Approved for tabling.
SNA
5/12/19

PARLIAMENT OF KENYA

THE NATIONAL ASSEMBLY

TWELFTH PARLIAMENT – THIRD SESSION – 2019

DEPARTMENTAL COMMITTEE ON LANDS

REPORT ON THE CONSIDERATION OF A PETITION BY MR. STEPHEN NGARI NJUKI, REGARDING DELAY IN ALLOCATION OF LAND IN MWEA SETTLEMENT SCHEME TO THE LEGITIMATE BENEFICIARIES

DIRECTORATE OF COMMITTEE SERVICES
CLERK'S CHAMBERS
PARLIAMENT BUILDINGS
NAIROBI

DECEMBER 2019

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CHAIRPERSON'S FOREWORD

The Petition by Mr. Stephen Ngari Njuki, regarding delay in the allocation of land in Mwea Settlement Scheme to the legitimate beneficiaries was conveyed in the House on 20th June 2019 by the Honarable Speaker.

In considering the Petition, the Committee held a meeting with the Mr. Stephen Ngari Njuki, the petitioner on 22nd August 2019 and the Chief Administrative Secretary Ministry of Lands and Physical Planning on10th September 2019. The Committee also received written submissions from the. Cabinet Secretary, Ministry of Interior and Coordination of National Government.

The Committee is thankful to the Offices of the Speaker and the Clerk of the National Assembly for the logistical and technical support accorded to it during its sittings. The Committee is also thankful to the Petitioner, and the Chief Administrative, Ministry of Lands and Physical Planning for the submissions they made to the Committee.

On behalf of the Committee, and pursuant to Standing Order, 227 it is my pleasant duty to table the Report of the Departmental Committee on Lands on its consideration of the Petition by Mr. Stephen Ngari Njuki, regarding delay in the allocation of land in Mwea Settlement Scheme to legitimate beneficiaries.

Hon. Dr. Rachael Kaki Nyamai, MP
Chairperson, Departmental Committee on Lands

EXECUTIVE SUMMARY

The purpose of this report is to respond to prayers made in a Petition by Mr. Stephen Ngari Njuki, regarding delay in the allocation of land in Mwea Settlement Scheme to legitimate beneficiaries. The petitioner's prayer is that the National Assembly through the relevant Departmental Committee investigate and inquire into all maters raised in the petition

The Committee noted that the land in question LR No. 26461 FR No. 317/30 measuring approximately 17,830.6 Ha. is in Makima Location, Makima Division, Mbeere South Sub - County in Embu County.

The Committee observed that conflict regarding the administration of the scheme dates back to the 1970 and the relevant agencies have not been able to address the issue of resettlement of the beneficiaries despite the establishment of various Commissions and Taskforces including the Akello Taskforce of 1990, J. Chesoni Commission of 1995 and Twang'a Verification Task Force of 2001. Further, the National Assembly Departmental Committee on Lands and Natural Resources on 9th January 2013 considered the issues relating to the scheme and recommended that the disputing parties resolve the matter out of court.

The Committee also observed that there has been efforts to have the issues relating to the resettlement of the beneficiaries at the scheme led by the National Land Commission, the County Government of Embu, and local leaders through Alternative Dispute Resolution Mechanisms leading to an agreement that the land in question be shared as follows:

(a) Mbeere – 40 %
(b) Embu – 20 %
(c) Mwea(Kamba) – 30%
(d) Kirinyaga (Kikuyu) – 10%

The Committee further observed that although the beneficiaries of the scheme have been issued with title deeds, they have not been able to access the land.

The Cabinet Secretary, Ministry of Interior and Coordination of National Government in his submission to the Committee committed to resume the resettlement process within ninety (90) days during which the underlying issues will be addressed by the Ministry of Interior and Coordination of National Government.

In response to the prayers by the Petitioners, the Committee recommends that a multi-agency Committee led by the Ministry of Interior and Coordination of National Government, County Government of Embu, Ministry of Lands and Physical Planning does ensure that the beneficiaries of the Mwea Settlement Scheme L.R 26461 FR 317/30 access the land in question within ninety (90) days.

1.0 PREFACE

1.1 Mandate of the Committee

1. The Departmental Committee on Lands is established pursuant to the provisions of Standing Order No. 216 (1) and (5) with the following terms of reference: -

   (i) make reports and recommendations to the House as often as possible, including recommendation of proposed legislation;

   (ii) investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned Ministries and departments;

   (iii) study the programme and policy objectives of Ministries and departments and the effectiveness of the implementation;

   (iv) study, access and analyze the relative success of the Ministries and departments as measured by the results obtained as compared with their stated objectives;

   (v) investigate and inquire into all matters relating to the assigned Ministries and departments as they may deem necessary, and as may be referred to them by the House.

   (vi) study and review all legislation referred to it.

1.2 Committee subjects

2. The Committee is mandated to consider the following subjects:

   a) Lands
   b) Settlement

1.3 Oversight

3. The Committee oversights the Ministry of Lands and Physical Planning; and the National Land Commission.

1.4 Committee Membership

4. The Committee membership comprises: -

Hon. Dr. Rachael Nyamai, MP – **Chairperson**

MP for Kitui South Constituency

Jubilee Party

Hon. Khatib Mwashetani, MP – **V/Chairperson**

MP for Lunga Lunga Constituency

Jubilee Party

Hon. Jayne Wanjiru Kihara, MP

Member for Naivasha Constituency

Jubilee Party

Hon Joshua Kutuny Serem, MP

Member for Cherangany Constituency

Jubilee Party

Hon. Kimani Ngunjiri, MP

Member for Bahati Constituency

Jubilee Party

Hon. Mishi Mboko, MP

Member for Likoni Constituency

Orange Democratic Movement (ODM)

Hon. Omar Mwinyi, MP

Member for Changamwe Constituency

Orange Democratic Movement (ODM)

Hon. Ali Mbogo, MP

Member for Kisauni Constituency

Wiper Democratic Movement (WDM)

Hon. Babu Owino, MP

Member for Embakasi East Constituency

Orange Democratic Movement (ODM)

Hon. Caleb Kipkemei Kositany, MP

Member for Soy Constituency

Jubilee Party

Hon. Catherine Waruguru, MP

Member for Laikipia County

Jubilee Party

Hon George Aladwa, MP

Member for Makadara Constituency

Orange Democratic Movement (ODM)

Hon George Risa Sunkuyia, MP

Member for Kajiado West Constituency

Jubilee Party

Hon. Jane Wanjuki Njiru, MP

Member for Embu County

Jubilee Party

Hon. Josphat Gichunge Kabeabea, MP

Member for Tigania East Constituency

Party of National Unity (PNU)

Hon. Owen Yaa Baya, MP

Member for Kilifi North Constituency

Orange Democratic Movement (ODM)

Hon. Samuel Kinuthia Gachobe, MP

Member for Subukia Constituency

Jubilee Party

Hon. Simon Nganga Kingara, MP

Member for Ruiru Constituency

Jubilee Party

Hon. Teddy Mwambire, MP

Member for Ganze Constitueny

Orange Democratic Movement (ODM)

1.5 Committee Secretariat

5. The Committee secretariat comprises: -

Lead Clerk
Mr. Leonard Machira
Clerk Assistant I

Mr. Ahmad Guliye
Clerk Assistant III

Mr. Adan Abdi
Fiscal Analyst III

Mr. Joseph Tiyan
Researcher III

Ms. Winnie Kizia
Media Relations Officer III

Ms. Jemimah Waigwa
Legal Counsel I

Mr. Nimrod Ochieng
Audio Officer

Ms. Peris Kaburi
Serjeant-At-Arms

2.0 INTRODUCTION

6. The Petition by Mr. Stephen Ngari Njuki, regarding delay in the allocation of land in Mwea Settlement Scheme to the legitimate beneficiaries was conveyed in the House on 20th June 2019 by the Honourable Speaker.

7. The Petitioner wished to draw the attention of the House to the following, that:

    i. The petitioner represented the beneficiaries of Mwea Settlement Scheme LR. No. 26461 FR No.317/30;

    ii. The Member of Parliament for Mbeere South Constituency requested for a statement, on among other things, the allocation of land in Mwea Settlement Scheme in Mbeere South Constituency in Embu County to legitimate beneficiaries;

    iii. In a reply to the request for a statement dated 17th September 2018 the Cabinet Secretary, Ministry of Interior and Coordination of National Government undertook to fast track and resume the resettlement process within ninety (90) days.

    iv. All pending cases opposing the resettlement of persons in the scheme had been disposed;

    v. To date the beneficiaries of the scheme are yet to be resettled despite the undertaking by the relevant Cabinet Secretaries;

    vi. Efforts to have the matters raised in the petition addressed by the relevant bodies have been futile; and

    vii. The matters raised in the petition were not pending in any court of law in Kenya.

8. Therefore, the petitioners pray that the National Assembly through the relevant Departmental Committee;
    i. Investigate and inquire into all maters raised in the petition

3.0 Submissions

3.1 Submissions by the Petitioner

9. The Committee held a meeting with Mr. Stephen Ngari Njuki, the petitioner on 22nd August 2019. During the meeting the petitioner, accompanied by three beneficiaries of Mwea Settlement Scheme, informed the Committee, that;

10. The petitioner owns land parcel No. Embu/Mwea Scheme /2809, which is part of the Mwea Settlement Scheme;

11. The National Land Commission, County Government of Embu and local leaders through Alternative Dispute Resolution Mechanisms agreed that the land in the Scheme be shared among the communities involved as follows:

    i. Mbeere – 40 %
    ii. Embu – 20 %
    iii. Mwea (Kamba) – 30%
    iv. Krinyaga (Kikuyu) – 10%

12. Although the beneficiaries of the scheme have been issued with title deeds they are not been able to access the land due to opposition by persons occupying and benefitting from the land , who use hired youth to cause violence and deny the petitioner and other beneficiaries access to the said land

13. The beneficiaries, through Hon. Geoffrey King'ang'i, MP sought a statement on 26th July 2018 from the Cabinet Secretaries, Ministry of Interior & Coordination of National Government and Lands & Physical -Planning on the status of the allocation. The Cabinet Secretary, Ministry of Interior and Coordination of National Government in his response, committed to resume the resettlement process within ninety (90) days during which the underlying issues would be addressed.

14. The Cabinet Secretary, Ministry of Interior & Coordination of National Government promised to resume the settlement programme within 90 days. However, the exercise had not resumed to date.

15. All court cases on the land in question had been long settled and there was no pending appeal relating to the matter. The petitioner highlighted the said cases as follows:

    i. **Petition ELC No 2 of 2016:** The petitioner stated the petition was dismissed and that the court had declared the demarcation, alienation and allocation of land in the scheme was regular, legal and constitutional; and

    ii. **Petition ELC No 3 of 2016**: The petitioner stated that the court ruled on the matter of those who were violently opposed to the process and determined that the Constitution protects those with vested interest and not those with anticipatory interest whether genuine or otherwise.

3.2 Submissions by the Cabinet Secretary Ministry of Lands and Physical Planning

16. The Committee held a meeting with the Chief Administrative Secretary, Ministry of Lands and Physical Planning on 10th September 2019. During the meeting the Chief Administrative Secretary informed the Committee that the Mwea Settlement Scheme was established on LR. No. 26461(F. R . No. 317 /30) and it measures approximately 17, 830.6 Hectares.

17. **Resettlement programme:** The resettlement programme had been suspended since 2011 due to the issues raised by the Embu/Mbeere Welfare Association in High Court petition No.7 of 2011.

18. However, following the intervention of National Assembly Departmental Committee on Lands and Natural Resources on 9th January 2013, which recommended that the disputing parties resolve the matter out of court. The parties involved agreed to share the land as follows:

    i. Mbeere Community – 40 %
    ii. Kamba – 30%
    iii. Embu Community – 20 %
    iv. Kirinyaga Community – 10%

19. Planning and survey were undertaken in 2016 by the County Government of Embu in conjunction with the National Land Commission. The survey realized 7,232 plots. Subsequently 6292 title deeds have been issued to the beneficiaries. The remaining 940 title deeds are at the Siakago Land Registry.

20. Each community was also required to identify beneficiaries and submit a list on the same to the National Land Commission. The Commission and the County Government of Embu then proceeded to plan and survey the land in 2014.

21. The Kirinyaga County Government obtained Conservatory Orders restraining the Ministry of Lands and Physical Planning from the issuing title deeds. The said orders were vacated by the High Court on 26th August 2016 paving way for the issuance of title deeds.

22. **Disputes resulting from showing of plots:** Several disputes arose during the showing of plots in 2018 leading to the disruption of security and halting of the resettlement programmee. By then 3,641 beneficiaries had already been shown their plots. The said disputes mainly arose due to the following issues;

    i. Some people or groups claimed that they were not consulted during the allocation;
    ii. Others claimed that they were left out during the allocation, yet they had already settled on the land at the time;
    iii. Claims that nonlocals were allocated land; and
    iv. Allegations that some beneficiaries were allocated large parcels of land and multiple parcels.

23. The Ministry recommended that a multi-agency committee comprising the County Governments of Embu, Kirinyaga, Ministry of Lands and Physical planning , the National Land Commission , Ministry of Interior and Coordination of National Government , local leadership and representatives of various squatter communities should be established to chart a way forward on the outstanding issues.

3.3 Submissions by the Cabinet Secretary, Ministry of Interior and Coordination of National Government

24. The Cabinet Secretary, Ministry of Interior and Coordination of National Government through written submissions dated 17th September 2019 and 18th September 2019 informed the Committee that:

25. The land in question LR No. 26461 FR No. 317/30 measuring approximately 17,830.6 Ha is in Makima Location, Makima Division, Mbeere South Sub - County in Embu County. The administration of the scheme had met opposition, including court cases from interested communities dating back to the 1970s.

26. Consequently, the government established various task forces and commission to address the matter. These included;

    a) Akello Taskforce of 1990
    b) J. Chesoni Commission of 1995
    c) Twang'a Verification Task Force of 2001

27. In addition, the National Assembly Departmental Committee on Lands and Natural Resources resolved ion 9th January 2013 that adjudication of the Scheme be undertaken, and all court case be expedited.

28. **Alternative Dispute Resolution Mechanisms**: The National Land Commission, County Government of Embu, local leaders also initiated Alternative Dispute Resolution Mechanisms. During the said exercise each community nominated 30 elders who participated in negotiation that agreed that the land be shared as follows:

    a) Mbeere – 40 %
    b) Embu – 20 %
    c) Mwea (Kamba) – 30%
    d) Kirinyaga (Kikuyu) – 10%

29. Each group also agreed to submit a list of beneficiaries, the acreages per beneficiary and identified plots for public utilities to the National Land Commission. The Commission formed a committee to harmonize the said list in consultation with the respective communities. The Ministry of Interior also supported the exercise through the identification of households in the Scheme.

30. A notice of intention to plan was issued on 8th April 2014 and a survey plan was prepared by the National Land Commission and the County Government of Embu as per the agreement with the elders. Consent orders were also entered to by the parties as per the agreement of the elders and subsequently orders were issued to withdraw cases.

31. **Court cases**: However, the Kirinyaga County Government obtained Conservatory Orders on the issuance of title deeds. The said orders were vacated by the High Court on 26th August 2016 paving way for the issuance of title deeds. 90% of the said titles have been issued to the beneficiaries.

32. The Kirinyaga County Government filed another suit halting the process of issuing the title deeds. The County Government was granted Conservatory Orders which were shortly vacated on 6th December 2016. Allowing the County Government to establish all boundaries (beacons) for each parcel and embarked on the resettlement program.

33. The County Government of Kirinyaga had since filed an appeal at the Nyeri Court of Appeal No. 56 of 2019 against the County Government of Embu, which is yet to be determined.

34. On 18th March 2018 a group of youths stoned and shot police officers providing security during the resettlement exercise and injured one police officer while five youths also sustained injuries as a result the Ministry of Interior directed that the resettlement be halted to avert further loss of lives and property.

35. The Cabinet Secretary recommended that the resettlement may only resume if the concerns that led to the conflict are amicably resolved by the relevant bodies being the Ministry of Lands and Physical Planning, the County Government of Embu and National Land Commission.

4.0 OBSERVATIONS

The Committee made the following observations:

1. The land in question LR No. 26461 FR No. 317/30 measuring approximately 17,830.6 Ha. is in Makima Location, Makima Division, Mbeere South Sub - County in Embu County.

2. The conflict regarding the administration of the scheme dates back to the 1970 and the relevant agencies have not been able to address the issue of resettlement of the beneficiaries, despite the establishment of various Commissions and Taskforces including the Akello Taskforce of 1990, J. Chesoni Commission of 1995 and Twang'a Verification Task Force of 2001. Further, the National Assembly Departmental Committee on Lands and Natural Resources on 9th January 2013 considered the issues relating to the scheme and recommended that the disputing parties resolve the matter out of court.

3. There has been efforts to have the issues relating to the resettlement of the beneficiaries at the scheme led by the National Land Commission, the County Government of Embu, and local leaders through Alternative Dispute Resolution Mechanisms leading to an agreement that the land in question be shared as follows:
   (e) Mbeere – 40 %
   (f) Embu – 20 %
   (g) Mwea(Kamba) – 30%
   (h) Kirinyaga (Kikuyu) – 10%

4. The submissions made to the Committee by the Ministry of Lands and Physical Planning indicated that 6292 title deeds have been issued to the beneficiaries out of the 7,232 titles for the Scheme. The remaining 940 title deeds are at the Siakago Land Registry.
5. Although the beneficiaries of the scheme have been issued with title deeds, they have not been able to access the land.

6. The issues relating to allocation of land to beneficiaries at the Mwea Scheme have been subject to several court cases including Petition ELC No. 2 of 2016 in which the court declared that the demarcation, alienation and allocation of land in the scheme was legal.

7. Although the Cabinet Secretary, Ministry of Interior and Coordination of National Government in his submission to the Committee committed to resume the resettlement process within ninety (90) days during which the underlying issues will be addressed by the Ministry of Interior and Coordination of National Government. The resettlement of legitimate beneficiaries in Mwea Settlement Scheme had not resumed to date.

5.0 COMMITTEE RECOMMENDATIONS

In response to the prayers by the Petitioners, the Committee recommends that a multi-agency Committee led by the Ministry of Interior and Coordination of National Government, County Government of Embu, Ministry of Lands and Physical Planning does ensure that the beneficiaries of the Mwea Settlement Scheme L.R 26461 FR 317/30 access the land in question within ninety (90) days.

Signed.....**Date**.....4/12/19

Hon. Dr. Rachael Kaki Nyamai, MP

Chairperson, Departmental Committee on Lands

NATIONAL ASSEMBLY

CLERK'S CHAMBERS

DEPARTMENTAL COMMITTEE ON LANDS

MEMBERS ADOPTION LIST

Report on the Consideration of a Petition by Mr. Stephen Ngari Njuki regarding delay in allocation of land in Dhiwa Settlement Scheme to the legitimate beneficiaries

DATE: 03/12/2014

NO	NAME	SIGNATURE
1.	Hon. Dr. Rachael Nyamai, MP - **Chairperson**	
2.	Hon. Khatib Mwashetani, MP - **Vice Chairperson**	
3.	Hon. Jayne Wanjiru Kihara, MP	
4.	Hon. Joshua Kutuny Serem, MP	
5.	Hon. Kimani Ngunjiri, MP	
6.	Hon. Mishi Mboko, MP	
7.	Hon. Omar Mwinyi Shimbwa, MP	
8.	Hon. Ali Mbogo, MP	
9.	Hon. Babu Owino, MP	
10.	Hon. Caleb Kipkemei Kositany, MP	
11.	Hon. Catherine Waruguru, MP	
12.	Hon. George Aladwa, MP	
13.	Hon. George Risa Sunkuyia,MP	
14.	Hon. Jane Wanjuki Njiru,MP	
15.	Hon. Josphat Gichunge Kabeabea, MP	
16.	Hon. Owen Yaa Baya, MP	
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