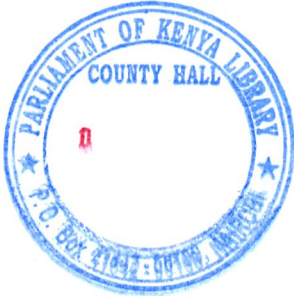


Approved for tabling before the House.

~~By~~ SNA

14/4/2022



REPUBLIC OF KENYA  
THE NATIONAL ASSEMBLY

TWELFTH PARLIAMENT – SIXTH SESSION – 2022

DEPARTMENTAL COMMITTEE ON LANDS


-----  
REPORT ON-

(PUBLIC PETITION No 55 OF 2021)

BY MRS. TERESIA WAMBUI KESI OF DABASO WARD IN KILIFI NORTH  
REGARDING RESTORATION OF LAND BELONGING TO MRS. TERESIA  
WAMBUI KESI

DIRECTORATE OF DEPARTMENTAL COMMITTEES  
CLERK'S CHAMBERS  
PARLIAMENT BUILDINGS  
NAIROBI

APRIL, 2022

|   |   |
|---|---|
| <br>THE NATIONAL ASSEMBLY<br>PAPERS LAID |   |
| DATE: 14 APR 2022   | DAY:<br>THURS.                            |
| TABLED BY:  | HON. RACHEAL NYAMAI, M.P.<br>CHAIR, LANDS |
| CLERK AT THE TABLE:   | CHRISTINE NJIRITU                         |

## Table of Contents

|   |             |
|---|-------------|
| Table of Contents .....   | ii          |
| <b>CHAIRPERSON'S FOREWORD .....</b>   | <b>iii</b>  |
| <b>EXECUTIVE SUMMARY .....</b>  | <b>iv</b>   |
| <b>1.0 PREFACE.....</b>   | <b>vi</b>   |
| <b>1.1 Mandate of the Committee.....</b>  | <b>vi</b>   |
| <b>1.4 Committee Membership.....</b>  | <b>vii</b>  |
| <b>Committee Secretariat.....</b>   | <b>viii</b> |
| <b>2.0 INTRODUCTION .....</b>   | <b>1</b>    |
| <b>3.0 SUBMISSIONS .....</b>  | <b>3</b>    |
| <b>3.1 Submissions by the Petitioners .....</b>   | <b>3</b>    |
| <b>3.2 Submissions by the Cabinet Secretary Ministry of Lands and Physical Planning .....</b> | <b>4</b>    |
| <b>4.0 ISSUES FOR DETERMINATION AS PER THE PRAYERS IN THE PETITION.....</b>                   | <b>6</b>    |
| <b>5.0 COMMITTEE RECOMMENDATION.....</b>  | <b>7</b>    |

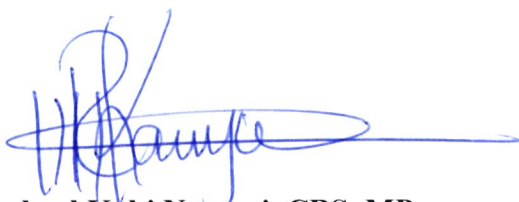
## **CHAIRPERSON'S FOREWORD**

Hon. Owen Baya, MP, conveyed Public Petition No 055 of 2021 by Mrs. Teresia Wambui Kesi of Dabaso Ward in Kilifi North regarding the restoration of land belonging to Mrs. Teresia Wambui Kesi to the House on 14<sup>th</sup> October 2021 on behalf of the Petitioner.

In considering the Petition, the Committee met the Petitioner on 19<sup>th</sup> November 2021 and the Cabinet Secretary, Ministry of Lands and Physical Planning, on Thursday 24<sup>th</sup> February 2022.

The Committee is thankful to the Offices of the Speaker and the Clerk of the National Assembly for the logistical and technical support during its sittings. The Committee is also grateful to the Petitioners, the Cabinet Secretary, Ministry of Lands, and Physical Planning for their submissions to the Committee.

On behalf of the Committee, and under Standing Order 227, it is my pleasant duty to table the Report of the Departmental Committee on Lands on its consideration of Public Petition. No 055 of 2021 by Mrs. Teresia Wambui Kesi of Dabaso Ward in Kilifi North regarding the restoration of land belonging to Mrs. Teresia Wambui Kesi to the House



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



## **EXECUTIVE SUMMARY**

This report responds to the prayers made in Public Petition No 055 of 2021 by Mrs. Teresia Wambui Kesi of Dabaso Ward in Kilifi North regarding the restoration of land belonging to her. The Petitioner prayed that the National Assembly, through the Departmental Committee on Lands:

- a. Establishes why the Ministry of Lands and Physical Planning has not yet acted on the matter despite the clear evidence of fraud in the transfer of ownership.
- b. Secures the invocation of Section 79 (1) and (2) of the Land Registration Act 2012 by the Cabinet Secretary for Lands and Physical Planning to delete the fraudulent entry from the records and reinstate the parcel of land registered as LR.150660 GEDE/KILIFI TITLE NO. CR 32236 to Mrs. Teresia Wambui Kesi.
- c. Makes any other recommendations it deems appropriate in the circumstances of the Petition.

On the prayer seeking, the National Assembly to establish why the Ministry of Lands and Physical Planning has not yet acted on the matter despite the clear evidence of fraud in the transfer of ownership. The Committee observed that the Ministry of Lands and Physical Planning had acted on the matter, as evidenced by the submissions by the Cabinet Secretary Ministry of Lands and Physical Planning, which confirmed that the Land Registrar had invoked the provisions of Section 26 and 79(2) of the Land Registration Act 2012 to delete the fraudulent entry and reinstated Mrs. Kesi as the registered owner.

The Committee also observed that the Registrar notified the Managing Director of Libya Oil Kenya Limited, under which a sublease had been transferred, of the action to reinstate the Petitioner as the registered proprietor.

Regarding the prayer seeking the invocation of Section 79 (1) and (2) of the Land Registration Act 2012 by the Cabinet Secretary for Lands and Physical Planning to delete the fraudulent entry from the records and reinstate the parcel of land registered as LR.159669 GEDE/KILIFI, Title NO. CR 32236 to Mrs. Teresia Wambui Kesi. The Committee observed that the Land Registrar had invoked the provisions of sections 26 and 79(2) of the Land Registration Act 2012 to expunge the fraudulent entry and reinstated Mrs Kesi as the registered owner.

The Committee also observed that based on the Cabinet Secretary Ministry of Lands and Physical Planning submissions, Libya Oil Kenya Limited had protested the action taken vide a letter dated 12th June 2017 through Muthoga Gathuru & Co. Advocates.



However, the Committee observed that although a certificate of postal search dated 18th February 2022 indicated that the parcel of land is currently registered in the name of the Petitioner, with the only encumbrance being the 25 years sublease in favour of Mobil Oil Kenya Limited, in a follow-up meeting with the Committee held on 22nd March 2022 the Registrar of Titles in Mombasa confirmed that the said fraudulent entry had since been deleted from the register as evidenced by a copy of the lease and certificate of postal search dated 18th February 2022. Hence, the prayers of the Petitioner had been settled.

The Committee further observed that the original lease document of the Petitioner's land was still in the custody of Libya Oil Kenya Limited.

Pursuant to the provisions of Standing Order 227 and further noting that the prayers of the Petitioner had already been settled, the Committee recommends that the Land Registrar in the Ministry of Lands and Physical Planning does recall the original lease document on L.R 150660 from Libya Oil Kenya Limited and surrender it to the Petitioner within sixty days of the tabling of this Report.

## **1.0 PREFACE**

### **1.1 Mandate of the Committee**

2. The Departmental Committee on Lands is established under 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 the guidance 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 analyse the relative success of the Ministries and departments as measured by the results obtained compared with their stated objectives.
- (v) investigate and inquire into all matters relating to the assigned Ministries and Departments as they deem necessary and or referred to them by the House.
- (vi) study and review all legislation referred to it.

### **1.2 Committee subjects**

3. The Committee is mandated to consider the following subjects:
- a) Lands
  - b) Settlement

### **1.3 Oversight**

4. The Committee oversees the Ministry of Lands and Physical Planning and the National Land Commission.

## 1.4 Committee Membership

5. The Committee membership comprises:

### **Chairperson**

Hon. Dr Rachael Nyamai, CBS, MP  
Kitui South Constituency

### **Jubilee Party**

### **Vice-Chairperson**

Hon. Mishi Mboko, MP  
Likoni Constituency

### **Orange Democratic Movement (ODM)**

Hon. Benjamin Washiali, CBS, MP  
Mumias East Constituency

### **Jubilee Party**

Hon Joshua Kutuny Serem, MP  
Cherangany Constituency

### **Jubilee Party**

Hon. Omar Mwinyi, MP  
Changamwe Constituency

### **Orange Democratic Movement (ODM)**

Hon. William Kisang, MP  
Marakwet West Constituency

### **Jubilee Party**

Hon. Ahmed Kolosh, MP  
Wajir West Constituency

### **Jubilee Party**

Hon. Ali Mbogo, MP  
Kisauni Constituency

### **Wiper Democratic Movement (WDM)**

Hon. Babu Owino, MP  
Embakasi East Constituency

### **Orange Democratic Movement (ODM)**

Hon. Caleb Kipkemei Kositany, MP  
Soy Constituency

### **Jubilee Party**

Hon George Aladwa, MP  
Makadara Constituency

### **Orange Democratic Movement (ODM)**

Hon George Risa Sunkuyia, MP  
Kajiado West Constituency

### **Jubilee Party**

Hon. John Muchiri Nyaga, MP  
Manyatta Constituency

### **Jubilee Party**

Hon. Josphat Gichunge Kabeabea, MP  
Tigania East Constituency

### **Party of National Unity (PNU)**

Hon. Lilian Tomitom, MP  
West Pokot County

### **Jubilee Party**

Hon. Owen Yaa Baya, MP  
Kilifi North Constituency

### **Orange Democratic Movement (ODM)**

Hon. Patrick Munene Ntwiga, MP  
Chuka/Igambangombe Constituency

### **Jubilee Party**

Hon. Samuel Kinuthia Gachobe, MP  
Subukia Constituency

### **Jubilee Party**

Hon. Teddy Mwambire, MP  
Ganze Constituency

### **Orange Democratic Movement (ODM)**



## 1.5 Committee Secretariat

6. The Committee secretariat comprises:

### **Lead Clerk**

Mr. Leonard Machira

### **Senior Clerk Assistant**

Mr. Ahmad Guliye

**Clerk Assistant II**

Ms. Jemimah Waigwa

**Legal Counsel I**

Mr. Collins Namulen

**Fiscal Analyst III**

Dr Kefa Omoti

**Principal Researcher Officer**

Mr. Joseph Okongo

**Media Relations Officer**

## 2.0 INTRODUCTION

7. Hon. Owen Baya, MP, conveyed Public Petition No 055 of 2021 by Mrs Teresia Wambui Kesi of Dabaso Ward in Kilifi North of Kirimun in Samburu and Laikipia Counties regarding the restoration of land belonging to Mrs Teresia Wambui Kesi to the House on 14<sup>th</sup> October 2021 on behalf of the Petitioner.
8. The Petitioner stated she acquired a parcel of land registered as LR.150660 GEDE/KILIFI TITLE NO. CR 32236 in 1987 under a 99 – year lease.
9. She subleased the land to Esso (Kenya Limited for 25 years, commencing from 1<sup>st</sup> February 1999 at the cost of Ksh. 1.5 million. Esso (Kenya Limited was sold in 1999, and it changed its name to Mobil Kenya Limited. Libya Oil also acquired the latter (Kenya Limited. Mrs Kesi then signed a sale agreement with the new proprietors, Libya Oil (Kenya Limited, assuming it to be for the existing lease.
10. Esso (Kenya) Limited held the lease title for the parcel of land to enable the firm to construct a petrol station on the site. The lease is still in the custody of the successor firm Oil Libya (Kenya) Limited.
11. When she realized that Libya Oil (Kenya) Limited had shortchanged her by reducing the agreed sale price from Ksh. 7.5 million to 3.8 million, and the land was to be sold to the firm before the expiry of 25 years; she changed her mind and declined to sell the land.
12. Despite declining to sign the transfer of lease, she later learnt from the Mombasa Land Registry that an irregular transfer had already been effected to Libya Oil (Kenya) Limited without her knowledge through a forged signature indicating her as the transferor.
13. Following her complaint, the Land Registrar Mombasa issued a Notice dated 4<sup>th</sup> May 2017 requiring Oil Libya Kenya Limited to have Mrs Kesi reinstated as the registered owner of the land in question, but the firm ignored the notice.
14. On 23<sup>rd</sup> March 2021, the Director of Public Prosecutions also recommended that the title deed be reinstated to Mrs Kesi, but the directive has not been implemented.
15. The efforts made by the Petitioner to have the said matter addressed by the relevant authorities has not yielded any fruits.
16. The Petitioner also stated that the issues regarding which this Petition is made are not pending before any court of law or other constitutional or legal body.
17. The Petitioner prayed that the National Assembly, through the Departmental Committee on Lands:

- a. Establishes why the Ministry of Lands and Physical Planning has not yet acted on the matter despite the clear evidence of fraud in the transfer of ownership.
- b. Secure the invocation of Section 79 (1) and (2) of the Land Registration Act 2012 by the Cabinet Secretary for Lands and Physical Planning to delete the fraudulent entry from the records and reinstate the parcel of land registered as LR.150660 GEDE/KILIFI TITLE NO. CR 32236 to Mrs. Teresia Wambui Kesi.
- c. Makes any other recommendations it deems appropriate in the circumstances of the Petition



### **3.0 SUBMISSIONS**

#### **3.1 Submissions by the Petitioners**

18. The Committee met the Petitioner on 19<sup>th</sup> November 2021. During the Meeting, the Petitioner informed the Committee as follows:
19. She acquired a parcel of land registered as LR. No. 150660 GEDE/KILIFI, Title No. CR. 32236 in 1987 under a 99 – year lease.
20. Esso (Kenya Limited leased the land for 25 years on 1<sup>st</sup> February 1999 at the cost of Ksh. 1.5 million. The Company took the original title/ lease document for the land to facilitate the construction of a petrol station. She was initially allowed to run the aid petrol station.
21. Esso (Kenya Limited was sold in 1999, and it changed its name to Mobil Kenya Limited. Libya Oil Kenya Limited later acquired the latter.
22. Libya Oil Kenya Limited approached Mrs Kesi seeking to buy the parcel of land. She agreed to sell the land to the new proprietors at Ksh. 30 million.
23. She later realized that Libya Oil (Kenya) Limited had shortchanged her by reducing the agreed sale price to 3.5 million. She changed her mind and declined to sell the land.
24. Libya Oil (Kenya) Limited representatives ted informed her that the company had already transferred the land. Upon checking, she established that an irregular transfer had already been effected to Libya Oil (Kenya) Limited without her knowledge through a forged signature indicating her as the transferor.
25. The Petitioner complained to the Directorate of Criminal Investigations in Kilifi and was referred to the Directorate office in Malindi. The matter was then investigated, and the Directorate of Criminal Investigations established that the petitioner’s signature, which was appended to the transfer documents, was forged. Consequently, the office recommended to the Land Registrar, Mombasa, that the fraudulent entry on the lease document be deleted, and Mrs. Kesi be reinstated as the registered owner of the land in question.
26. Land Registrar Mombasa issued a Notice dated 4<sup>th</sup> May 2017 requiring Oil Libya Kenya Limited to have Mrs. Kesi reinstated as the registered owner of the land in question, but the firm ignored the notice.

27. On 23<sup>rd</sup> March 2021, the Director of Public Prosecutions also recommended that the title deed be reinstated to Mrs. Kesi,
28. Despite the recommendation made by the Directorate of Criminal Investigations and the Director of Public Prosecution that the title deed is reinstated to Mrs. Kesi, the directive has not been implemented.
29. She requested the Committee to intervene to have the Land Registrar, Mombasa, reinstate her as the registered owner of the parcel of land, LR.150660 GEDE/KILIFI TITLE NO. CR 32236.

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

30. The Committee met the Cabinet Secretary, Ministry of Lands and Physical Planning on 9<sup>th</sup> March 2022. The Cabinet Secretary informed the Committee as follows:
31. The parcel LR. No. 15066/2 (C.R. No. 32236) measuring 0.1164 Hectares in Malindi Municipality was registered in the name of Teresia Wambui Kesi on 1<sup>st</sup> July 1999 by virtue of a Grant from the Government for a term of 99 years with effect from 1<sup>st</sup> February 1987.
32. A sublease in favour of Mobil Oil Kenya Limited was registered on 1<sup>st</sup> July 1999, as an encumbrance on the title for 25 years from 1<sup>st</sup> February 1999.
33. A transfer document dated 7<sup>th</sup> May 2009 transferring the parcel to Libya Oil Kenya Limited for a consideration of Ksh. 5,200,0000 was booked for registration on 22<sup>nd</sup> December 2011.
34. Mrs. Kesi, through her advocates Kithi & Company Advocates, complained to the Mombasa Land Registrar vide a letter Ref. MS/TW/063/2016 dated 22<sup>nd</sup> March 2017 alleging that the said transfer was fraudulent.
35. The Director of Criminal Investigations investigated the allegations of fraud and established that the signatures of Mrs Kesi were forged.
36. Consequently, the Land Registrar invoked the provisions of Sections 26 and 79 (2) of the land Registration Act 2012 to expunge the fraudulent entry and reinstated Mrs Kesi as the registered owner.

37. The Registrar also notified the Managing Director of Libya Kenya Limited of the action to reinstate Mrs Kesi as the registered proprietor. Libya Oil Kenya Limited protested the action taken vide a letter dated 12<sup>th</sup> June 2017 through Muthoga Gathuru & Co. Advocates.
38. A certificate of postal search dated 18<sup>th</sup> February 2022 indicated that the parcel of land is currently registered in the name of Teresia Wambui Kesi, with the only encumbrance being the 25 years sublease in favour of Mobil Oil Kenya Limited.
39. In a follow-up meeting with the Committee held on 22<sup>nd</sup> March 2022, the Registrar of Titles Mombasa confirmed that the said fraudulent entry was deleted from the register as evidenced by a copy of the lease and certificate of postal search dated 18<sup>th</sup> February 2022. However, the original lease document was held by Libya Oil Kenya Limited. The Petitioner can pursue the matter lease through a court process.



#### **4.0 ISSUES FOR DETERMINATION AS PER THE PRAYERS IN THE PETITION**

- a. The National Assembly establishes why the Ministry of Lands and Physical Planning has not yet acted on the matter despite the clear evidence of fraud in the transfer of ownership.**

Regarding this prayer, the Committee observed that the Ministry of Lands and Physical Planning had acted on the matter, as evidenced by the submissions by the Cabinet Secretary Ministry of Lands and Physical Planning, which confirmed that the Land Registrar had invoked the provisions of Section 26 and 79(2) of the Land Registration Act 2012 to expunge the fraudulent entry and reinstated Mrs Kesi as the registered owner.

The Committee also observed that the Registrar had also notified the Managing Director of Libya Oil Kenya Limited, under which a sublease had been transferred, of the action to reinstate the Petitioner as the registered proprietor.

- b. Secure the invocation of Section 79 (1) and (2) of the Land Registration Act 2012 by the Cabinet Secretary for Lands and Physical Planning to delete the fraudulent entry from the records and reinstate the parcel of land registered as LR.159669 GEDE/KILIFI Title NO. CR 32236 to Mrs. Teresia Wambui Kesi**

Regarding this prayer, the Committee observed that the Land Registrar had invoked the provisions of sections 26 and 79(2) of the Land Registration Act 2012 to expunge the fraudulent entry and reinstated Mrs Kesi as the registered owner.

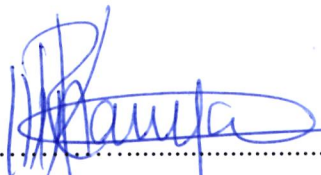
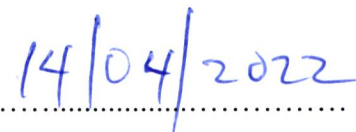
The Committee also observed that based on the Cabinet Secretary Ministry of Lands and Physical Planning submissions, Libya Oil Kenya Limited had protested the action taken vide a letter dated 12th June 2017 through Muthoga Gathuru & Co. Advocates.

However, the Committee observed that although a certificate of postal search dated 18th February 2022 indicated that the parcel of land is currently registered in the name of the Petitioner, with the only encumbrance being the 25 years sublease in favour of Mobil Oil Kenya Limited, in a follow-up meeting with the Committee held on 22nd March 2022 the Registrar of Titles in Mombasa confirmed that the said fraudulent entry had since been deleted from the register as evidenced by a copy of the lease and certificate of postal search dated 18th February 2022. Hence, the prayers of the Petitioner had been settled.

The Committee, however, observed that the original lease document of the Petitioner's land was still in the custody of Libya Oil Kenya Limited.

## 5.0 COMMITTEE RECOMMENDATION

Pursuant to the provisions of Standing Order 227 and further noting that the prayers of the Petitioner had already been settled, the Committee recommends that the Land Registrar in the Ministry of Lands and Physical Planning does recall the original lease document for L.R 150660 from Libya Oil Kenya Limited and surrender it to the Petitioner within sixty days of the tabling of this Report.

Signed.......... Date..........

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



REPUBLIC OF KENYA  
KENYA NATIONAL ASSEMBLY  
TWELFTH PARLIAMENT

DEPARTMENTAL COMMITTEE ON LANDS

*Adoption List*

REPORT ON THE PUBLIC PETITION NO. 055 BY HON OWEN BAYA, MP ON BEHALF OF MRS TERESIA WAMBUI KESI REGARDING RESTORATION OF LAND BELONGING TO MRS TERESIA WAMBUI KESI

Date: 07/04/2022

|     | NAMES  | SIGNATURE |
|-----|--|-----------|
| 1.  | Hon. Dr. Rachael Nyamai, CBS, MP -<br><b>Chairperson</b> |           |
| 2.  | Hon. Mishi Mboko, CBS, MP<br><b>V/Chairperson</b>        |           |
| 3.  | Hon. Benjamin Washiali, CBS MP                           | Virtually |
| 4.  | Hon. Joshua Kutuny Serem, MP                             |           |
| 5.  | Hon. Omar Mwinyi Shimbwa, MP                             |           |
| 6.  | Hon. William Kisang, MP                                  | Virtually |
| 7.  | Hon. Ahmed Kolosh, MP                                    |           |
| 8.  | Hon. Ali Mbogo, MP                                       |           |
| 9.  | Hon. Babu Owino, MP                                      |           |
| 10. | Hon. Caleb Kipkemei Kositany, MP                         | Virtually |
| 11. | Hon. George Aladwa, MP                                   |           |
| 12. | Hon. George Risa Sunkuyia, MP                            |           |
| 13. | Hon. John Muchiri Nyaga, MP                              |           |
| 14. | Hon. Josphat Gichunge Kabeabea, MP                       |           |
| 15. | Hon. Lilian Tomitom, MP                                  |           |
| 16. | Hon. Owen Yaa Baya, MP                                   |           |
| 17. | Hon. Patrick Munene Ntwiga MP                            |           |
| 18. | Hon. Samuel Kinuthia Gachobe, MP                         | Virtually |
| 19. | Hon. Teddy Mwambire, MP                                  |           |



**MINUTES OF THE 19<sup>TH</sup> SITTING OF THE DEPARTMENTAL COMMITTEE ON LANDS HELD ON THURSDAY, 7<sup>TH</sup> APRIL, 2022 AT COMMITTEE ROOM ON 8<sup>TH</sup> FLOOR, UKULIMA SACCO BUILDING, PARLIAMENT BUILDINGS AT NOON**

---

**PRESENT**

1. Hon. Dr. Rachael Nyamai, CBS, M.P - **Chairperson**
2. Hon. Mishi Mboko, CBS, M.P - **Vice-Chairperson**
3. Hon. Benjamin Washiali, CBS, M.P
4. Hon. Omar Mwinyi Shimbwa, M.P
5. Hon. William Kisang, MP
6. Hon. Ali Mbogo, M.P
7. Hon. Caleb Kositany, M.P
8. Hon. George Risa Sunkuyia, M.P
9. Hon. Owen Yaa Baya, M.P
10. Hon. Patrick Munene Ntwiga, MP
11. Hon. Samuel Kinuthia Gachobe, MP
12. Hon. Teddy Mwambire, M.P

**APOLOGIES**

1. Hon. Joshua Kutuny, MP
2. Hon. Ahmed Kolosh, MP
3. Hon. Babu Owino, MP
4. Hon. George Aladwa, M.P
5. Hon. John Muchiri Nyaga, MP
6. Hon. Josphat Gichunge Kabeabea, M.P
7. Hon. Lilian Tomitom, MP

**IN ATTENDANCE**

**THE NATIONAL ASSEMBLY SECRETARIAT**

1. Mr. Leonard Machira - Senior Clerk Assistant
2. Ms. Jemimah Waigwa - Legal Counsel
3. Ahmad Guliye - Second Clerk Assistant
4. Ms. Maureen Kweyu - Audio Officer
5. Ms. Peris Kaburi - Serjeant at Arms

**MIN. NO. NA/DC/LANDS/2022/082: PRELIMINARIES**

The meeting was called to order at seven minutes past noon with a word of prayer.

**MIN. NO. NA/DC/LANDS/2022/083: CONFIRMATION OF MINUTES**

The agenda item was deferred to the next sitting.

**MIN. NO. NA/DC/LANDS/2022/084: ADOPTION OF A REPORT ON THE  
CONSIDRATION OF PUBLIC PETITION NO  
055/2021 3 OF 2021 BY THE HON. OWEN  
BAYA, MP ON BEHALF OF MRS. TERESIA  
WAMBUI KESI REGARDING  
RESTORATION OF LAND BELONGING TO  
MRS. KESI**

The Committee considered the report on the Petition by Hon. Owen Baya, MP, on behalf of Mrs. Teresia Wambui Kesi regarding the restoration of land belonging to Mrs. Kesi. The Committee adopted the report with the following recommendation after it was proposed and seconded by Hon. Ali Mbogo, MP & Hon. George Sunkuyia, MP respectively.

**Recommendation**

Under the provisions of Standing Order 227 and further noting that the prayers of the Petitioner had already been settled, the Committee recommends that the Land Registrar in the Ministry of Lands and Physical Planning does recall the original lease document for L.R 150660 from Libya Oil Kenya Limited and surrender it to the Petitioner within sixty days of the tabling of the report.

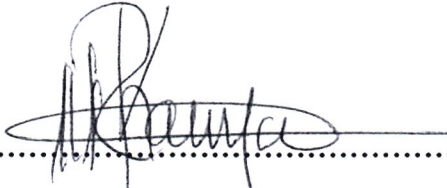
**MIN. NO. NA/DC/LANDS/2022/085: ANY OTHER BUSINESS**

The Committee resolved to:

- i. Hold a treat in Mombasa from 4<sup>th</sup> to 8<sup>th</sup> May 2022 to consider reports on Petitions.
- ii. Request for written submissions from the Ministry of Agriculture, Livestock & Fisheries on Public Petition No. 004 Of 2021 by Magarini Community Landowners regarding the alleged irregular extension of Galana Ranching boundary to facilitate the conclusion of the consideration of the said petition.

**MIN. NO. NA/DC/LANDS/2022/086:      ADJOURNMENT**

There being no other business to discuss, the meeting was adjourned at twenty minutes to one o'clock. The next meeting will be held on notice.

Signature ..... 

**HON. DR. RACHAEL KAKI NYAMAI, CBS, M.P.**

**(Chairperson)**

Date..... 14/04/2022 .....



*Hon. Speaker,  
You may approve.  
Kipkoini*



REPUBLIC OF KENYA

*Approved.  
BWA  
SNA  
14/10/2021*

**TWELFTH PARLIAMENT  
THE NATIONAL ASSEMBLY - FIFTH SESSION**

**PUBLIC PETITION**

*(No. 055 of 2021)*

**REGARDING RESTORATION OF LAND BELONGING TO  
MRS. TERESIA WAMBUI KESI**

I, the **UNDERSIGNED**, on behalf of the family of Mrs. Teresia Wambui Kesi of Dabaso Ward in Kilifi North Constituency;

**DRAW** the attention of the House to the following:-

1. **THAT**, Mrs. Teresia Wambui Kesi acquired the parcel of land registered in 1987 as LR.150660 GEDE/KILIFI TITLE NO.CR 32236 under a 99-year lease;
2. **THAT**, she later sub-leased it to Esso (Kenya) Limited for a period of 25years commencing from 1<sup>st</sup> February 1999 at a cost of Ksh. 1.5 million;
3. **THAT**, in 1999, Esso (Kenya) Limited was sold out and had its name changed to Mobil (Kenya) Limited, after which a Sale Agreement was signed by Mrs. Kesi and the new proprietors, namely, Libya Oil (Kenya) Limited, which she assumed was for the existing lease;
4. **THAT**, by then, Esso (Kenya) Limited had taken the lease Title from her to enable them get approval for constructing a petrol station on the site, and the Title Deed is still in the custody of Libya Oil (Kenya) Limited which is now referred to as Oil Libya (Kenya) Limited;
5. **THAT**, upon realizing that she had been short changed by Libya Oil (Kenya) Limited through reduction of sale price from Ksh. 7.5m to Ksh.3.8m, and that the land was to be sold to the firm before expiry of the 25 years sub-lease, Mrs. Kesi changed her mind and declined to sell the land;



**PUBLIC PETITION**

**REGARDING RESTORATION OF LAND BELONGING TO MRS. TERESIA WAMBUI KESI**

6. **THAT**, despite declining to sign the transfer of lease, she was shocked to later learn from the Mombasa Land Registry that an irregular transfer had already been effected to Libya Oil (Kenya) Limited without her knowledge using a forged signature to the effect that she was the transferor;
7. **THAT**, following her complaints, the Registrar at Mombasa Land Registry issued a Notice dated 4<sup>th</sup> May 2017 requiring Oil Libya (Kenya) Limited to have Mrs. Kesi reinstated as the registered owner, but the firm ignored the Notice;
8. **THAT**, the matter was forwarded to the Director of Public Prosecutions who on 23<sup>rd</sup> March 2021 recommended that the Title Deed be reinstated to Mrs. Kesi, but the directive has not yet been effected;
9. **THAT**, efforts by Mrs. Kesi to address this matter with relevant authorities have borne no fruit; and
10. **THAT**, the issues in respect of which this Petition is made are not pending before any court, or any constitutional or legal body.

**NOW THEREFORE** your humble petitioner prays that the National Assembly through the Departmental Committee on Lands:-

- i. establishes the reasons why the Ministry of Lands and Physical Planning has not yet acted on the matter despite the clear evidence of fraud in the transfer of ownership;
- ii. secures the invocation of section 79(1) and (2) of the Land Registration Act, 2012 by the Cabinet Secretary for Lands and Physical Planning in order to expunge the fraudulent entry from the records and reinstate the parcel of land registered as LR.150660 GEDE/KILIFI TITLE NO.CR 32236 to Mrs. Teresia Wambui Kesi, and
- iii. Makes any other recommendations it deems appropriate in the circumstances of the Petition.

And your **PETITIONER** will ever pray.

**PRESENTED BY:**

  
**HON. OWEN BAYA YAA, MP**  
**MEMBER FOR KILIFI NORTH CONSTITUENCY**



**PUBLIC PETITION**  
**REGARDING RESTORATION OF LAND BELONGING TO**  
**MRS. TERESIA WAMBUI KESI**

We attach our signatures in support of this Petition:-

| Name                | I/D Number | Contacts   | Signature |
|---------------------|------------|------------|-----------|
| Peter Sthunber      | 10305835   | 0722976624 |           |
| Allan M. Kahindi    | 2203346    | 0726165929 |           |
| DAVID MASHA NGWA    | 33009852   | 0792235216 |           |
| Katana Kitsao Mbita | 9475483    | 0720806844 |           |
| Joyce Mapezi Katana | 24323901   | 0711892988 |           |
| Mama Wiji           | 3895884    | 0717013142 |           |
| Mama Ciddy          | 2257294    | 0729837828 |           |
| Janet Ndunya Kimidi | 20539555   | 0706732108 |           |
| Musa Galim          | 10831611   | 0722394687 |           |
| Sharon Ongogo       | 34700642   | 0714028261 |           |
| Charly Mwaka        | 30176229   | 0704716626 |           |
| KFOROR OTIENO       | 20861039   | 0724731040 |           |
| Florence Shaka      | 32053425   | 0710855403 |           |
| Charles Njagi       | 20298970   |            |           |
| Antony Mwachai      | 9079955    | 0723046400 |           |
| Omni Khamis Omani   |            |            |           |
| Safari Gogo         |            | 0728133685 |           |
| Nancy Nyagawa       | 25475066   | 0797207243 |           |
| Kesey Karembo       | 35936716   | 0713277321 |           |
| Sally Kadzo Katana  | 25514570   | 0708471597 |           |
| Mageni Rhumba       | 12843123   | 0796849885 |           |
| Mhababu Mwadoni     | 14709187   | 0710660586 |           |
| Elizabeth chano     | 32761966   | 0799474022 |           |
| Janet A. Kahindi    | 9963273    | 0792530795 |           |









**REPUBLIC OF KENYA**

**MINISTRY OF LANDS AND PHYSICAL PLANNING**

---

**RESPONSE TO THE NATIONAL ASSEMBLY DEPARTMENTAL COMMITTEE ON LANDS**

**Honourable Chair,**

Pursuant to a letter Ref. NA/DC/LANDS/2022 (013) dated February 9, 2022, the Committee invited the Cabinet Secretary Ministry of Lands and Physical Planning to respond to Public Petition No. 055 regarding restoration of land belonging to Mrs. Teresia Wambui Kesi of Dabaso Ward, Kilifi North Constituency.

**The Petition**

**Honourable Chair,**

1. The petition was presented by Hon. Owen Baya, MP on behalf of the family of Mrs. Teresia Wambui Kesi of Dabaso Ward, Kilifi North Constituency. According to the petition, Mrs. Kesi acquired land parcel L.R No. 150660 registered as C.R. No. 32236 in 1987 under a 99 year lease term. It is stated that the proprietor subleased the parcel to Esso (Kenya) Limited for a period of 25 years commencing February 1, 1999 at a consideration of Kshs. 1,500,000/= . Esso (Kenya) Limited was later sold off and changed its name to Mobil (Kenya) Limited
2. The petition further states that a sale agreement was signed between Mrs. Kesi and Libya Oil (Kenya) Limited in respect of the lease. It is alleged that at the time of signing the agreement, the title document was in the custody of Esso (Kenya) Limited which was pursuing approval for construction of a petrol station on the parcel. The petition claims that the title document is now in the custody of Libya Oil (Kenya) Limited. It is stated that the land was to be sold to Libya Oil (Kenya) Limited before the expiry of the 25 year sublease but that the parties had not agreed on the purchase price and the proprietor has since changed her mind regarding the sale



3. The petition claims that a fraudulent transfer in favour of Libya Oil (Kenya) Limited was registered using forged documents. The case was investigated by the Director of Public Prosecutions (DPP) and a recommendation was made on March 23, 2017 that the title be restored to Mrs. Kesi. This is yet to be implemented
4. The petition therefore requests the Committee to:
  - i) Establish the reasons why the Ministry of Lands and Physical Planning has not yet acted on the matter despite the clear evidence of fraud in the transfer of ownership
  - ii) Secure the invocation of Section 79(1) and (2) of the Land Registration Act, 2012 by the Cabinet Secretary for Lands and Physical Planning in order to expunge the fraudulent entry of land registered as L.R No. 150660 /Kilifi Title No. CR. 32236 to Mrs. Teresia Wambui Kesi
  - iii) Make any other recommendations it deems appropriate in the circumstances of the petition.

#### **Response**

**Honourable Chair**, I wish to respond as follows:

5. The parcel subject of the petition is L.R. No.15066/2 (C.R. No. 32236) situated in Malindi Municipality, Kilifi County and measures 0.1164 Hectares. According to our records, the parcel was registered in the name of Teresia Wambui Kesi on July 1, 1999 by virtue of a Grant from the Government for a term of 99 years with effect from February 1, 1987. **Annexure 1** is an official search
6. A sublease in favour of Mobil Oil Kenya Limited was registered on the same date (July 1, 1999) as Entry No. 32236/2 as an encumbrance on the title for a term of 25 years from February 1, 1999. **Annexure 2** is a copy of the sublease
7. A transfer document dated May 7, 2009 transferring the parcel to Libya Oil Kenya Limited for a consideration of Kshs. 5,200,000 was booked for registration on December 22, 2011. **Annexure 3** is a copy of the transfer
8. Mrs. Kesi through her advocates Kithi & Company Advocates lodged a complaint at the Mombasa Land Registry vide a letter Ref. MS/TW/063/2016 dated March 22, 2017 (**annexure 4**) alleging that the said transfer was fraudulent
9. Investigations by Director of Criminal Investigations into the allegation of fraud established that signatures of Mrs. Kesi were forged. **Annexure 5** is a copy of the Forensic Report

10. Consequently, the Land Registrar invoked the provisions of Section 26 and Section 79 (2) of the Land Registration Act, 2012 to expunge the fraudulent entry and reinstated Mrs. Kesi as the registered owner
11. The Land Registrar also notified the Managing Director of Libya Oil Kenya Limited of the action taken to reinstate Mrs. Kesi as the registered proprietor. **Annexure 6** is a copy of the letter
12. Libya Oil Kenya Limited protested the action taken vide a letter dated June 12, 2017 from its advocates Muthoga Gaturu & Co. Advocates (**Annexure 7**)

**Honourable Chair,**

13. As per the official search marked **Annexure 1** the land is currently registered in the name of Teresia Wambui Kesi with the only encumbrance being the 25 year sub-lease in favour of Mobil Oil Kenya Limited.

**Honourable Chair,** I submit.

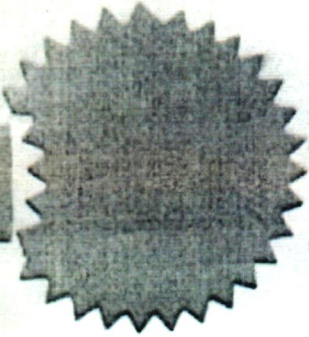


Farida Karney, EGH  
**CABINET SECRETARY**

**March 9, 2022**







REPUBLIC OF KENYA



THE REGISTRATION OF TITLES ACT  
(Chapter 281)

GRANT NUMBER OR

32236

ANNUAL RENT: KShs. 4,815/= (REVISABLE)

TERM: NINETY NINE (99) YEARS FROM 1.2.1987

TYPE 11.00  
D. N. N. 06

So I s.  
e  
24/11

KNOW ALL MEN BY THESE PRESENTS that in pursuance of surrender registered in the Land Titles Registry at Mombasa as C.R. 21865/6 THE PRESIDENT OF THE REPUBLIC OF KENYA hereby Grants Unto TERESIA WAMBUI KESI of MALINDI (Post Office Box Number 5430)

(hereinafter called "the Grantee") All that piece of land situate in Malindi Municipality in Kilifi District containing by measurement nought decimal one one six four (0.1164) of a hectare or thereabouts that is to say L.R. No. 15066/2 which said piece of land with the dimensions abutments and boundaries thereof is delineated on the plan annexed hereto and more particularly on Land Survey Plan Number 197997 deposited in the Survey Records Office at Nairobi

TO HOLD

for the term of ninety nine (99) years from the

first day of February One thousand nine hundred and eighty seven SUBJECT to

- (a) the payment in advance on the first day of January in each year of the annual rent of shillings four thousand eight hundred fifteen (KShs. 4,815/=) (Revisable) with effect from 1.2.1987
- (b) the provisions of the Government Lands Act (Chapter 280) and (c) the following Special Conditions (namely):—

[P.T.O.]



### SPECIAL CONDITIONS

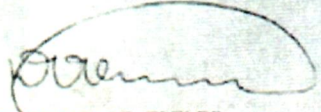
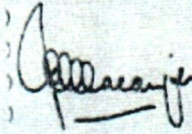
1. ~~No~~ buildings shall be erected on the land nor shall additions or external alterations be made to any buildings otherwise than in conformity with plans and specifications previously approved in writing by the Commissioner of Lands and the Local Authority. The Commissioner shall not give his approval unless he is satisfied that the proposals are such as to develop the land adequately and satisfactorily.
2. The Grantee shall within six calendar months of the actual registration of the Grant submit in triplicate to the Local Authority and the Commissioner of Lands plans (including block plans showing the positions of the buildings and a system of drainage for disposing of sewage surface and sullage water) drawings elevations and specifications of the buildings the Grantee proposes to erect on the land and shall within 24 months of the actual registration of the Grant complete the erection of such buildings and the construction of the drainage system in conformity with such plans drawings elevations and specifications as amended (if such be the case) by the Commissioner PROVIDED that notwithstanding anything to the contrary contained in or implied by the Government Lands Act if default shall be made in the performance or observance of any of the requirements of this condition it shall be lawful for the Commissioner of Lands or any person authorized by him on behalf of the President to re-enter into and upon the land or any part thereof in the name of the whole and thereupon the term hereby created shall cease but without prejudice to any right of action or remedy of the President or the Commissioner of Lands in respect of any antecedent breach of any condition hereinafter contained.
3. The Grantee shall maintain in good and substantial repair and condition all buildings at any time erected on the land.
  4. Should the Grantee give notice in writing to the Commissioner of Lands that she is unable to complete the buildings within the period aforesaid the Commissioner of Lands shall (at the Grantee's expense) accept a surrender of the land comprised herein.
    - (i) Provided further that if such notice as aforesaid shall be given within 12 months of the actual registration of the Grant the Commissioner of Lands shall refund to the Grantee 50 per centum of the stand premium paid in respect of the land, or
    - (ii) At any subsequent time prior to the expiration of the said building period the Commissioner of Lands shall refund to the Grantee 25 per centum of the said stand premium. In the event of notice being given after the expiration of the said building period no refund shall be made.
3. ~~The~~ land and the buildings shall only be used for **Petrol Service Station**
4. ~~The~~ buildings shall not cover a greater area of the land than that prescribed by the Local Authority in its by-laws.
5. ~~The~~ land shall not be used for any purpose which the Commissioner of Lands considers to be dangerous or offensive.
6. ~~The~~ Grantee shall not subdivide the land, without the prior consent in writing of the Commissioner of Lands.
7. ~~The~~ Grantee shall not sell transfer sublet charge or part with the possession of the land or any part thereof or any buildings thereon except with the prior consent in writing of the Commissioner of Lands. No application for such consent (except in respect of a loan required for building purposes) will be considered until special condition No. 2 has been performed.
8. ~~The~~ Grantee shall pay to the Commissioner of Lands on demand such sum as the Commissioner of Lands may estimate to be the proportionate cost of constructing all roads and drains and sewers serving or adjoining the land and the proportionate cost for the supply of both the water and the electric power to the land and shall on completion of such construction and the ascertainment of the actual proportionate cost either pay (within 30 days of demand) or be refunded the amount by which the actual proportionate cost exceeds or falls short of the amount paid as aforesaid.
9. ~~The~~ Grantee shall from time to time pay to the Commissioner of Lands on demand such proportion of the cost of maintaining all roads and drains serving or adjoining the land as the Commissioner may assess.
10. ~~Should~~ the Commissioner of Lands at any time require the said roads to be constructed to a higher standard the Grantee shall pay to the Commissioner on demand such proportion of such construction as the Commissioner may assess.
11. ~~The~~ Grantee shall pay such rates taxes charges duties assessments or outgoings of whatever description as may be imposed charged or assessed by any Government or Local Authority upon the land or the buildings erected thereon including any contribution or other sum paid by the President in lieu thereof.
12. ~~The~~ President or such person or authority as may be appointed for the purpose shall have the right to enter upon the land and lay and have access to water mains service pipes and drains telephone or telegraph wires and electric mains of all descriptions whether overhead or underground and the Grantee shall not erect any buildings in such a way as to cover or interfere with any existing alignments of main or service pipes or telephone or telegraph wires and electric mains.
13. The Commissioner of Lands reserves the right to revise the annual ground rental payable hereunder after the expiration of the thirty third ~~and~~ sixth year of the term hereby granted. Such rental will be at the rate of per cent of the unimproved ~~market~~ <sup>assessed</sup> ~~market~~ <sup>assessed</sup> value of land as assessed by the Commissioner of Lands.
13. ~~The~~ Grantee shall construct at his own expense all internal infrastructure to the standard approved by the Local Authority and the Commissioner of Lands.
14. The Grantee shall comply with the requirements of the provisions of the petroleum Act (Cap. 116) and any amendment thereto of re-enactment thereof for the time being in force and the rules from time to time thereunder.
15. The Grantee shall not erect on the land any boarding placard poster, signs or advertisement except a notice advertising the presence and products of ~~the~~ <sup>the</sup> business.



16. Access and egress arrangements for the site will be in accordance with the requirements of the Ministry of Public Works and Local authority

The amount of the annual rent payable by the lessee shall be determined hereunder at the expiration of every ten years of the term, such amount of rate to be determined by the Commissioner of lands of the unimproved value of the land as at the end of every tenth year of the term.

IN WITNESS WHEREOF I WILSON GACANJA  
the Commissioner of Lands have by order  
of the President hereunto set my hand  
this 24th day of June  
One thousand nine hundred and ninety  
nine in the presence of:

  
REGISTRAR OF TITLES

32236/I  
1st July 1999  
Time: 11:00am  
Registrar

2  
Lease dated 3rd May 1999. To: Mobil  
oil Kenya limited. Term: 25 years from  
1-2-1999 (now past) Rent: Shs 7,605,100K  
for the whole term.  
Registration No. 07 Date of Registration: 1-7-1999 Registrar

THE FOLLOWING INSTRUMENT HAS BEEN REGISTERED AGAINST THE TITLE

3

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Instrument No. \_\_\_\_\_ Date of Registration \_\_\_\_\_

---





REPUBLIC OF KENYA  
THE MATTER OF LAND REGISTRATION ACT NO 3 OF 2012  
IN THE MATTER OF LAND ACT No. 6 OF 2012  
THE REGISTRATION OF TITLES ACT

CAP.281 (REPEALED)

CERTIFICATE OF POSTAL SEARCH AS ON 18<sup>TH</sup> FEBRUARY 2022

PLOT NUMBR: 15066/2 - MALINDI  
TITLE NUMBER: CR 32236  
AREA: 0.1164 HA  
TENURE: LEASEHOLD  
TERM: 99 YEARS  
FROM: 1.2.1987  
RENT: KSHS.4,815/= P.A (REV)

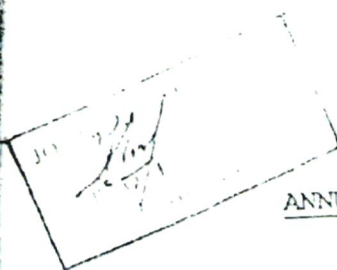
REGISTERED OWNER: **TERESIA WAMBUI KESI**

ENCUMBRANCE: THE PLOT HAS BEEN SUB-LEASED TO MOBIL OIL KENYA LIMITED. TERM: 25 YEARS FROM 1.2.1999 (NOW PAST) RENT: KSHS.7,605,100/= FOR THE WHOLE TERMS.

  
**REGISTRAR OF TITLES**



ANNEXURE 2



REPUBLIC OF KENYA  
REGISTRATION OF TITLES ACT

TITLE NUMBER: C. R. 32236

TERM: 99 YEARS FROM 1.2.1999-

ANNUAL RENT: KSHS.4,815/= (Revisable)

L E A S E

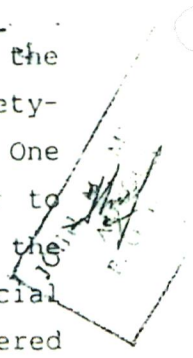
REC 1  
STAMP  
DUTY

31-3-99

THIS LEASE is made the <sup>31<sup>st</sup></sup> day of May One Thousand Nine Hundred and ~~Ninety-Nine~~ B E T W E E N TERESIA WAMBUI KESI of Post Office Box Number Gede via Malindi in the Republic of Kenya (hereinafter called "the Lessor" which expression shall where the context so admits include her personal representatives and assigns) of the one part and MOBIL OIL KENYA LIMITED a limited liability Company having its registered Office at Nairobi in the said Republic and of Post Office Box Number 64900 Nairobi aforesaid (hereinafter called "the Lessee" which expression shall where the context so admits include its successors and assigns) of the other part.

W H E R E A S

(a) The Lessor is registered as proprietor as Lessee from the Government of the Republic of Kenya for the term of Ninety-Nine (99) years from the First day of February One Thousand Nine Hundred and ~~Ninety-Nine~~ <sup>Eighty-Seven</sup> (subject however to such charges leases and encumbrances as are notified by the Memorandum endorsed hereon to the statutes and special conditions referred to or contained in a Grant registered at the Land Titles Registry at Mombasa in the said Republic as Number C. R. 32236/1 and to the payment of the Revisable annual rent of Kenya Shillings Four Thousand Eight Hundred and Fifteen (Kshs.4,815/= of ALL THAT piece of land situate in Gede Town in the Kilifi District of the said Republic containing by measurement Nought decimal One One Six Four (0.1164) of a hectare of thereabouts that is



2

... day Land Reference Number 15066/2 being a portion of the premises comprised in the said Grant which said piece of land with the dimensions abutments and boundaries thereof is delineated on the plan annexed to the said Grant and more particularly on Land Survey Plan Number 197997 deposited in the Survey Records Office at Nairobi and thereon bordered red.

The Lessor has agreed to lease to the Lessee the said piece of land together with all buildings and improvements erected and being thereon (hereinafter called "the demised premises") for the term at the rental and upon the covenants and conditions hereinafter contained:

NOW THIS LEASE WITNESSETH that in consideration of the rent hereinafter reserved and of the covenants conditions agreements restrictions and provisions herein contained or implied and on the part of the Lessee to be performed and observed the Lessor DOETH HEREBY LEASE unto the Lessee ALL THAT the demised premises TO HOLD the same unto Lessee for the term of Twenty-Five (25) years commencing on the First day of the February One Thousand Nine Hundred and Ninety Nine (now past) (hereinafter called "the said term") at an aggregate rent of Kenya Shillings Seven Million Six Hundred and Five Thousand one Hundred (KShs.7,605,100/=) out of which the sum of Kenya Shillings One Million Five Hundred Thousand (Kshs.1,500,000/=) has been paid before the execution of the lease hereof the receipt whereof the Lessor doth hereby acknowledge and the balance of Kenya Shillings Six Million One Hundred and Five Thousand One Hundred (Kshs.6,105,000/=) shall be paid to the Lessor by the Lessee as follows:-

- i. Kenya Shillings One Million (Kshs.1,000,000/=) upon execution and registration of the lease hereof.

- iii. Kenya Shillings One Million One Hundred Thousand (Kshs.1,100,000/=) at the commencement of the sixth year of the term of the lease;
- iiii. Kenya Shillings One Million Two Hundred and Ten Thousand (Kshs.1,210,000/=) at the commencement of the eleventh year of the term of the lease;
- v. Kenya Shillings One Million Three Hundred and Thirty One Thousand (Kshs.1,331,000/=) at the commencement of the sixteenth year of the term of the Lease;
- vi. Kenya Shillings One Million Four Hundred Sixty Four Thousand One Hundred (Kshs.1,464,100/=) at the commencement of the twenty first year of the term of the lease.

1. THE LESSEE HEREBY COVENANTS WITH THE LESSOR as follows:-

- (1) To pay and discharge in every year during the term hereby granted the annual ground rent reserved by the said Grant to the Government of Kenya for and on behalf of the Lessor;
- (2) To pay future rates taxes assessments and outgoings whatsoever now or hereafter charged or imposed upon demised premises plot except the charges (if any) of the local authority for or in respect of completing roads and footways abutting on the said plot prior to the same becoming highways maintainable at public expenses which last mentioned charges shall be exclusively borne by the Lessor;



- to keep all buildings which may at any future times be erected upon the demised premises and all fixtures thereon and additions thereto in good and substantial repair order and condition;
- (4) The Lessee shall during the term of the lease without the consent of the Lessor but subject to such approval of any Government or Local Authority be entitled to modify pull down and rebuild and/or make such additions to the buildings and structures erected by the Lessee on the premises if in the opinion of the Lessee it is necessary to do so to enhance the business of the Lessee on the premises.
- (5) At all times during the continuance of the said term to comply with all laws, rules, regulations or bylaws passed, made or issued by the Government or any Municipal, Township or other competent authority including those dealing with the storage of inflammable goods and materials on the demised premises;

2. THE LESSOR HEREBY COVENANTS WITH THE LESSEE as follows:

- (1) That the Lessee may effect in or upon the demised premises such improvements as it may in its absolute discretion deem desirable including the installation of additional tanks, pumps, or compressors and gauges and other petrol and lubrication equipment provision of water services road surfacing (subject only to such approval of any Government or Local Authority) for the purpose of carrying on the business of a petrol service and filling station.

- (2) That the Lessee will not assign sublet or part with possession of the demised premises or any part thereof without the written consent of the Lessor being first had and obtained but which consent shall however not be unreasonably withheld it being however agreed and understood that the Lessor's consent shall not be required in the appointment by the Lessee of operators and/or Licencees to run and operate the service and filling station.
- (3) That the Lessee observing and performing the covenants and conditions herein contained and on its part to be observed and performed shall and may peaceably and quietly possess and enjoy the demised premises during the said term without any lawful interruption from or by the Lessor or any person rightfully claiming from or under him.

3. PROVIDED ALWAYS AND IT IS HEREBY AGREED as follows:-

- (1) In the event of the Lease hereby granted being determined for reasons factors and/or circumstances that are attributable to the Lessor other than wilful termination by the Lessee prior to the expiration of the said term and/or the extended terms then the Lessor will refund to the Lessee forthwith in one lump sum the following:-
- (a) The market value of unexhausted improvements made on the demised premises (other than the pumps, tanks, Canopy and equipment that the Lessee will be entitled to remove) as certified by a Land Valuer to be appointed jointly by the Lessor and Lessee and in the



event of disagreement by the Chairman for the time being of the Institute of Surveyors of Kenya (I.S.K.) and

- (b) The proportionate rent paid in respect of the unexpired part of the said term.

Such payment will be made by the Lessor to the Lessee before the demised premises are vacated by the Lessee who may be entitled to remain in occupation of the demised premises without further payment of rent until the aforesaid payment is made by the Lessor.

- (ii) If the said rent or any other payment due hereunder by the Lessee or any part thereof shall be in arrears for the space of Sixty (60) days next after any of the days whereof the same ought to be paid as aforesaid whether the same shall have been legally demanded or not or if there shall be any breach non-performance or non-observance by the Lessee of any of the covenants and conditions hereinbefore contained and on the part of the Lessee to be performed and observed or if the Lessee for the time being a company shall enter into liquidation whether compulsory or voluntary (not being a voluntary liquidation merely for the purpose of re-construction or amalgamation) or if the Lessee or any of them for the time being not a company shall commit any act of bankruptcy or be adjudged or enter into any agreement or make any arrangement with or for the benefit of his creditors for liquidation of this debts by composition or otherwise then and in any such case it shall and may be lawful for the Lessor at any time thereafter to enter into and upon the premises or any part thereof in the

of the whole and the same to have again repossess  
and as in its former state anything herein  
contrary to the contrary in any wise notwithstanding  
without prejudice to any right of action or remedy of  
the lessor in respect of any antecedent breach of any  
of the covenants by the Lessee hereinbefore contained;

The Lessee shall be entitled at any time during  
the term hereby granted or at any time thereafter  
during which the Lessee shall be in possession of  
the demised premises to remove without paying any  
compensation therefor all buildings erected on  
the said piece of land or any part thereof and  
which shall have been either paid for or erected  
by the Lessee.

The dispensing equipment (pumps, tanks and  
pipelines) to be installed by the Lessee in the  
demised premises shall at all times remain the  
property of the Lessee and the Lessee shall be  
entitled at any time during the said term or any  
time thereafter during which time the Lessee  
shall remain in possession of the demises  
premises to remove the dispensing equipment or  
any part thereof without paying any compensation  
therefor.

(v) The Lessor will at the expiration of the term  
hereby granted if there shall not be any existing  
breach or non-observance of any of the covenants  
on the part of the Lessee hereinbefore contained  
grant to the Lessee a lease of the demised  
premises for a further term of Five (5) years and  
Three (3) months from the expiration of the

present term at a rent to be agreed upon by the parties or, failing such agreement, the rent to be determined by valuation made by a licensed valuer to be appointed jointly by the lessor and the Lessee and failing agreement on the choice of the valuer such valuer as the Chairman for the time being of the Institute of Surveyors of Kenya (I.S.K) may appoint on application by any of the parties but otherwise containing the like covenants and provisions as are herein contained with the exception of the present covenant for renewal.

(vi) Any notice required to be given under this lease shall be in writing and any notice to the Lessee shall be sufficiently served if delivered to her personally or sent to her by post at her address above written AND any notice sent by post shall be deemed to have been served at the time when in due course of post it should be delivered at the address to which it is sent.

AND the Lessee hereby accepts this Lease subject to the above conditions.

IN WITNESS WHEREOF the Lessor has hereunto subscribed her hand and the Lessee has hereunto caused its Common Seal to be hereunto affixed the day and year first hereinbefore written.

SIGNED by the said )

TERESIA WAMPUI KESI ) *TK*

in the presence of:- )

)  
)  
)  
)  
)  
N. W. MAINA )  
ADVOCATE )  
P. O. Box 65771 )  
NAIROBI )



SEALED with the Common Seal of MOBIL OIL KENYA LIMITED  
in the presence of:-

DIRECTOR *[Signature]*  
DIRECTOR *[Signature]*

MEMORANDUM

N I L

MINISTRY OF PETROLEUM & MINERAL RESOURCES  
KENYA  
REGISTRATION NO. 32236/2  
1st July 1999  
11:00 AM  
Secretary of State

RECEIVED  
1st July 1999  
11:00 AM  
Secretary of State

1 INITIALS  
DATED THIS

7<sup>th</sup> DAY OF

2009

TERESIA WAMBUI KESI

TO

LIBYA OIL KENYA LIMITED

---

TRANSFER

OF

LAND REFERENCE NUMBER 15066/2

---

DRAWN BY:-

MUTHOGA GATURU & COMPANY  
ADVOCATES  
BRUCE HOUSE, 7<sup>TH</sup> FLOOR  
STANDARD STREET  
P.O BOX 47614-00100  
NAIROBI

FILE NO. JMM/0743/LOKL/406

DISTRICT LAND REGISTRY  
MOMBASA  
DATE 22 DEC 2011  
TERM 99 YEARS  
D. B. No. 530

REPUBLIC OF KENYA

THE REGISTRATION OF TITLES ACT (CAP. 281)

GRANT NUMBER: C.R. 32236

ANNUAL RENT KSHS. 4,815/= (REVISABLE)

TERM: 99 YEARS FROM 1/2/1987

TRANSFER

I, TERESIA WAMBUI KESI of Post Office Number 199 Watamu in the Republic of Kenya (hereinafter called "the Transferor" which expression shall where the context so admits include her personal representatives and assigns) being registered as proprietor as lessee from the Government of the Republic of Kenya for the unexpired term of Ninety-nine (99) years from the First day of February One Thousand Nine Hundred and Eighty-seven **SUBJECT** however to such Acts Special Conditions Encumbrances and other matters as are specified by the Memorandum endorsed hereon and to the annual rent of Kenya Shillings Four Thousand Eight Hundred and Fifteen (Kshs. 4,815/=) of **ALL THAT** piece of land situate in Malindi Municipality in Kilifi of the said Republic containing by measurement nought decimal one one six four (0.1164) hectares or thereabouts that is to say Land Reference Number 15066/2 which said piece of land being the premises comprised in a Grant dated Twenty-fourth day of June One Thousand Nine Hundred and Ninety-one registered in the Land Titles Registry at Mombasa in the said Republic as Number C.R. 32236/1 which said piece of land is with the dimensions abuttals and boundaries delineated and described on the Deed Plan annexed to the said Grant and more particularly on Land Survey Plan Number 197997 deposited in the Survey Records Office at Nairobi and thereon bordered red **IN CONSIDERATION** of the sum of Kenya Shillings Five Million Two Hundred Thousand (Kshs. 5,200,000/=) paid to me by **LIBYA OIL KENYA LIMITED** a limited liability company incorporated in the Republic of Kenya having its registered office at Nairobi and of Post Office Box Number 64900-00620 Nairobi aforementioned (hereinafter called "the Transferee") on or before the execution of this presents (the receipt of which sum is hereby acknowledged) **DO HEREBY TRANSFER** unto the said Transferee all my right title and interest in the said piece of land **TOGETHER** with all the buildings and improvements erected and now being thereon.

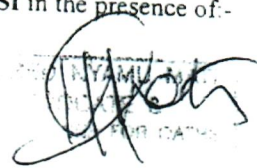
U. A. Adhambwa 094

*(Handwritten signature)*



IN WITNESS WHEREOF parties herein have hereunto set their respective hands and seal this  
day of May 2009.

SIGNED by the Transferor, **TERESIA** )  
**WAMBUI KESI** in the presence of:- )





Photo



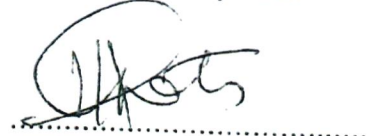
ID No: 5018041.....

PIN No: A0026357819

Signature: .....

I certify that I was present and saw **TERESIA WAMBUI KESI**, the Transferor herein,  
execute this Transfer and also that the particulars of her National Identity Card and Tax PIN  
Numbers are correct and the originals have been produced to me for inspection.



  
Signature of Advocate certifying

**SEALED** with the Common Seal of the )  
Transferee, **LIBYA OIL KENYA** )  
**LIMITED** in the presence of:- )

Director





I/D No: 304735 )

PIN No: AK 373544 )

Signature: [Signature] )

Director/Secretary )

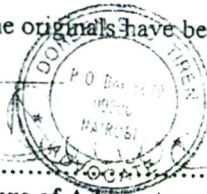


I/D. NO: 0301214 )

PIN No: AQQ1159768D )

Signature: [Signature] )

I certify that I was present and saw (1) KAMEL ISSA JARNAZ **DIRECTOR** and (2) TOMI ONYANG **DIRECTOR/SECRETARY** of the Transferee execute this Transfer and also that the particulars of their National Identity Numbers/Passport and Tax PIN Numbers are correct and the originals have been produced to me for inspection.



Signature of Advocate certifying

**MEMORANDUM**

1. The provisions of the Government Lands Act (Chapter 280).
2. The special conditions contained in a Grant registered as Number C.R. 32236/1.

ccc

**DRAWN BY:-**

Muthoga Gaturu & Company  
Advocates  
Bruce House, 7<sup>th</sup> Floor  
Standard Street  
P.O Box 47614-00100  
**NAIROBI**

CCC





**KITHI & COMPANY  
ADVOCATES**

Our Ref: MS/TW/063/2016  
Your Ref: TBA

22<sup>nd</sup> March 2017

**ANNEXURE 4**

TENT AGENTS, CPS, NOTARIES PUBLIC  
& COMMISSIONERS FOR OATHS

Email: info@kithiandcompany.co.ke  
www.kithiandcompany.co.ke

**Nairobi**

Box 2676-00100, Nairobi, Kenya  
Maendeleo House, 4th Floor  
Monrovia Street/utalii Lane  
Tel: +254 (0) 20 2244689  
+254 (0) 20 2330128  
Fax: +254 (0) 20 2223720  
Cell: +254 (0) 713 764614  
+254 (0) 736 557252

**PARTNERS**

George Kithi  
Mary M. Chege  
Felix Mutua  
Patricia Walliala  
Dickson Munene

**ASSOCIATES**

Viola Odhiambo  
Edgar Busiega  
Christine Mwikali  
Samuel Mathenge  
Jean Njeru  
Betty Korir

**MOMBASA**

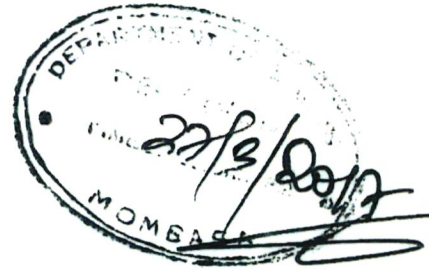
Tss Towers, 2nd Floor  
Nkurumah Road  
P.O.Box 88615-8100  
Mombasa Kenya  
Tel: 041 231 239 4/5  
info@kithiandcompany.co.ke  
www.kithiandcompany.co.ke

**PIN**

POST 3567411

When Replying Please  
Quote Our References

The Registrar,  
Lands Department,  
Mombasa County Government,  
Annex wing, 4<sup>th</sup> floor, Bima House,  
Mombasa town  
P. O Box 30075-00100  
**MOMBASA**



Dear Sir,

**Re: FRAUDULENT TRANSFER OF LR NO. 15066/2, I.R NO  
C.R 32236/1- GEDE KILIFI BELONGING TO TERESIA  
WAMBUI KESI**

The above matter refers.

We act for the above mentioned client under whose instructions we address you as hereunder.

Our client is the duly registered owner of the above captioned parcel of land. There were plans to sell the said piece of land to Oil Libya but our client abandoned those plans.

It has come to our attention that despite our client deciding against proceeding with the said sale your good office unprocedurally effected transfer of the said piece of land notwithstanding that the signature of the purported seller hadn't been procured.

It is trite law that disposition in land is governed by certain formalities stipulated in the land laws and the Law of Contract Act. These formalities are important because they have the effect of protecting third parties. Section 3(3) of the Contract Act states that a memorandum of a disposition in land must be in writing signed by all parties thereto and the signature of each party must

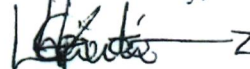
witnessed. This requirement was not complied with to warrant the transfer.

In any case this matter has been investigated by the criminal Investigation Department and their findings were to the effect that the specimen signature on the transfer document does not belong to our client and infact they have proof from the Document Examination Centre that the same was a forgery.

Pursuant to the provisions of section 26 of the Land Registration Act, 2012, a title can be challenged on the ground of fraud or misrepresentation to which the person is proved to be a party or where the certificate of title has been acquired illegally, unprocedurally or through corrupt schemes.

In light of the efficacy of section 79(2) of the Land Registration Act 2012 we pray that your good office takes the requisite steps to remedy the situation by rectifying the register and fraudulent transaction on the relevant registers and documents to reflect the true position.

Yours faithfully,



**GEORGE KITHI**  
**KITHI & COMPANY ADVOCATES**  
**G.L.K/G.K**



# NATIONAL POLICE SERVICE

CI

Telegrams: "CRIMINAL" Nairobi  
Email: director@cid.go.ke  
Tel: 020343312, 0202603724.

When replying please quote our  
CID/ORG/8/3/1/85-2016



DIRECTORATE OF  
CRIMINAL INVESTIGATIONS  
MAZINGIRA HOUSE  
KIAMBU ROAD  
P.O. Box 30036 NAIROBI.

## FORENSIC DOCUMENT EXAMINATION REPORT CASE WORK DIARY

STATION : CID MALINDI  
PCR. NO : INQ 15/2015  
ACCUSED : N/A  
OFFENCE : FORGERY  
REQUEST : AS PER MEMO FORM  
Date of Submission : 22/01/2016  
Date of Examination : 22/01/2016  
Examiner : CI DANIEL GUTU

### STATEMENT OF QUALIFICATION

I wish to state that I am a qualified Forensic Document Examiner of more than eight years experience and certified handwriting analyst working on full time basis with the Criminal Investigation Department - Forensic Document Examination Section.

I hold a B/Arts degree in sociology from Kenyatta University - Kenya and I have been trained as a forensic document examiner at C.I.D headquarters, Forensic Document Examination laboratory and National Ribat University - Forensic Institute-Khartoum Sudan.



## REPORT ON EXAMINATIONS AND FINDINGS

C1  
60

1. I have examined and compared the questioned signature pointed by red ink on exhibit marked **A1** with specimen signatures on exhibit marked **B1-B4** and known signatures circled by red ink on exhibit marked **C1-C2**.

In my opinion the signatures were made by the **DIFFFERENT** authors.

2. I have examined and compared the questioned signature pointed by blue ink on exhibit marked **A2** with specimen signatures on exhibit marked **B1-B4** and known signatures circled by red ink on exhibit marked **C1-C2**.

In my opinion the signatures were made by the **SAME** author.

### METHODOLOGY

In my examination, I subjected the signatures to image enhancement and magnification procedures using Video Spectral Comparator (VSC 6000) for better visibility and inspection of individual characteristics for absolute identification.

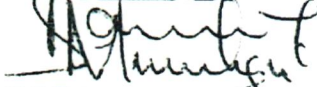
I considered all the possibilities of natural variations resulting from the time span the writing was made, writing instruments, and the changing writing habits.

Also my opinion is based on the following peculiar characteristics in the writing that provided me with forensic evidence of common or different authorships:-

- Signatures initialization and their terminal strokes,
- Signatures construction and their arrangements,
- Natural pen lifts, Natural variations,
- Pen pressure and ink flow,
- Signatures spacing and alignment,
- Writing quality.

The exhibits and report are hereby returned.

**CPD MALINDI**



**FORENSIC DOCUMENT EXAMINER**

**FOR DIRECTOR DIRECTORATE OF CRIMINAL INVESTIGATION**

Ca

**THE KENYA POLICE**  
**EXHIBIT MEMO FORM**

Station: CID MALINDI

Division: MALINDI

Charge Register No: INQ. No. 23/2015

Hollerith code No. ....

To: - The Document Examiner  
CID Hqts

I forward herewith

\*by registered mail

CPL JAMES MWANIKI

\* Under escort of

.....exhibits enumerated below for favour of examination  
(\*Strike out whichever is inapplicable)

**Exhibits and identification markings:**

Exhibits marked **A1** is a questioned document – (Transfer form for LR 15066-2).

Exhibits marked **A2** is a Surrender of Lease for LR.15066-2.

Exhibits marked **B1 – B4** are specimen signatures of Teresia Wambui Kesi.

Exhibits marked **C1–C2** are known signatures of Teresia Wambui Kesi.

**Precis' of offence:** The complainant Teresia Wambui Kesi reported that she was granted a land parcel No. LR.15066-2, by the government of Kenya for a lease term of 99 years. She later sub-leased the land to Libya Oil (k) ltd for a term of 25 years, who built a petrol station on it. Later she came to discover that Libya Oil (k) ltd had fully effected the transfer of the said land into their name without her knowledge. She denied the signature on the Transfer purportedly between her and Libya Oil company hence she never was party to any agreement except the surrender of Lease which she claims having been enticed to sign without knowing what it was about

**It is desired to ascertain:-** Whether the signature on the exhibit marked **A1** pointed by red arrow was made by the same author when compared with the signatures on the exhibit marked **B1–B4** and **C1-C2** encircled with red.

~~Whether the signature on the exhibit marked **A2** pointed by blue arrow was made by the same author when compared with the signatures on the exhibit marked **B1–B4** and **C1-C2** encircled with red.~~

**Name of complainant:-** Teresia Wambui Kesi.

**Name of accused (if known):-** PUI

**Offence and Section:** Forgery contrary to section 349 of the Penal Code

**Time, date and place committed:-** Yet to be established

**Time, Date and place exhibit(s) found and by whom:-** On ~~Whitman~~ by CPL James Mwaniki

**Taken possession of by:** - CPL Mwaniki

Date: 22/1/2016 Signed: [Signature]

Exhibits enumerated above received. Signed: [Signature] Date: 22/01/16

Note:- This form to be completed in triplicate, three copies to accompany exhibits, second copy to be returned as report and copy to be returned as receipt.

I.P.T.O



REPUBLIC OF KENYA  
MINISTRY OF LAND AND PHYSICAL PLANNING

Telegram  
LANDS,  
Telephone: 041/2312914  
80100

DEPARTMENT OF  
P.O. BOX 80053-  
MOMBASA.

When replying please quote:

Ref: CF. LND. GEN.

14<sup>th</sup> June, 2017

The Managing Director (C.E.O)  
Libya Oil Kenya Limited (formerly Mobil Oil Kenya Limited)  
P.O. Box 64900-00620  
NAIROBI.

**RE: FRAUDULENT TRANSFER OF LR.15066/2, CR.32236/1 - GEDE KILIFI  
BELONGING TO TERESIA WAMBUI KESI**

We have received complaint from Teresia Wambui Kesi that you effected a transfer of the above-mentioned parcel of land without her executing the Instrument of Transfer. This matter has been investigated by the Directorate of Criminal Investigation whose findings were to the effect that the specimen signature in the transfer document does not belong to Teresia Wambui Kesi and therefore was a forgery.

I am therefore issuing notice to yourselves that pursuant to provisions of Section 26 and Section 79(2) of the Land Registration Act No.3 of 2012, the register in respect of LR.15066/2 registered as CR.32236 has been rectified to expunge the entry obtained through fraudulent means and reinstate Teresia Wambui Kesi as the registered owner.

  
J. G. Wanjohi  
REGISTRAR OF TITLES  
MOMBASA

c.c. Kithi & Company Advocate  
TSS Towers  
Nkruma Road  
MOMBASA.

*Collected to be hand delivered  
by Teresia Wambui Kesi  
ID No: 5018041  
signature: [Signature]  
date: 14-6-2017*



# MUTHOGA GATIRU

& Co. Advocates

COMMISSIONERS FOR OATHS & NOTARIES PUBLIC

www.mgadvocates.com



DELIVERING QUALITY LEGAL SERVICES  
SINCE 1975

HEAD OFFICE: Bruce Hse. 7th Flr. Standard St.  
P. O. Box 45860 - 00100 Nairobi, Kenya  
Tel: 2230182 317449 Fax: 2226426  
Cell: 0722 200514, 0733 966085  
Email: info@mgaia.co.ke

BRANCH OFFICE: Barclays Bank Building  
Mombasa Rd. P.O. Box 1001 - 80100, Mombasa  
Tel: 253 253 30907 Fax: 253 253 30908  
Cell: 061 2030795, Cell: 0722 089046  
Email: info\_mver@mgaia.co.ke

**OUR REF:** JMM/0743/LOKL/406  
**REPLY TO:** NAIROBI

**YOUR REF:** CF.LND.GEN.

**DATE:** 12<sup>th</sup> June, 2017

**When replying please quote our ref.**

The Registrar of Titles  
Ministry of Land and Physical Planning  
Mombasa Land Registry  
P.O. Box 80053-80100  
**MOMBASA**

**Attention Mr. J. G. Wanjohi**

Dear Sir,

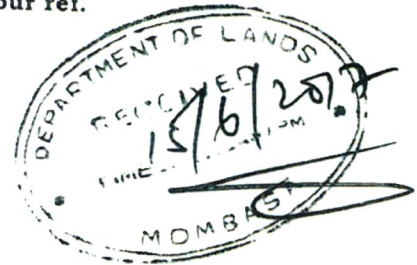
**RE: ALLEGED FRAUDULENT TRANSFER OF L.R. NO. 1506/2,  
C.R. 32236/1 – GEDE KILIFI OWNED BY LIBYA OIL KENYA LIMITED**

We refer to your letter dated 4<sup>th</sup> May, 2017 addressed to our Clients Libya Oil Kenya Limited (referred to as Oil Libya in your letter) and copied to Kithi & Company Advocates, which was forwarded to us through Ms. V. N. Okata & Company Advocates of Mombasa on 25<sup>th</sup> May, 2017.

We also refer to our telephone discussion on 25<sup>th</sup> May, 2017 (P. Rugo/J. Wanjohi) regarding your aforesaid letter. As per your explanations, your action was precipitated by and founded on a letter received from Kithi & Company Advocates making the allegations that Teresia Wambui Kesi's signature on the Transfer instrument in favour of Libya Oil Kenya Limited was a forgery, and therefore the transfer was purportedly fraudulent. You confirmed that no investigation report by the Directorate of Criminal Investigations was availed to you.

As a follow up to the brief explanations given to you during our telephone discussions, the correct factual position is as follows:-

1. Teresia W. Kesi lawfully sold the above property to Libya Oil Kenya Limited for valuable consideration. In the conveyance transaction she was represented by Nyamu & Nyamu Company Advocates, who have at various times confirmed the legal validity of the transaction and all conveyance instruments executed by her.



2. After completion of the sale agreement but before registration of the Transfer instrument due to missing deed files at your Registry, both through her children and by herself, she severally attempted to extort further payments from Libya Oil Kenya Limited using threats of rescinding the sale transaction. These attempts were obviously not acceded to. Importantly, during all these attempts, at no time did she allege or allude to the Transfer instruments being forgeries on account that she had never signed them. In fact, when our Clients refused to pay any additional monies towards the purchase price, she pleaded to be allowed to manage/operate their petrol station situated on the property and/or for her daughter to be allowed to operate a convenience store and restaurant at the petrol station. This demonstrated that she was well aware that our Clients are the legal owners of the property.

3. After her attempts as set out above failed, she lodged a complaint with the DCIO at Malindi, alleging fraudulent transfer of her property to our Client. The investigations are still ongoing. Indeed Mr. J. Mwaniki, the Investigating Officer In-Charge of the investigations, confirmed that his initial investigation report submitted to the Director of Public Prosecutions was not accepted since he had collected insufficient evidence. He was directed to carry on further investigations on certain aspects. We presume this is because the report was one-sided, comprising only of Teresa Wambui's version.

4. As per Mr. J. Mwaniki's information and explanations, the DPP required the DCIO to submit statements from Officers of Libya Oil Kenya Limited as well as the Advocates that acted for both parties in the Conveyance transaction. We are in the process of finalizing comprehensive statements and compiling all relevant documents to prove the legal validity of the conveyance transaction and Transfer. We have confirmed that Nyanu & Nyanu Advocates are also doing so, and are yet to submit any statements and documents to the DCIO.

5. In light of the foregoing, it is clear that no final decision has been made on Teresa Wambui's complaint to the DCIO, whether by the DCIO or the DPP. Importantly, in our view, the fact that the DPP required further investigations to be carried on demonstrates that whatever evidence and findings were submitted to his office cannot form a reasonable basis to conclude that the Transfer was a forgery or fraudulent. The letter written to your office by Kithi & Company Advocates does not displace this position.






**NAIROBI**

c.c. 1. Libya Oil Kenya Limited  
P.O. Box 64900-00620

**PATRICK RUGO**

Yours faithfully,  
  
For: **MUTHOGA GATURU & COMPANY**

2. Kithi & Company Advocates  
TSS Towers  
P.O. Box 90056-80100  
**MOMBASA**

Take notice that Libya Oil Kenya Limited reserves its rights to take all lawful actions to protect its legal rights and interests in the property. We hereby put you on notice that this shall extend to and include seeking compensation against your office for any loss or damage that may arise or be suffered by them as a result of your unlawful and irregular exercise of Sections 26 and 79(2) of the Land Registration Act to deprive them of their property.

In conclusion, we wish to remind you of the provisions of Articles 10, 40, 47 and 232 of the Constitution of Kenya, which impose certain duties on your public office vis-a-vis your purported exercise of Section 26 and 79(2) of the Land Registration Act to prejudice our Clients' legal rights and interests as the duly registered proprietor of Title No. CR 32236/1, L.R. No. 155066/1, Gede, Kilifi. The decision communicated in your letter dated 4<sup>th</sup> May, 2017 is to all intents and purposes null and void ab initio in the circumstances of our Client's title.

Teresia Wambui and/or her Advocates have neither obtained nor served you with a Court Order properly obtained under Section 80 of the Land Registration Act compelling you to rectify the register on the ground that the Transfer to Libya Oil Kenya Limited was fraudulently obtained. The fact that they have avoided doing so should be instructive as to the nature of their allegations in their letter to your office, which they are unwilling to subject to objective scrutiny by a competent Court of Law.

It is our respectful view that in the circumstances your office is not the correct or competent forum to unilaterally make a determination that our Client's title over the property was fraudulently obtained, more so based on a mere letter from Teresia Wambui's Advocates not supported by any evidence at all. Section 26 and 79(2) of the Land Registration Act No. 3 of 2012 do not vest your office with powers to make such a determination in the present circumstances or at all.