

**COUNTY ASSEMBLY OF SAMBURU**



**THE HANSARD**

**Tuesday, 4<sup>th</sup> August, 2020**

**The Assembly met at the County Assembly chambers at 2:30 p.m.**

*Temporary Speaker, (Hon. Peter Lempei) in the Chair*

**PRAYER**

**COMMUNICATION FROM THE CHAIR**

**Temporary Speaker,** (Hon. Peter Lempei): Honourable Members. Welcome back after a short break that you were privileged to go and interact with electorates and to also pick very important issues that come from the public.

We are certain that as we get back to the session, we are content on issues that we need to bring forward for us to do legislation and carry out our mandate. Honourable Members, I am certain you have got a lot of business that we intend to undertake and it is going to be a long very session again with all the activities that we have in the Wards in terms of Budget making process that is development programs that we have and in terms of other matters that we may accrue.

I think the Hon. Members have had some little rest and that will enable us to proceed on with work. Welcome back, be content and be ready for the work ahead in regard to your mandate. Thank you for resuming back as usual, Thank you.

**PETITIONS**

**Temporary Speaker,** (Hon. Peter Lempei): Hon. Members. subsequent to our Standing Orders, a meant to know have been communicated to my office that indeed we have got a petition from one of the Hon. Members and I welcome the Hon. Member to raise the petition. Hon. Member for Maralal Ward, Hon. Fred Kiragu.

**MCA Maralal Ward,** (Hon. Fred Kiragu): Thank you Hon. Speaker. Under Article 185 and 195 of the Constitution of Kenya, section 15 of the County Government Act and Standing Orders number 202, 203, 204, 205, 208 and 209 of County Assembly on allocation of plots at Shabaa hills.

We, the undersigned citizens of Kenya representing the large proposed Shabaa Hills Group Ranch and residents of Shabaa hills, the public interest and in the interest of Shabaa hill residents

and Shabaa people in general, we formally lodged this petition before the House concerning the allocation of plots at Shabaa hills and on-going process of picking those plots.

We humbly draw the attention of the House on the following;

- 1) The Constitution of Kenya 2010 reposes all sovereign power to the people of Kenya.
- 2) That Article 27 of the Constitution provides for equality and freedom from discrimination before the law.
- 3) That Article 10 of the Constitution provides for values and principles of Governance that are binding to all persons which includes transparency, human dignity, equity, social justice, inclusiveness, equality, human rights, non-discrimination, integrity, accountability and protection of the marginalized.
- 4) That Article 60 of the Constitution read together with section 4 of Land Acts 2012 provide that Land should be guided by the principles of equitable access to land, participation, transparency and non-discrimination.
- 5) Article 232 of the Constitution of Kenya provide for principle of public service which includes high standard of professional ethics, involvement of people in policy making, transparency and provision to the public of timely and accurate information.
- 6) The people of Kenya have delegated legislative and oversight authority to Parliament and County Assemblies. This delegation is not absolute and can be exercised by the people simultaneously.
- 7) Samburu County is currently undergoing the process of surveying and picking by both the National Government and the County Government surveyors, a process that will lead to issuing of titles.
- 8) That until recently, Shabaa hills residents and the Shabaa people in general has been aware that their properties have been sub-divided, allocated to other people without their knowledge and/or involvement in the process.
- 9) Shabaa is a proposed group ranch with its list of members and land committee. Shabaa proposed group ranch has 509 registered members.

- 10) The proposed group ranch was not registered due to boundaries overlap leading to non-registration. The two issues is lack of definite boundary line between the then map of the Town under the Maralal Town Council and Shabaa group ranch and also between the proposed group ranch and Kirisia Forest.
- 11) The Maralal Town map under the Maralal Town Council was adjusted to include Shabaa hill part of the group ranch without full participation of the people.
- 12) There were complaints by the people that the then Shabaa Councilor and his colleagues convinced the Town Council to reverse the decision, however legal process was not complete. The process remained pending until the County Government came in 2013. The community thanked him and awarded him a gift of plot No. 1 at Shabaa hills measuring about three acres.
- 13) On 15<sup>th</sup> May, 2015 the members of the community had a meeting with the officers from the County Government where there was an agreement that plots at Shabaa hills be allocated to the members of the community as the hills belongs to the people of Shabaa taking into consideration the existing homes and other structures.
- 14) The community was asked to relinquish the ownership of the hill in exchange of the group ranch title deed and the plots at the hill allocated to them. This proposal by the County Government was endorsed by only 89 members of the community despite the fact that Shabaa has more than 7,000 people and had 509 members of the proposed group ranch.
- 15) Shabaa hill is inhabited by the members of the community and some places are unoccupied. The County Government of Samburu surveyed and planned the land without participation of the people, leading to a sub-division of people's properties.
- 16) The plan was done in complete disregard of the existing homes and other structures. Land occupied by over many families over many period of time was sub-divided without their knowledge.
- 17) The plots were allocated to only a few members of the community. Their plots are located in people's homes which have been occupied since independence.

- 18) The members of the community were allocated plots in pairs without their consent and without any application to a plot.
- 19) Majority of plots were sold by brokers to other people who are not members of the community making members of the community squatters.
- 20) Officers at land office allocated many plots to themselves, spouses, colleagues and friends without taking in to consideration that the is Land occupied by the members of the community.
- 21) A County Executive Committee Member responsible for Lands and Physical Planning serving at the time is on record having allocated to the spouse at least 5 times (Plot No.140, 144, 146, 148 and 150. The CEC also allocated her brother and other family members and friends.
- 22) A chief Officer serving at the time allocated to the spouse more than Five times (Plot No. 23, 178, 180 and 158). A Senior Revenue Officer at Land office allocated himself plot No. 154 A and also ensured that his wife is allocated at least 4 times (Plot. Nos. 13, 16, 133, 139)
- 23) Many other Individuals have been allocated Plots more than once most notably and Individual Known as Bebi Lolmunyei and his wife who has been allocated plot for a record 9 times.
- 24) The sizes of plots allocated to these public officers are larger in size compared to those allocated to the few members of the community who were lucky to be allocated because they knew someone or assisted by someone. This is discrimination against members of the community and Shabaa Hill residents.
- 25) These public officers have abused their powers by allocating the land to themselves and their family when there is a clear conflict of interest.
- 26) That the public officers have abused the positions of trust they occupy to disenfranchise members of the community.
- 27) That these officials took advantage of illiteracy to disinherit the community of the land.

28) That majority of the people allocated the land in Shabaa Hill paid land cartels to be allocated the land.

29) This is greed that should be tamed by the honorable members.

30) Former Mayor and Former Nominated MCA was in-charge of the process and he allocated his wife at least three times... (*Interjection by The Temporary Speaker on a point of order*)

**Temporary Speaker**, (Hon. Peter Lempei): I just want to bring you to attention of Standing Order number 208 (5) *a member presenting the petition shall not speak for more than five minutes unless with the permission of the Speaker.*

Owing to the gravity of the matter the permission of the Speaker is granted to you, proceed for more than five minute.

**MCA Maralal Ward**, (Hon. Fred Kiragu): Thank you very much Hon. Speaker for that information and granting of permission. Former Mayor and Former Nominated MCA was in-charge of the process and he allocated his wife at least three times (plots No. 156, 176 and 181) land belonging to his brother without the brother knowledge. He also allocated himself Plots No. 1, 171, 167 and 168. Other MCAs bought the land through him and officers from the land office. He sold the land to many other people.

31) The land was also allocated to all politicians in Samburu County, their relative and other influential people in the county in a manner that is discriminative against the Community and in a manner that makes many members of the community essentially landless and squatters.

32) The biggest beneficiaries are not the people from Shabaa but the employees of the county government and the politicians. The people of Shabaa have lost birthright to the ancestral land.

33) The local people of Shabaa were allocated to people's homes which may cause fights and disruption of public order and peace.

- 34) There were gross errors in allocation of Shabaa Hill where leaders have previously tried to settle the matter unsuccessfully.
- 35) That Shabaa Hill was planned as if the land was unoccupied.
- 36) That plots in Shabaa Hill were never advertised for people to apply, they only advertised regularization of settlement in Shabaa. There was no any application form filled by anyone regarding Shabaa Hill Plots.
- 37) The allocation did not follow the legal process but was done in complete disregard of the due process in order to disadvantage the community in benefit of the land cartels.
- 38) That the allocation as it is, is a threat to peace and security of persons in the community.
- 39) That, residents of Shabaa should be given first priority in the allocation of plots in Shabaa Hill or else the community will be landless.
- 40) That people from elsewhere not from Shabaa were allocated land as ‘Residents’ while indeed they are from Shabaa and have never resided in Shabaa. This unfair to the community that has lot land through land cartels; the land should be given to real resident first.
- 41) That Resident of Shabaa Hill are seeking protection from the County Assembly.
- 42) That, the land cartels discriminated people based on clan when allocating the land making members of other clans landless and destitute.
- 43) That, these issues have been previously raised with County Government Department of Land, Housing and Urban Planning to address the obvious issue of Land allocation of the Shabaa proposed Group Ranch but no agreement has been reached so far. The community is dissatisfied with the department handling of the issue.
- 44) The community has completely lost faith with department capability of handling the issue in a just and impartial manner.
- 45) The County Executive Committee Member for Lands, Housing and Urban Planning has appreciated the fact that there are great injustice (Subdivision of people’s homes, discrimination in plot sizes and pairing two members of the community to own one plot)

in allocation and had since promised to deal with the issue however no steps taken to address the issue.

46) That the issues hereby made in this petition are not pending in any court of law, constitution body or any legal established to adjudicate the mater.

Therefore you're humbly petitioners pray that the County Assembly:

- 1) That this Petition be dealt with immediately with view of the urgency of the matter and seriousness of the issues raised.
- 2) That all allotted plots from number 1 to 414 in Shabaa hill be revoked.
- 3) That a new survey and planning of Shabaa hill be conducted taking into consideration the settlements of the residents of Shabaa community members and other existing structures.
- 4) That all unoccupied land be sub-divided into plots and allocated to the members of the community.
- 5) That the Citizen's right to public participation be upheld in dealing with this issue to avoid conflicts.

That is what your petitioners pray.

Mr. Speaker, I have read this on behalf of 106 petitioners who have signed and included their Identity cards and address details. As the area Member of County Assembly, I wish to table this petition to the House for consideration, thank you Mr. Speaker.

**Temporary Speaker,** (Hon. Peter Lempei): Thank you Hon. Member. Pursuant to Standing Order number 208, a Member having presented a petition shall without question lay the petition on the table of the County Assembly. That is perfectly in order, thank you Hon. Member.

*(Hon. Kiragu lays the petition on the table)*

Hon. Members, Pursuant to Standing Order 209, the Speaker may allow comments, observations or clarifications in relations to a petition presented or reported and such a total shall not exceed 30 minutes.



Any Member who wants to put clarifications and comments but limited to the petition presented by the Hon. Member but limited to the content of the petitions, you are allowed to proceed. Hon. Zamzam Ismail.

**Specially Elected MCA**, (Hon. Zamzam Ismail): Thank you Mr. Speaker sir. I rise to support the petitioners; this is a very serious matter where the community is deprived of their land. People who lived there since they were born are living like squatters.

Mr. Speaker sir, this House is the custodian of this great land and we have to take this matter seriously, when you are in a position to work for people of this great County then you are not in that position to grab and make your people poor by taking their land.

When you look at the petitioners who sat in this House, you see young men and women who are starting their lives and if they do not have homes, where do the children of this County go? These are the future leaders of this County.

I urge this Honourable House that this is weighty and we need serious answers. I support the allocations of all those plots to be revoked. Thank you Mr. Speaker sir.

**MCA Suguta Marmar Ward**, (Hon. Shadrack Lesoipa): Thank you Hon. Speaker. I stand to comment on the issue before the House. But for the purpose of Standing Order number 87 on statement of facts, it is prudent with your wisdom to guide, it would be better that you direct this petition to the relevant Committee for the purposes of investigation and provision of solutions.

**Temporary Speaker**, (Hon. Peter Lempei): Hon. Member, I am privy to that section that allows comments after the report but that is only grounded in our old Standing Orders, our new Standing Orders provides after the presentation of the petition by the Hon. Member, that is under Standing Order number 209. Hon. Lanyasunya Stephanie.

**Specially Elected MCA**, (Hon. Stephanie Lanyasunya): Thank you Hon. Speaker. Mr. Speaker I am this one person who really celebrate when people know their rights. These petitioners came here because they knew their rights.

Hon. Speaker land is very important and a very emotive issue for any community; it is the source of wealth, pride of their heritage and everything. When things are done right from the start then problems like these would not emerge, this shows that this process was not done in a rightful manner.

I am a victim of this quagmire. Hon. Speaker, I was a member of the National Land Commission in Board Samburu County when this process was initiated and I was allocated plot No. 105 A but I did not apply for it, I was told it was just a token for the National Land Commission Board members, but if it turns to be anybody's land or home then am so sorry about that.

For your information Hon. Speaker, I have never gone to see that land, it is very unfortunate...  
*(Interjection by the Temporary Speaker)*

**Temporary Speaker**, (Hon. Peter Lempei): Hon. Member, restrict yourself to the petition.

**Specially Elected MCA**, (Hon. Stephanie Lanyasunya): I support the dissolution of this process, thank you Hon. Speaker.

**Temporary Speaker**, (Hon. Peter Lempei): Thank you Hon. Lanyasunya specially elected. I see there is no much comments. I reiterate that that was a ventilation and clarification of the petition presented by the Hon. Member and that is why I am straight up about how we discuss that because it is restricted to clarification on what the Hon. Member brought forward.

Hon. Adamson Lanyasunya, Member for Loosuk.

**MCA Loosuk Ward**, (Hon. Adamson Lanyasunya): Thank you Hon. Speaker. I stand to comment on the petition. At the moment apart from what we have heard through the petition presentation, it is a touchy subject. I know you know that what we need from henceforth is for the Committee to present all the documents through the Department so that as a House we will be able to deal with the matter objectively.

There is one sentence that was not correct, the said that all the politicians were sold plots. Some of us do not have plots, thank you.

**Temporary Speaker,** (Hon. Peter Lempei): Thank you Hon. Lanyasunya. I know that was sensitive and thank you for clarifying that. Hon. Member, I will not allow any more comments and clarifications.

Hon. Members, Pursuant to Standing Orders this petition is committed to the Committee on Lands, as per Standing Orders number 209 (2) *whenever a petition is committed to a select committee, the Committee shall in not more than 60 calender days from the time of reading the prayer respond to the petitioner by a way of a report addressed to the petitioner or petitioners and laid on the table of the County Assembly and no debate on or in relation to the report shall be allowed but the Speaker may in exceptional circumstances allow comments or observations in relation to the petition for more than 30 days. That Committee is therefore directly appropriately to bring the report before this House within the stipulated time in law.*

Thank you Hon. Members.

Hon. Members, the time being twenty-three minutes past three O'clock and there being no other business this Assembly no adjourns until Tuesday 11<sup>th</sup> August, 2020 at 2:30 Pm.