



Approved  
BAT  
SNA  
3/11/2020

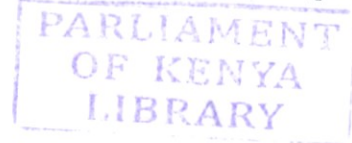
Hon. Speaker  
You may approve.  
arap kisi  
3/11/20

REPUBLIC OF KENYA  
TWELFTH PARLIAMENT – (FOURTH SESSION)  
THE NATIONAL ASSEMBLY  
PUBLIC PETITION

(No. 38 of 2020)

**REGARDING DISPOSESSION OF LAND BELONGING TO DINDIRI-MAKATA  
AND KAOLE VILLAGES IN CHASIMBA WARD, KILIFI SOUTH  
CONSTITUENCY**

I, the **UNDERSIGNED**, on behalf of the residents of Dindiri-Makata and Kaole Villages of Kilifi South Constituency;



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

1. **THAT**, Makao CBO was registered as a Community Based Organization on 26<sup>th</sup> August 2019 under Certificate Number 49145 and has membership comprising residents of Dindiri-Makata and Kaole Villages of Chasimba Ward in Kilifi South Constituency;
2. **THAT**, residents of these two villages comprising of a population of over 65,000 live on the ancestral land registered under Plot No.152/IV/MN measuring 1,776 acres;
3. **THAT**, the residents recently discovered with dismay the existence of copies of a title deed dated 1908 that allegedly assigns ownership of the land to an absentee individual by the name of Mbarak Islam Abed;
4. **THAT**, this alleged subdivision and title deed issuance is irregular and highly questionable in view of, among other reasons, the fact that it was issued over 110 years ago during the British colonial era yet at Independence in 1963 all Kenyan land was freed from colonial oversight and transferred to the Government to safeguard the welfare of indigenous people occupying their respective lands;
5. **THAT**, Wachonyi and Giriama ancestors had settled in the Dindiri-Makata-Kaole forest area for over 100 years without any dispute or opposition, and had built houses, grown crops such as coconut palms, cashewnuts, maize, cassava and mangoes, and reared livestock;
6. **THAT**, over the decades, the community expanded exponentially and established numerous social infrastructure such as Dindiri Nursery School, Makata Primary

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School, Kaole Primary School, Dindiri Secondary School, churches, restaurants, salons, shops, and other commercial establishments;

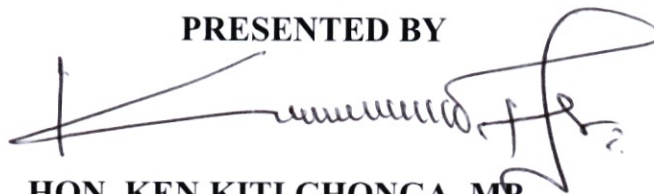
7. **THAT**, grave yards that are almost 100 years old as well as old mango trees are a testament to the fact that the residents have lived on this ancestral land for decades;
8. **THAT**, the area residents are the legitimate owners of the land Plot No.152/IV/MN as a community by virtue of being the occupants of the land for centuries;
9. **THAT**, efforts to address this matter with relevant authorities have not borne much fruit;
10. **AND THAT**, the matter in respect of which this petition is made is not pending before any Court of Law or Constitutional body.

Therefore, your humble Petitioners pray that the National Assembly through the Departmental Committee on Lands:-

Enquires into the matter with a view to securing the revocation of the Title Deed irregularly issued to Mr. Mbarak Islam Abed to facilitate subdivision of the land and title deeds issuance to the legitimate and bonafide residents of Dindiri-Makata and Kaole Villages.

And your **PETITIONERS** will ever pray.

**PRESENTED BY**



**HON. KEN KITI CHONGA, MP**  
**MEMBER FOR KILIFI SOUTH CONSTITUENCY**

Date 3/11/2020 .....

28<sup>th</sup> November, 2019

FROM:

MAKAO CBO

P.O. BOX

KILIFI

TO:

THE CHAIRPERSON

PARLIAMENTARY COMMITTEE ON LANDS

P.O. BOX .....

NAIROBI

THRO:

THE MP

KILIFI SOUTH CONSTITUENCY

HON. KEN CHONGA

**RE: PETITION BY RESIDENTS OF DINDIRI – MAKATA & KAOLE VILLAGES (MEMBERS OF MAKAO CBO) ON THE MATTER OF PLOT NO. 152 /IV/MN**

**Preamble:**

MAKAO CBO is a registered Community Based Organization. Its registration is SS/KLF/HD/LR/CBO/CHONYI-D/121/2019 certificate number is 49145 dated 26<sup>th</sup> August, 2019. The membership of MAKAO CBO is all the residents of Dindiri – Makata & Kaole villages of Chasimba Ward, Kilifi South Constituency, Chonyi Sub County, Kilifi County living within the span of land occupying the **Plot No. 152/IV/ MN containing 1776 acres.**

There are over 1000 households within this area.

The total population of the people occupying the plot is about 65,000 which include men, women, children and grand children.

**OBJECTIVE OF MAKAO CBO**

The main objective of MAKAO Community Based Organization was and still is to come together, pool our resources and our energy and find a lasting solution to the problem of this land where we reside in, which our ancestors, our forefathers, grandparents, parents, ourselves and our families have lived in for centuries and decades undisputed and undisturbed yet we are yet to receive the recognition as the rightful inhabitants to warrant the issuance of the right to ownership of the land (title deeds).

We therefore, since inception of the group have been finding ways of getting the right to the ownership of the land mentioned above and we still haven't succeeded.

In our effort in pursuit of this land problem, we managed to acquire certified copies of the Land Title Deed dated 1908, its registration and mode of subdivision and transfers of the same (see copies attached) for the piece of land and found out that the title deed to our land (this land of Dindiri - Makata & Kaole) which we have been occupying for centuries and decades is in the name of one **Mbarak Islam Abed.** (absentee).

We have wondered how he acquired the said title deed which is dated way back in the 1908, a time when Kenya was under the rule of the British!!!

We understand that upon gaining her full independence, the entire land in Kenya, was freed from the British rule and, we usurped the ownership of our land as a sovereign state and as the indigenous people of Kenya who were occupying the land in question above.

## Brief History of the occupants living in the area referred to as Dindiri-Makata-Kaole.

Over a century ago, our ancestors found a vast thick unoccupied forest land covering the entire area. They cleared the forest and established farmland and homes for themselves and their families then. No one then complained that the forest land belonged to him/them. No one complained of their land being invaded by people and, no report whatsoever was made to the then government authorities of those days. No one has since come to claim ownership of this land till to date!!

Over the years more of the forest land was cleared as the population grew bigger and bigger. The inhabitants (indigenous – mainly Wachonyi and a few Giriama) established themselves and built residential homes, grew subsistence crops and cash crops. The cash crops included but not limited to coconut palms and, cashewnuts, while food crops included maize and cassava. Some of the other permanent food crops included but not limited to mangoes. We have evidence of very old mango trees and coconut trees as well as other trees to substantiate this claim.

The entire area covering Dindiri – Makata & Kaole was eventually all occupied and people grew in numbers over years. Our forefathers and parents therefore continued to occupy and then many more were born and families expanded and the population grew larger and larger to the current status.

## Development projects within the plot/area (Dindiri – Makata & Kaole)

There are several permanent residential and commercial houses (shops, food bandas, bars and restaurants and salons).

There are **3 public nursery and primary schools** namely:

- Dindiri Nursery and Primary School which was established in the year 1952;
- Makata Nursery and Primary School which was established in the year 1964; and
- Kaole Nursery and Primary School which was established in the year 2004;

All these schools have a total population of about 3000 students.

There is a **public secondary school known as Dindiri Secondary School** which was established in 2006 with a student population of over 400 students

There is a private primary school within the area.

There are also over 10 churches of different denominations.

There are domestic animals being reared ranging from cattle, goats and chicken.

There are several permanent tree crops such as mango plants, coconut palms, cashewnuts trees, and many others.

Also, there are several graves in which we have over the years buried our forefathers, grandparents family members.

## Some of the evidence that is available to-date to sustain our ownership claim:

1. Age old grave yards spanning from Dindiri-Makata to Kaole villages in each boma where clans have been burying our dead family members over the years.
2. Very old tree crops such as mango trees, Bombax rhodognaphalon (misufi), coconut trees, and newly planted forest trees as reforestation (for economic purposes). Several age old mango trees can vividly be seen especially in areas of graveyards.
3. Elderly men and women born here who are over the age of 80 years and have never been disturbed by anyone claiming ownership of the land in question.

Examples of such include: Mzee Mdachi Msiriro – born 1924 (ID No. 5456533), Mzee Nyamawi Muhaso – born 1926 (ID No. 4584301), Mzee Lewa Ngoma – born 1928 (ID No. 3885433), Mzee Joseph Barawa – born 1930 (ID No. 2149351), Mzee Mwatsuma Mdiwa – born 1932 (ID No. 3903981), Mzee Mwangala Kusa – born 1935 (ID No. 5339384), Mzee Rondo Mwabonje – born 1942 (ID No. 32580497) among others.

4. Several permanent residential and commercial houses
5. The 3 public nursery and primary schools and the 1 public secondary school as other learning institutions

- There are about 20 churches and
- Our domestic animals as well as
- Cash crops and subsistence crops that are currently growing on our farms now.

**Our Petition.**

Since we have occupied the aforementioned parcel of land (152/IV/ MN) for so many decades undisturbed, and we have established ourselves here, we have no other place to call our home/our land except this land of Dindiri-Makata & Kaole, we hereby petition the government, through our area MP, Hon. Ken Chonga; through the Parliamentary Committee on Land, to intervene and have this matter resolved once and for all.

We wish to be fully recognized as the legitimate owners by birth, by virtue of being the occupants of the land for centuries and decades, by constitution as Kenyans and by right of ownership of the aforementioned land.

This we are aware that can only be done by having the title deed which is in the name of one **Mbarak Islam Abed** (absentee) to be revoked and the land which is ours be subdivided and we be allocated and issued with title deeds.

Our fear is that if the above prayer is not granted, we shall suffer irreparable damage. We are likely to lose our properties and our lives if this is not granted.

The holder of the title has absolutely nothing to show on the ground within the aforementioned parcel of land for him to claim any real ownership.

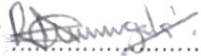
On the contrary, we local residents occupying the section of land (Dindiri-Makata & Kaole) have enough evidence that confirms our right to the ownership of the land.

Kindly consider our plea.

Thank you.

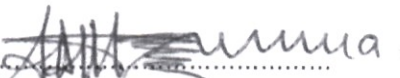
Signed by us on behalf of the  
members of MAKAO CBO



  
.....  
**Ronald Dau Ngala**  
ID No. 9961282  
Tel. No. 0726 339 039

- Chairman

Cc:

  
.....  
**Arettas DM Nguma** - Secretary  
ID No. 3161929  
Tel. No. 0728340302

  
.....  
**Tobias Mwazonzo Chigiri** - Treasurer  
ID No. 1380070  
Tel. No. 0729627509

- Coordinator National Land Commission – Kilifi County (Attn: Umi Kugula)
- County Executive on Land and Energy – Kilifi County
- County Settlement Officer – Kilifi County
- D.C.C. – Kilifi South Sub County

M. P. Kilifi South Constituency – Hon. Ken Chonga

• M.C.A. Chasimba Ward – Hon. Kazungu Mbura



THE PROTECTORATE OF KENYA.



LAND TITLES ORDINANCE, 1908.

SCHEDULE I. FORM B.

CERTIFICATE OF OWNERSHIP.

I JAMES DANDIE HUNTER

Recorder of Titles do hereby certify that

ALI RASHID MANTHERI as Administrator of the Estate of RASHID ALI MANTHERI Deceased (1) MOHAMED EL-BASAMI as Administrator of the Estate of Mohamed KHAMIS EL-BASAMI Deceased (2) MOHAMED RASHID EL-BASAMI (1/2) MUARABU SALIM (1/16th) ISLAM ALI (3/32nds) AHMED ALI (3/32nds) are the proprietors of an estate in fee (together with the mineral Rights) (1) in that piece of land situate in the Province of COAST at S.W. OF TANAUNU WILDER DISTRICT and which is demarcated and delineated on the plan No. 75073 deposited in the Office of the Recorder of Titles at Mombasa and thereon numbered MT/V/152 and containing 1776 acres or thereabouts and subject to such mortgages and other interests (if any) as hereunder written. (2)

In WITNESS whereof I have hereunto set my hand and seal this 9th day of March 1903.

Certificate Fees £...35...10. 00
Survey .. £189. 12. 00
£225. 2. 00

RECORDER OF TITLES.

Mortgages and other interests above referred to:

SUBJECT TO FIRST CHARGE IN FAVOUR OF GOVERNMENT OF KENYA FOR £4,500/-

Handwritten notes: 12774/1, 11-5-20, 10.45 am, Mortgage

(1) The words in brackets to be deleted if the land has been acquired from the Crown or otherwise with a reservation of minerals.
(2) If the land has been acquired from the Crown add "and subject to the provisions of the" (then specify the law under which)





