

PETITION TO THE SENATE OF THE REPUBLIC OF KENYA UNDER ARTICLES 37 AND 119 OF THE CONSTITUTION OF KENYA 2010, THE PETITION TO PARLIAMENT (PROCEDURE) ACT, STANDING ORDERS 225 AND 226 OF THE SENATE ON THE WRONGFUL UNLAWFUL ACQUISITION AND DISPOSITION OF THE POKA GROUP RANCH LAND LR KAJIADO/KAPUTIEI – SOUTH 23 BY THE KAJIADO COUNTY.

**TO: THE SENATE OF THE REPUBLIC OF KEYA,
C/O, THE CLERK,
THE SENATE,
PARLIAMNT BUILDING, PALIAMENT ROAD,
TEL: (254-2) 2221291 or 2848000,
E-mail: csenate@parliament.go.ke**



We the undersigned,

Citizens of the Republic of Kenya, Residents of Kajiado County and members of the POKA Group Ranch in Kajiado County wish to draw to the attention of the Senate –

THAT,

- 1) Article 40 of the Constitution of Kenya provides for every person to either individually or in association with others, to acquire and own properly.
- 2) Article 63 of the Constitution provides for Community land.
- 3) In or around 1962, POKA Group Ranch was established in the then Olekejuado County Council, Kajiado District.
- 4) The POKA Group Ranch made up of several Maasai community families at on an estimated 9,000 hectares of grazing land.
- 5) That in 1968, the Land Group Representative Act was passed which Act allowed the subdivision and individualization of the Group Ranches.
- 6) The members of the POKA Group ranch subdivided the property amongst themselves but set aside 2,148 hectares to be used by the ranch members/ community as a holding ground for purposes of trade of livestock.
- 7) The land set aside as holding ground for livestock was adjudicated as Kajiado/Kaputiei South/23 and was held by the defunct Olekejuado County Council now the Kajiado County Government and managed by the Livestock Management Division under the Ministry of Agriculture and Livestock Development.
- 8) The holding ground commonly known as Emali Holding Ground was held by the Olekejuado County Council in accordance with the Local Government Act CAP 256 and the Trust Land Act (Now Repealed).
- 9) The Kajiado County Government holds the land in trust of the POKA Group Ranch in accordance with the Community Land Act No. 27 of 2016.



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- 10) In 1980 the Olekajuado County Council (now defunct) privately and without the group ranch members' consultations or consent leased the property to Tana & Athi River Development Authority (TARDA).
- 11) That in or around June 2018 a group of people unknown to the Group Ranch invaded a section of the land and started fencing it off.
- 12) The strangers' actions raised suspicion among the ranch members prompting the officials to carry out an official search at the Kajiado land Registry.
- 13) The officials conducted a search of Kajiado/Kaputiei South/23 and learnt that unlawful transactions and dealings had taken place without the ranch's knowledge. The result of the search indicated that-
- i. The Original LR. Kajiado/Kaputiei South/23 had been subdivided some times in 1995 and two different parcels were created out of the original parcel:
 - a. Parcel LR. Kajiado/Kaputiei South/46
 - b. Parcel LR. Kajiado/Kaputiei South/47
 - ii. The Parcel LR. Kajiado/Kaputiei South/47 was further subdivided into three parcels:
 - a. Parcel LR. Kajiado/Kaputiei South/887
 - b. Parcel LR. Kajiado/Kaputiei South/888
 - c. Parcel LR. Kajiado/Kaputiei South/889
- 14) The newly created **Parcel LR. Kajiado/Kaputiei South/46** remained in the name of the Olekejuado County Council who purportedly held it in trust of the POKA Group Ranch.
- 15) Parcel LR. Kajiado/Kaputiei South/889 now measuring approximately 69.36 hectares was unlawfully transferred and is currently solely owned illegally by Hon. David Ole Sankori former M.P for Kajiado Central.



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- 16) Parcel LR. Kajiado/Kaputiei South/888 measuring approximately 32.38 hectares was unlawfully transferred to and is currently jointly owned illegally by Hon. Sankori and one Mr. Walter Bernard Makundi Mukuria.
- 17) The title deeds to Parcel LR. Kajiado/Kaputiei South/889 and 888 were issued on the 23rd day of August 1995.
- 18) The searches of Parcel LR. Kajiado/Kaputiei South/887 have been unsuccessful hence the ownership of 887 is unclear another aspect that the parcel is in the hands of a powerful individual constantly protected by the Land Registry.
- 19) The ownership of Parcel LR. Kajiado/Kaputiei South/46 was transferred from Olekejuado County Council to Kajiado County Government by the operation of the law upon the introduction of the County Governments after the promulgation of the new constitution.
- 20) That the Kajiado County Government has now gone ahead to equally subdivide the Parcel LR. Kajiado/Kaputiei South/46 without participation of the members of the POKA community.
- 21) The County Government has illegally set aside 200 hectares for construction of a town/market centre.
- 22) That the 200 hectares (space) illegally earmarked for a market has already been allocated to powerful individuals who will control the market.
- 23) That we are alive to the position of the two superior courts of the land in where both the Court of Appeal concurred with the High Court decision in Town Council of Awendo v Nelson Oduor Onyango & 13 others [2013] eKLR that:

Land compulsorily acquired for public use ought to be used for the that designated public purpose only and that in case of any unutilized section of the land, the original owners of the suit land ought to be registered as the lawful owners of the unutilized parcels of the land

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- 24) It is therefore our position that the land **LAND LR KAJIADO/KAPUTIEI – SOUTH 23** set aside by the POKA Group Ranch for public purpose and to be used as a holding ground for livestock should only be used as such and in any case that it is not used as a livestock holding ground, the land should be transferred back to its original owner, the POKA Group Ranch.
- 25) That the POKA community officials and members have held audience with the Kajiado County Lands CEC and the Kajiado County surveyor who have on several occasions ignored and/or refused to address the concerns of the community.
- 26) That the actions by the Olekejuado County Council and now the Kajiado County Government have been carried out without any public consultation and/or participation by the POKA community.
- 27) Section 5 (4) of the Community Land Act prohibit the Compulsory acquisition of Community land without the due process being followed as provided for under the Land act.
- 28) Section 6(8) of the Community Land Act has expressly prohibited the County Government holding such land in trust of communities selling, disposing, transferring and converting for private purposes or in any other way disposing the land.
- 29) That the matters mentioned in this Petition are not before any court of law.

Misappropriation of the Funds paid as Compensation by the National Land Commission

- 30) That the Standard Gauge Railway passed through sections of the land in dispute.
- 31) That the community understands that Phase 1 of the SGR from Mombasa to Nairobi is complete.



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- 32) That the community understands that land owners whose land was compulsorily acquired during the railway construction have already been compensated.
- 33) That the community understands that sections of the Group Ranch land that was compulsorily acquired attracted a compensation of Kshs. 40,000,000/-.
- 34) That due process as provided for by the Land Act for compulsory acquisition was not followed as the community members did not participate in the process neither were they notified of the acquisition.
- 35) That the community does not know who the Kshs. 40,000,000/- paid as compensation was paid to.
- 36) Section 6 (2) of the Community Land Act the provides the county government to hold in trust for a community any monies payable as compensation for compulsory acquisition of any unregistered community land
- 37) Section 6 (3) provides that the county government shall deposit the compensation amount in a special interest earning account.
- 38) The Act at sub section 3 of the same section provides that the said amount shall be released by the county government upon registration of the said community land.
- 39) The location of the monies paid as compensation is unknown and that there was no transparency in relation to the payment and maintenance of the paid amount.

The Petitioner Humbly Requests that:

- 1) The Senate investigates the matter and intervenes with a view to ensuring that **LAND LR KAJIADO/KAPUTIEI – SOUTH 23** in its entirety measuring 2,148 is transferred back to POKA Group Ranch and that all private land illegally issued to be repossessed; and



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- 2) The persons who may have unlawfully participation in the illegal transactions of the land and the misappropriation of the compensation amount are prosecuted.

AND Your Humble Petitioners will ever Pray.

POKA Group Ranch

Name of Petitioner: Jeremiah Lemako, Chairperson, POKA Group Ranch.

Signature/Thumb

Impression



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23/07/19.

POKA Group Ranch

C/o

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