to the satisfaction of the Court. It must also be clearly outlined and not something remote.***
- iii. Lastly, a party must, in its application, set out the case and/or submissions it intends to make before the Court, and demonstrate the relevance of those submissions. It should also demonstrate that these***

***submissions are not merely a replication of what the other parties will be making before the Court.”***

- vii. Applying the foregoing principles to the 1<sup>st</sup> applicant’s Motion to be joined in the appeal before this Court, we note that its interest therein is anchored on its claim of ownership to a portion of the suit property, which is subject of **Narok ELC No. 31 of 2018**. Putting it differently, the 1<sup>st</sup> applicant argues that the determination of the appeal herein will affect its claim of ownership of the suit property. To begin with it is important to set out pertinent facts so as to put the Motion in context.
- viii. The 2<sup>nd</sup> respondent filed a number of suits against the group ranches herein premised on trespass. The first in time was at the Resident Magistrate’s Court at Narok, **Civil Case No. 15 of 1991**, wherein on it obtained a permanent injunction restraining the Shompole Group Ranch from continuing any further trespass on the suit property. Subsequently, the 2<sup>nd</sup> respondent filed **Kericho HCCC. No. 65 & 66 of 2009** (consolidated) against both Group Ranches and on 2<sup>nd</sup> December 2009 obtained eviction orders against them from the suit property with the supervision of the Provincial Administration as well as nominal damages of Kshs. 5,000,000.
- ix. Instigated by the execution proceedings of the judgment in **Kericho HCCC. No. 65 & 66 of 2009**, the 1<sup>st</sup> applicant filed a fresh suit in Machakos being, **ELC No. 171 of 2014**, seeking stay of execution of the said judgment and set out its claim to the suit property. The suit was initially transferred to Kajiado as **Kajiado ELC No. 430 of 2017**, and subsequently to Narok as **Narok ELC No. 31 of 2018**. It is this case that is the basis of the 1<sup>st</sup> applicant’s Motion for joinder in the appeal before us.
- x. By a ruling dated 18<sup>th</sup> September 2025, ELC (*Gacheru, J.*) struck out **Narok ELC No. 31 of 2018** on the ground, amongst others, that the issue of the suit property has been a subject of litigation since 1974, and several decisions have

been made related to it. Beginning with the decision dated 10<sup>th</sup> January 1974 by the Land Adjudication Officer dismissing the objections raised by the Group Ranches over the suit property to the aforementioned suits. As it stands, with **Narok ELC No. 31 of 2018** having been struck out, we concur with the 2<sup>nd</sup> respondent that there is nothing to substantiate the stake the 1<sup>st</sup> applicant has in the appeal before us. More so since, in its Motion, the said applicant anchored its interest on its claim of ownership to the suit property as set out in the struck-out suit. Accordingly, we find the Motion lacking in merit.

- xi. On the issue of costs of the Motion, although the general rule is that costs should follow the event, we are mindful of the circumstances herein where the applicants are pursuing not only their interests but of members of the Group Ranches. Accordingly, we do not wish to perpetually set these parties against each other and are persuaded to follow the principles enunciated in **Rai & 3 Others Vs Rai & Others** [2018] (KLR) and order each party to bear their own costs of this Motion.

**[12] CONSEQUENTLY**, and for the reasons for the reasons afore-stated, we make the following Orders:

***a) The Motion dated 16<sup>th</sup> April 2025 and filed on 29<sup>th</sup> April 2025 is hereby dismissed.***

***b) Each party shall bear their own costs of this Motion***

Orders accordingly.

**DATED and DELIVERED at NAIROBI this 15<sup>th</sup> day of May, 2026.**

.....

**M. K. KOOME  
CHIEF JUSTICE & PRESIDENT  
OF THE SUPREME COURT**

.....  
**P.M. MWILU**  
**DEPUTY CHIEF JUSTICE & VICE PRESIDENT**  
**OF THE SUPREME COURT**

.....  
**S. C. WANJALA**  
**JUSTICE OF THE SUPREME COURT**

.....  
**NJOKI NDUNGU**  
**JUSTICE OF THE SUPREME COURT**

.....  
**I. LENAOLA**  
**JUSTICE OF THE SUPREME COURT**

.....  
**W. OUKO**  
**JUSTICE OF THE SUPREME**

**I certify that this is a true copy  
of the original**

**REGISTRAR**  
**SUPREME COURT OF KENYA**

