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CHAIR, DC-LANDS

THE NATIONAL ASSEMBLY

TWELFTH PARLIAMENT – THIRD SESSION – 2019

DEPARTMENTAL COMMITTEE ON LANDS

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REPORT ON THE CONSIDERATION OF A PETITION BY TAITA TAVETA  
TEACHERS INVESTMENT COMPANY LIMITED REGARDING ILLEGAL  
OCCUPATION OF LAND OWNED BY THE COMPANY

DIRECTORATE OF COMMITTEE SERVICES  
CLERK'S CHAMBERS  
PARLIAMENT BUILDINGS  
NAIROBI

OCTOBER 2019

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## **CHAIRPERSON'S FOREWORD**

The Petition by Taita Taveta Teachers Investment Company regarding illegal occupation of land belong to the company was tabled in the House on 21<sup>st</sup> March 2019 by the Hon. Andrew Mwadime, MP on behalf of the Petitioners.

In considering the Petition, the Committee held meetings with the representatives of Taita Taveta Teachers Investment Company on 17<sup>th</sup> July 2019, the Ag. Chief Executive Officer, National Land Commission on 19<sup>th</sup> September, 2019 and the Chief Administrative Secretary Ministry of Land and Physical Planning on 6<sup>th</sup> August, 2019. The Committee also undertook a field visit to Kisauni in Mombasa County on Friday 2<sup>nd</sup> August, 2019 and held a meeting with residents of Junda Ward.

The Committee is thankful to the Offices of the Speaker and the Clerk of the National Assembly for the logistical and technical support accorded to it during its sittings. The Committee is also thankful to the Petitioners, the Ag. Chief Executive Officer, National Land Commission, the Chief Administrative Secretary, Ministry of Lands & Physical Planning and the representatives of the residents of Junda in Kisauni Constituency for the submissions they made to the Committee.

On behalf of the Committee, and pursuant to Standing Order, 227 it is my pleasant duty to table the Report of the Departmental Committee on Lands on its consideration of the Petition by Taita Taveta Teachers Investment Company regarding illegal occupation of land belong to the company.

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

## **EXECUTIVE SUMMARY**

The purpose of this report is to respond to prayers made in a petition by Taita Taveta Teachers Investment Company Limited regarding illegal occupation of land belong to the company. The petitioners prayed that the National Assembly, through the Departmental Committee on Lands;

- a. Intervene through the Ministry of Lands to halt any further developments on the plots of land in questions pending investigations.
- b. Investigate the illegal occupation of the land owned by Taita Taveta Teachers Investments Company Limited with the objective of overseeing the reverting of the occupied lands back to the Company and its shareholders.
- c. Recommend the Ministry of Lands to settle bona-fide squatters and make any other direction that it deems fit in the circumstances of this petition.

The Committee observed that the Ministry of Lands & Physical Planning and the National Land Commission confirmed to the Committee that Taita Taveta Teachers Investment Company Limited is the registered owner of land parcels LR /II//56, LR/II/57, 293, LR/II/65, LR/II766, LR/II/767, LR. MN /II/771 and was in the process of acquiring LR MN/II/222 in Junda Ward Kisauni Constituency. The company is willing to sell the contested land to the government for the settlement of squatters already residing on the land.

The Committee also noted that most of the residents of Junda Ward currently residing on the contested land, through their representatives acknowledged that the contested land is registered in the name of Noorunia Essajee and Taita Taveta Teachers Investment Company Limited and they were willing to buy the land at an affordable price and make payments through instalments.

The Committee also observed that there existed a variance on the valuation of the land as submitted by the Petitioners and the Ministry of Lands and Physical Planning. To this end, the Petitioners upon valuation indicated the price of the land per acre as being Ksh. 10 million while the Ministry of Lands and Physical Planning upon valuation indicated the price as 10.5 million per acre. The squatters on the other hand valued the land at Ksh.2.5 million per acre.

In response to the prayers by the Petitioners, the Committee recommends that pursuant to section 135 of the Land Act, 2012, the Board of Trustees of the Land Settlement Fund does purchase the 122 acres of land, comprising LR/MN/II//56, LR/MN/II/57, LR/MN/II/293, LR/MN/II/65, LR/MN/II/766, LR/MN/II/767, LR/MN/II/771 and LR/MN/II/222 in Junda Ward, Kisauni Constituency belonging to the Taita Taveta Teachers Investment Company Limited for the settlement of squatters already residing on the land.

The Committee also recommends pursuant to section 135(2)(f) of the Land Act, 2012, the squatters residing on the land do pay into the Land Settlement Fund such amounts as the Board of Trustees in consultation with the squatters shall determine for purposes of purchasing the 122 acres of land for their settlement.

Finally, the Committee recommends that the purchase of the land and settlement of the squatters be undertaken in accordance with Part IX of the Land Act, 2012.

## **1.0 PREFACE**

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

2. The Departmental Committee on Lands is established pursuant to the provisions of Standing Order No. 216 (1) and (5) with the following terms of reference: -
  - (i) make reports and recommendations to the House as often as possible, including recommendation of proposed legislation;
  - (ii) investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned Ministries and departments;
  - (iii) study the programme and policy objectives of Ministries and departments and the effectiveness of the implementation;
  - (iv) study, access and analyze the relative success of the Ministries and departments as measured by the results obtained as compared with their stated objectives;
  - (v) investigate and inquire into all matters relating to the assigned Ministries and departments as they may deem necessary, and as may be referred to them by the House.
  - (vi) study and review all legislations 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:

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

**MP for Kitui South Constituency**

**Jubilee Party**

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

**MP for Lunga Lunga Constituency**

**Jubilee Party**

Hon. Jayne Wanjiru Kihara, MP  
Member for Naivasha  
Constituency

**Jubilee Party**

Hon Joshua Kutuny Serem, MP  
Member for Cherangany  
Constituency

**Jubilee Party**

Hon. Kimani Ngunjiri, MP  
Member for Bahati Constituency

**Jubilee Party**

Hon. Mishi Mboko, MP  
Member for Likoni Constituency

**Orange Democratic Movement  
(ODM)**

Hon. Omar Mwinyi, MP  
Member for Chagamwe  
Constituency

**Orange Democratic Movement  
(ODM)**

Hon. Ali Mbogo, MP  
Member for Kisauni  
Constituency

**Wiper Democratic Movement  
(WDM)**

Hon. Babu Owino, MP  
Member for Embakasi East  
Constituency

**Orange Democratic Movement  
(ODM)**

Hon. Caleb Kipkemei Kositany,  
MP

Member for Soy Constituency

**Jubilee Party**

Hon. Catherine Waruguru, MP

Member for Laikipia County

**Jubilee Party**

Hon George Aladwa, MP

Member for Makadara  
Constituency

**Orange Democratic Movement  
(ODM)**

Hon George Risa Sunkuyia, MP

Member for Kajiado West  
Constituency

**Jubilee Party**

Hon. Jane Wanjuki Njiru, MP

Member for Embu County

**Jubilee Party**

Hon. Josphat Gichunge  
Kabeabea, MP

Member for Tigania East  
Constituency

**Party of National Unity (PNU)**

Hon. Owen Yaa Baya, MP

Member for Kilifi North  
Constituency

**Orange Democratic Movement  
(ODM)**

Hon. Samuel Kinuthia Gachobe,  
MP

Member for Subukia  
Constituency

**Jubilee Party**

Hon. Simon Nganga Kingara, MP

Member for Ruiru Constituency

**Jubilee Party**

Hon. Teddy Mwambire, MP

Member for Ganze Constituency

**Orange Democratic Movement  
(ODM)**

## **1.5 Committee Secretariat**

6. The Committee secretariat comprises:

**Lead Clerk**  
Mr. Leonard Machira  
**Clerk Assistant I**

Mr. Ahmad Guliye  
**Clerk Assistant III**

Mr. Adan Abdi  
**Fiscal Analyst III**

Mr. Joseph Tiyan  
**Researcher III**

Ms. Winnie Kizia  
**Media Relations Officer III**

Ms. Jemimah Waigwa  
**Legal Counsel I**

Mr. Nimrod Ochieng  
**Audio Officer**

Ms. Peris Kaburi  
**Serjeant-At-Arms**

## 2.0 INTRODUCTION

7. The Petition by Taita Taveta Teachers Investment Company Limited regarding illegal occupation of land belong to the company was submitted to the House on 6<sup>th</sup> April 2019 by the Hon Andrew Mwadime MP on behalf of the Petitioners.
8. The Petitioners wished to draw the attention of the House to the following, that:
  - i. Taita Taveta Teachers Investment Company Limited is a registered Company having been incorporated in March 1980 and operating under KRA Pin number P051411254Q;
  - ii. The Company's membership includes over 1,200 shareholders composed of both teachers and non-teachers. Among the core business of the company is to acquire land and subdivide it into plots for allocation to its members, as well as investing in real estate;
  - iii. The company through the efforts of Taita Taveta KNUT Branch officials bought 122.7 acres of land in Mshomoroni area (Junda Creek) in Kisauni Constituency, Mombasa County, namely Mainland North Section LR II/56, II/57, II/293, II/65, II/766, II/767, II/771 & II/222;
  - iv. The capital to purchase the land was realized through payment of monthly shares through a check – off system from the teachers' salaries and cash payments through loans and subscriptions from shareholders;
  - v. Before the acquired land was subdivided and allocated to the shareholders the company experienced financial hardship and aggressive individuals invaded the said land and began irregularly selling parts of the land to buyers who later masqueraded as squatters;
  - vi. To date over one thousand irregular occupants reside on the land and occasionally harass and threaten to lynch the company directors who make visits to the land;
  - vii. Several shareholders have died on account of the shock of not realizing any gains from the hard work of their investment and being forcefully driven out of their land; and

viii. Efforts to resolve the matter with relevant authorities including the Mombasa City Clerk, City Planner and Surveyor, County Executive Committee Member for Lands have been futile.

9. The petitioners prayed that the National Assembly, through the Departmental Committee on Lands;

- a. Intervene through the Ministry of Lands to halt any further developments on the plots of land in questions pending investigations.
- b. Investigate the illegal occupation of the land owned by Taita Taveta Teachers Investments Company Limited with the objective of overseeing the reverting of the occupied lands back to the Company and its shareholders.
- c. Recommend the Ministry of Lands and Physical Planning to settle bona-fide squatters and make any other direction that it deems fit in the circumstances of this petition.

### **3.0 SUBMISSIONS**

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

The Committee held a meeting with the petitioners on 17<sup>th</sup> July 2019. During the meeting the Committee was informed that:

10. Taita Taveta Teachers Investment Company Limited is a registered Company with over 1,200 shareholders composed of both teachers and non-teachers. The shareholders mainly reside in Taita Taveta County.
11. The Company through the members contributions in form of shares and cash subscriptions from the members acquired 90 acres of land at Mshomoroni area (Junda Creek) in Kisauni Constituency, Mombasa County, namely Mainland North Section LR/MN/II//56, LR/MN/II/57, LR/MN/II/293, LR,MN//II/65, LR/II/766, LR/II/767, LR. MN /II/771. The said plots are registered in the name of the company. The company had also reached an agreement to acquire an additional 32 acres from Noormisa Mohamedali Suleiman Essaji for land parcel LR.MN/ II/222. Therefore, the total acreage acquired by the company in the area is 112 acres. The company intended to subdivide and allocate the acquired land to the members.
12. Before the shareholders of the company occupied the said parcels of land, squatters invade it and prevented the owners from accessing the land through harassment and threats to lynch the owners.
13. The Company then lodged a case in court seeking to evict the squatters and although the company won the case and obtained orders to evict the illegal occupants, it chose to seek an amicable solution to the matter due to the plight of the squatters. However, the efforts to have the matter solved following repeated pleas by local leaders to withhold the evict of the squatter have not been fruitful. The petitioners had approached relevant authorities including the Mombasa City Clerk, City Planner and Surveyor, County Executive Committee Member for Lands have the matter solved in vain.
14. The petitioners noted with concern that several shareholders have since passed on without realizing gains from their investments.
15. Over 80% of the land had been evaded by squatters over the years and the remaining portion was unproductive.
16. The titles of the parcels of land have been in the custody of the company Advocates for twenty-eight (28) years.

17. The consequences of the standoff are that the registered owners cannot benefit from the ownership of their properties and the residents reside on land on which they do not have title documents. Further the temporary and semi-permanent structures erected by the residents on the contested land are unplanned and have no access to proper amenities.
18. The petitioners proposed that the government compensates them for the 122 acres parcels of and they propose that the said compensation be paid from the Settlement Trust Fund at the current prevailing market rates.

### **3.2 Submissions by stakeholders during a field visit to Kisauni in Mombasa County**

19. The Committee undertook a field visit to Kisauni in Mombasa County on Friday 2<sup>nd</sup> August, 2019. The Committee held meetings with the County Commissioner, Mombasa County and residents of Junda Ward. During the meeting the Committee was informed as follows:

#### **a) Submissions by the County Commissioner Mombasa County**

20. The County Commissioner, in his remarks, acknowledged that the matter was complicated as it involved many squatters and noted that the court order that was obtained by the company to evict the squatters should have been implemented instead of allowing the number of squatters on the land to increase over time. He also recommended that the squatters be advised to purchase the land through an amicable agreement with the company noting that this was the only way through which such invasion of private property would be discouraged.
21. The County Commissioner further stated that the government would initiate measures to ensure that squatters do not invade the 20% of the company land that was unoccupied.

#### **b) Submissions by the National Land Commission Mombasa County Coordinator**

22. The County Coordinator informed the Committee that Land parcel No. MN/II/222 registered in the name of Noorunia Essajee was a subject of a court case and the court ruled in favour of Taita Teachers Investment Company Limited, which had purchased the land from the initial owner, However, the company did not enforce the order to evict squatters from the land.
23. In 2005 the squatters approached the commission seeking assistance to solve the matter amicably. The commission then held meetings with both parties and an agreement was reached that each party undertakes valuation of the contested land with a view to facilitate its purchase by the squatters.

24. The company valued the land at Ksh. 10 million per acre while the squatters through their private valuer reached a value of Ksh. 2,5 million per acre. Based on the two valuation reports both parties were not able to agree on a mutual value and resolved to seek the support of the County government of Mombasa to facilitate a valuation report from the Ministry of Lands and Physical Planning.
25. The Ministry of Lands and Physical Planning undertook valuation of the said land and forwarded a fee note of Ksh. 875, 000 to the county government of Mombasa. However, the county government was not able to pay the fees and requested for a waiver, which the Principal Secretary declined to grant.

**c) Submissions by the residents of Junda who occupy the contested land**

26. Most of the residents, through their representatives **acknowledged** that the contested land is registered in the name of Noorunia Essajee and Taita Teachers Investment Company Limited and that it was a subject of a court case which was ruled in favour of Taita Teachers Investment Company Limited.
27. However, some of the residents stated that the land in question was their ancestral land and attributed its acquisition by third parties to ignorance during the adjudication process. They argued that they were victims of historical land injustice.
28. The residents informed the Committee that they lived in fear of eviction and had sought to purchase the contested land, but they could not afford the price set by the company. They then approached the National Land Commission seeking assistance to solve the matter amicably. Subsequently the commission held meetings with both parties and an agreement was reached that each party undertakes valuation of the contested land with a view to facilitate its purchase by the squatters.
29. The company valuation came up with a value of Ksh. 10 million per acre, while the squatters through their private valuer reached a value of Ksh. 1 to 1.5 million per acre. Based on the two valuation reports both parties were not able to agree on a mutual value and resolved to seek the County government of Mombasa to facilitate a valuation report from the Ministry of Lands and Physical Planning.
30. The Ministry of Lands and Physical Planning undertook valuation of the said land and forwarded the valuation report to the residents through their Member of Parliament. The valuation report also contained valuation for ten other parcels of land apart from the parcels mentioned in the petition.

31. The residents were however still not able to afford the price set in the valuation done by the ministry and argued that it favoured the company. Most of the representatives therefore recommended that the government should buy the land from the company through the Settlement Transfer Fund like it did in the Waitiki Farm in Likoni Constituency. The residents would then pay for the land through instalment over a period of a least ten years.

### 3.3 Submissions by the Ag. Chief Executive Officer, National Land Commission

32. The Committee held a meeting with the Ag. Chief Executive Officer, National Land Commission on 10<sup>th</sup> September 2019. During the meeting the Ag. Chief Executive Officer informed the Committee that Taita Taveta Teachers Investment Company Limited is the registered owner of the following parcels of land in Junda creek with Kisauni Constituency in Mombasa County, which were bought in the 1980s and were the subject of the petition:

S/NO	LR NO.	ACRES
1	MN/II/56	4..93
2	MN/II/57	12.02
3	MN/II/293	10.0
4	MN/II/765	10.0
5	MN/II/766	3.10
6	MN/II/771	47.62
7	MN/II/767	3.10
	<b>Total Acreage</b>	90.77

33. The company also entered into a sale agreement with the registered owner regarding land parcel No. LR MN/II/222 bringing the total acreage owned by the company to 112.77 acres.

34. The company claimed that the land was purchased with the aim of subdividing and distributing it to the shareholders. However, the project stalled in 1988 when the then Taita Taveta KNUT Executive Secretary, the late Adiel M. Kachili was elected to Parliament and handed over the company to a new Executive Secretary who did not convene a single meeting leading to the intended subdivision of the land to stall.

35. The company was revived in 2008 and the members realized that the land in question was fully occupied by squatters. The board of directors therefore resolved to sell the land to

recover the members contributions. However, the company was not able to remove the squatters from the land.

36. The squatters lodged a case in court seeking to prevent their removal from the land. The property was a subject of a suit for 11 years from 2003 to 2014. The court ruled in favour of the company and the squatters were ordered to vacate the land.
37. The squatters then sought the intervention of the commission in a bid to avoid eviction. The commission reached out to both parties and advised them to embrace Alternative Dispute Resolution in order to reach an amicable solution. The commission also advised the two parties to value the land and to table offers for purchase and sale.
38. The squatters tabled a valuation of 2.5 million per acre and the company presented a valuation of 10 million per acre. The parties would not reach a mutual value and it was then agreed that the government should value the land to give a compromise value to pave way for further negotiation.
39. The commission also suggested that the county government of Mombasa buy the land to settle the squatters at a fee based on the Waitiki model. The Chief Officer, Lands, Planning and Housing, Mombasa County vide a letter Ref. LPH/LND/1-1 dated 22<sup>nd</sup> March 2016 addressed to the County Secretary confirmed that the department held a meeting with the squatters who expressed willingness to be settled on the land and to be allowed to pay for the land through installments.
40. The National Government Valuer undertook a valuation of the land and issued a fee of Ksh. 875,000 to the county government of Mombasa. The amount was required to facilitate release of the valuation report. The county government requested for a waiver, but the ministry declined to grant the request.
41. The Ag. Chief Executive Officer stated that the commission recommended that:
  - i. The County Government of Mombasa should hasten the payment of the valuation fee to the Ministry of Lands and Physical Planning in order for the report to be issued;
  - ii. Mediation be done between the squatters and the company to facilitate a mutual selling price for the land; and
  - iii. Taita Taveta Teachers Investment Company should be adequately be compensated for the land. The company should also surrender the titles of the land to the government once it is compensated to pave way for allocation of the said land to the squatters.

### **3.4 Submissions by the Chief Administrative Secretary Ministry of Lands and Physical Planning**

42. The Committee held a meeting with the Chief Administrative Secretary, Ministry of Lands and Physical Planning on 6<sup>th</sup> August, 2019. During the meeting the Chief Administrative Secretary stated that according to the Ministry records, parcels Mainland North / Section 11/56, 11/57 and 293,11/765 and 11/771 are registered in the name of Taita Taveta Teachers Investment Company Limited. While parcel No. 11/222 is registered to Mohamedali Suleiman Essaji.
  
43. He also stated that the Ministry was not mandated to halt invasion by squatters and development of structures on private property. However, the ministry would support a proposal to acquire the land for the benefit of the squatters by compensating Taita Taveta Teachers Investment Company Limited.

#### **4.0 OBSERVATIONS**

The Committee made the following observations:

1. The Ministry of Lands & Physical Planning and the National Land Commission confirmed to the Committee that Taita Taveta Teachers Investment Company Limited is the registered owner of land parcels LR /II//56, LR/II/57, 293, LR/II/65, LR/II766, LR/II/767, LR. MN /II/771 and was in the process of acquiring LR MN/II/222 in Junda Ward Kisauni Constituency.
2. The Petitioners, Taita Taveta Teachers Investment Company Limited, are willing to sell the contested land to the government for the settlement of squatters already residing on the land.
3. A field visit by the committee to the contested land revealed that the area was densely populated with informal settlement of impoverished local communities. It will therefore be difficult and in humane to forcefully evict the residents for the land.
4. Most of the residents of Junda Ward currently residing on the contested land , through their representatives acknowledged that the contested land is registered in the name of Noorunia Essajee and Taita Taveta Teachers Investment Company Limited and they were willing to buy the land at an affordable price and make payments through instalments.
5. The Committee also observed that there existed a variance on the valuation of the land as submitted by the Petitioners and the Ministry of Lands and Physical Planning. To this end, the Petitioners upon valuation indicated the price of the land per acre as being Ksh. 10 million while the Ministry of Lands and Physical Planning upon valuation indicated the price as 10.5 million per acre. The squatters on the other hand valued the land at Ksh.2.5 million per acre.

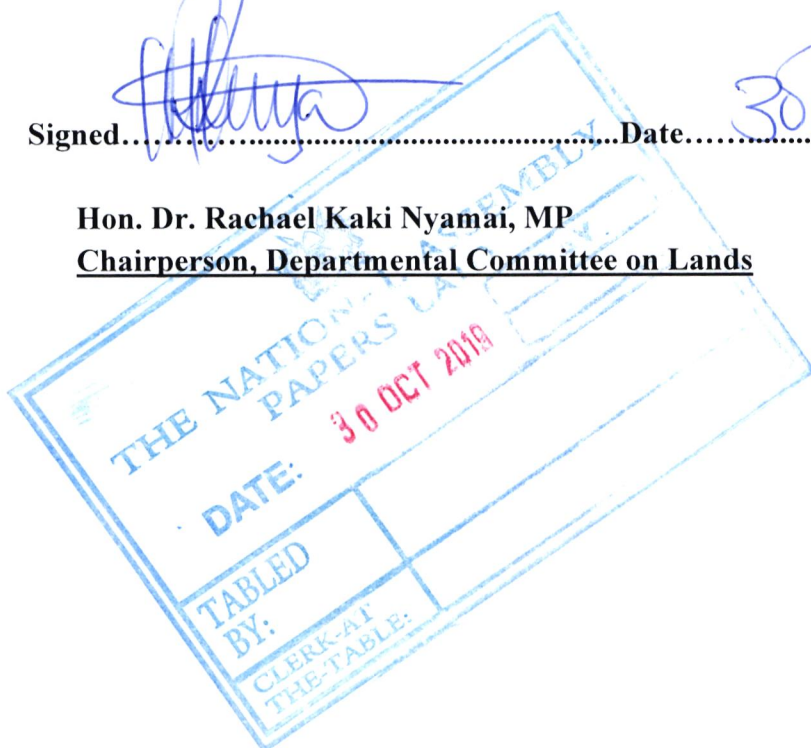
## 5.0 COMMITTEE RECOMMENDATIONS

In response to the prayers by the Petitioners, the Committee recommends, that -

1. Pursuant to Section 135 of the Land Act, 2012, the Board of Trustees of the Land Settlement Fund does purchase the 122 acres of land, comprising LR/MN/II//56, LR/MN/II/57, LR/MN/II/293, LR/MN/II/65, LR/MN/II/766, LR/MN/II/767, LR/MN/II/771 and LR/MN/II/222 in Junda Ward, Kisauni Constituency belonging to the Taita Taveta Teachers Investment Company Limited for the settlement of squatters already residing on the land.
2. Pursuant to Section 135(2)(f) of the Land Act, 2012, the squatters residing on the land do pay into the Land Settlement Fund such amounts as the Board of Trustees in consultation with the squatters shall determine for purposes of purchasing the 122 acres of land for their settlement.
3. The purchase of the land and settlement of the squatters be undertaken in accordance with Part IX of the Land Act, 2012.

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

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





REPUBLIC OF KENYA  
TWELFTH PARLIAMENT (THIRD SESSION)  
THE NATIONAL ASSEMBLY

Approved  
BN  
SNA  
4/6/19

**PUBLIC PETITION**

(No. 52 of 2019)

**REGARDING OCCUPANCY OF LAND OWNED BY TAITA TAVETA TEACHERS  
INVESTMENTS COMPANY LTD. BY ILLEGAL OCCUPANTS**

I, the **undersigned**, on behalf of the Taita Taveta Teachers Investment Company Limited,

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

1. **THAT**, the Taita Taveta Teachers Investments Company Limited is a registered company having been incorporated in March 1980 and operating under Kenya Revenue Authority PIN number P051411254Q;
2. **THAT**, the Company's membership includes over 1,200 shareholders composed of both teachers and non-teachers, and its core business is to acquire land and subdivide it into plots for its members, as well as investing in real estate;
3. **THAT**, through concerted efforts of Taita Taveta KNUT Branch officials, the Company bought 122.7 acres of land at Mshomoroni Area (Junda Creek) in Kisauni Constituency of Mombasa, namely, Mainland North/ Section LR 11/56, 11/57, 293, 1165, 766, 11/767, 11/771, and 11/222;
4. **THAT**, the capital to purchase the said chunks of land was realized through payment of monthly shares through a check-off system from the teachers' salaries and cash payments through loans and cash subscriptions from non-teaching shareholders;
5. **THAT**, at a time when the Company was experiencing financial hardships, aggressive individuals invaded the said lands and began to irregularly sell parts of the land to buyers who later masqueraded as squatters;



**PUBLIC PETITION**

**REGARDING OCCUPANCY OF LAND OWNED BY TAITA TAVETA TEACHERS INVESTMENTS COMPANY LTD. BY ILLEGAL OCCUPANTS**

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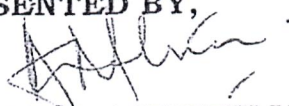
6. **THAT**, to date, over one thousand irregular occupants reside on the lands owned by the Company, and who on occasions have harassed and threatened to lynch Company directors who make visits to the land;
7. **THAT**, several shareholders have already died on account of the shock of not realizing any gains from the hard work of their investment and being forcefully driven out of their land;
8. **THAT**, efforts to resolve the matter with relevant authorities including the Mombasa City Clerk (Major), City Planner and Surveyor, County Executive for Lands, various leaders and even reaching out to the illegal occupants in an attempt to solve the matter amicably have been completely futile;
9. **THAT**, the issues in respect of which this Petition is made are not pending before any Court of Law, or any Constitutional or Statutory body.

**THEREFORE**, your humble Petitioners pray that the National Assembly, through the Departmental Committee on Lands;

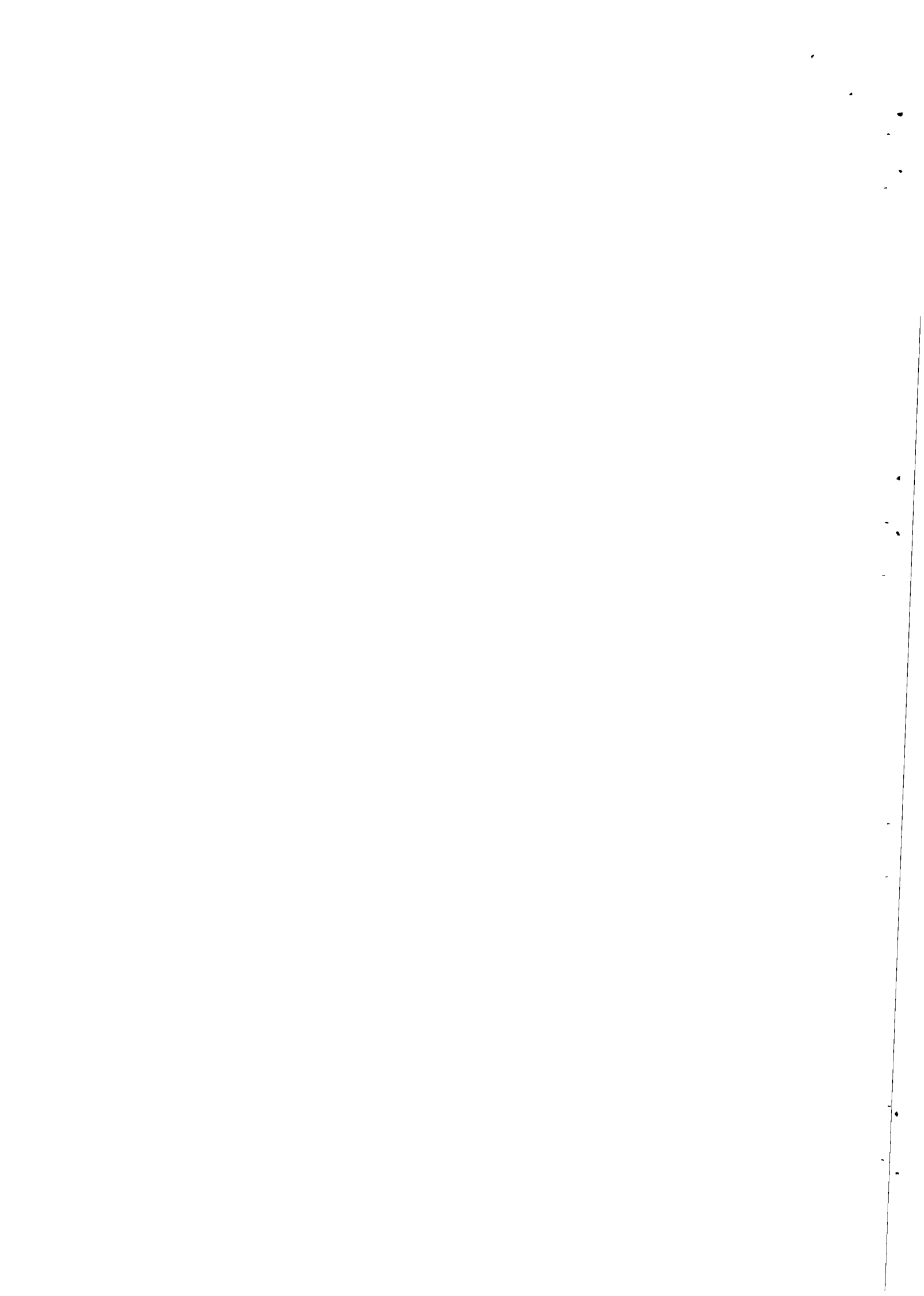
- (i) intervenes through the Ministry of Lands to halt any further developments on the plots of land in question pending investigations;
- (ii) investigates the illegal occupation of the land owned by the Taita Taveta Teachers Investments Company Ltd. with the objective of overseeing the reverting of the occupied lands back to the Company and its shareholders;
- (iii) recommends to the Ministry of Lands to settle bonafide squatters; and
- (iv) makes any other order or direction that it deems fit in the circumstances of the Petition.

And your **PETITIONERS** will ever pray.

**PRESENTED BY,**

  
**THE HON. ANDREW MWADIME, MP**  
**MEMBER FOR MWATATE CONSTITUENCY**

**DATE:** .....04/06/2019.....



**MINUTES OF THE 77<sup>TH</sup> SITTING OF THE DEPARTMENTAL COMMITTEE ON LANDS HELD ON THURSDAY, 24<sup>TH</sup> OCTOBER 2019 IN THE BOARDROOM, 4<sup>TH</sup> FLOOR, CONTINENTAL HOUSE, PARLIAMENT BUILDINGS AT 10.00 A.M**

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**PRESENT**

1. Hon. Dr. Rachael Nyamai, M.P - **Chairperson**
2. Hon. Khatib Mwashetani, M.P - **Vice Chairperson**
3. Hon. Joshua Kutuny, M.P
4. Hon. Jayne Kihara, M.P
5. Hon. Kimani Ngunjiri, M.P
6. Hon. Babu Owino, M.P
7. Hon. Caleb Kositany, M.P
8. Hon. George Risa Sunkuyia, M.P
9. Hon. Jane Wanjuki Njiru, M.P
10. Hon. Owen Baya, M.P
11. Hon. Samuel Kinuthia Gachobe, M.P
12. Hon. Simon Nganga Kingara, M.P
13. Hon. Teddy Mwambire, M.P

**APOLOGIES**

1. Hon. Mishi Mboko, M.P
2. Hon. Omar Mwinyi Shimbwa, M.P
3. Hon. Ali Mbogo, M.P
4. Hon. Catherine Waruguru, M.P
5. Hon. George Aladwa, M.P
6. Hon. Josphat Gichunge Kabeabea, M.P

**IN -ATTENDANCE**

Hon. David Gikaria, M.P

**NAKURU INDUSTRIES LIMITED**

1. Mr. Ronak Shah - Managing Director
2. Mr. Raj Shah - Director
3. Mr. Hansal Shah - Family of Nakuru Industries Limited
4. Mr. Andrew Musangi - Counsel
5. Mr. Collins Sami - Assisting Counsel

## **THE NATIONAL ASSEMBLY SECRETARIAT**

- |                        |   |                      |
|------------------------|---|----------------------|
| 1. Mr. Leonard Machira | - | Clerk Assistant I    |
| 2. Mr. Ahmad Guliye    | - | Clerk Assistant III  |
| 3. Ms. Jemimah Waigwa  | - | Legal Counsel        |
| 4. Mr. Nimrod Ochieng  | - | Audio Officer        |
| 5. Ms. Peris Kaburi    | - | Serjeant – At - Arms |

### **MIN. NO. NA/DCS/LANDS/2019/294: PRELIMINARIES**

The meeting was called to order at eighteen minutes past ten o'clock and prayers were said.

### **MIN. NO. NA/DCS/LANDS/2019/295: ADOPTION OF THE AGENDA**

The agenda of the meeting was adopted as outlined in the notice of the meeting after it was proposed and seconded by Hon. Simon Kingara, M.P and Hon. George Sunkuyia, M.P respectively.

### **MIN. NO. NA/DCS/LANDS/2019/296: ADOPTION OF A REPORT ON THE PETITION BY TAITA TAVETA TEACHERS INVESTMENT COMPANY LIMITED REGARDING ILLEGAL OCCUPATION OF LAND OWNED BY THE COMPANY**

The Committee considered the draft report on the Petition by Taita Taveta Teachers Investment Company Limited regarding illegal occupation of land owned by the company and adopted it with the following recommendations after it was proposed and seconded by Hon. Joshua Kutuny, M.P and Hon. Caleb Kositany, M.P respectively;

- I. Pursuant to section 135 of the Land Act, 2012, the Board of Trustees of the Land Settlement Fund does purchase the 122 acres of land, comprising LR/MN/II/56, LR/MN/II/57, LR/MN/II/293, LR/MN/II/65, LR/MN/II/766, LR/MN/II/767, LR/MN/II/771 and LR/MN/II/222 in Junda Ward, Kisauni Constituency belonging to the Taita Taveta Teachers Investment Company for the settlement of squatters already residing on the land.
- II. Pursuant to section 135(2)(f) of the Land Act, 2012, the squatters residing on the land do pay into the Land Settlement Fund such amounts as the Board of Trustees in consultation with the squatters shall determine for purposes of purchasing the 122 acres of land for their settlement.
- III. The purchase of the land and settlement of the squatters be undertaken in accordance with Part IX of the Land Act, 2012.

**MIN. NO. NA/DCS/LANDS/2019/297: ADOPTION OF THE REPORT ON A PETITION BY MR. EDWARD KAMANDE (PETER KAIRANG'A) REGARDING SETTLEMENT OF OVER 25,000 SHAREHOLDERS OF THE MUTUKANIO GWATANIRO COMPANY LAND IN NAKURU AND LAIKIPIA**

While considering the petition, the Committee noted the following;

- I. The petitioner submitted a copy of his national identification card No. 0150340 that indicated his name as being Peter Kairang'a Nyagah. The same national identification card number was indicated in the petition but under the name Edward Kamande (Peter Kairang'a). The identity of the actual petitioner is therefore suspicious. The Committee was also not able to determine whether the said Edward Kamande existed or if he was fictitious.
- II. None of the documents submitted by Peter Kairang'a to the Committee including share certificates and receipts to demonstrate he was a shareholder in the Mutukanio Gwataniro Company had is name as he alleged. The committee noted that copy a share certificate No. 4247 dated 11<sup>th</sup> September 1981 purportedly issued in the name of Peter Kairanga was altered through a visible insertion of letter "i" between letters "a and r" in the name Peter Karanga.
- III. Although the petitioner indicated in the petition that Mutukanio Gwataniro Company had over 50,0000 shareholders, none of the said shareholders signed the petition despite the fact that the petitioner alleges that over 25,000 shareholders were issued with ballots but had not been allocated any land by the company.
- IV. Section 3(n) of the Petition to Parliament (Procedure Act)2012 and Standing Order 223 (m) of the National Assembly Standing Orders provides that a petition shall be signed by the petitioner, or if the petitioner is unable to sign by a witness in whose presence the petitioner shall make his or mark on the petition.
- V. In view of the above, the committee was not able to identify the petitioner who signed the petition under the name Edward Kamande and resolved not proceed with the consideration of the petition.

**MIN. NO. NA/DCS/LANDS/2019/298: SUBMISSIONS BY THE MANAGING DIRECTOR, NAKURU INDUSTRIES LIMITED ON THE PETITION REGARDING PUBLIC ACCESS AND USE OF PUBLIC UTILITY PLOTS IN NAKURU WEST WARD, NAKURU COUNTY**

Mr. Andrew Mukite Musangi while acting for the Managing Director, Nakuru Industries Limited submitted the following before the Committee in response to the above petition;

- I. The proposed consolidation and subdivision of the Nakuru Industries Limited wider plot (LR No. 11264) were carried out in 1983 vide letter 19068/111/33 of 1<sup>st</sup> February 1983 with subdivision conditions being stipulated in the Commissioner's letter and the deed plan.
- II. Negotiations were carried out between the Commissioner for Lands and their surveyors and subsequently deed plans surrendered and new allotment letters issued for residential purposes and later titles were issued in the name Nakuru Industries Limited.
- III. In return, Nakuru Industries Limited was to build a primary school, reserve a site for the National Museums of Kenya, develop religious sites and medical centre. The Company had complied with all the requirements on its part.
- IV. While under oath, the Managing Director, Nakuru Industries Limited informed the Committee that the Company is in possession of the titles of all the surrendered parcels of land apart from parcels LR. No. 12570/187 (Hyrax Primary School) and LR. No. 12570/188 (Service Station).

### **Committee Observations**

While interacting with the witnesses, the Committee noted the following;

- I. Seven parcels of land with LR. Nos. 12570/183, 12570/184, 12570/185, 12570/186, 12570/187, 12570/188 and 12570/189 were surrendered for the subdivision of plot LR No. 11264.
- II. Under unclear circumstances, titles of five parcels of the surrendered land (LR NOs. 12570/183, 12570/184, 12570/185, 12570/186, and 12570/189) were reverted back to Nakuru Industries Limited (the original owner).
- III. The witnesses could not satisfactorily apprise the Committee the circumstances under which the titles were reverted back to the original owners before the surrender and the acreage of the land before subdivision and how much land was surrendered for public utility.

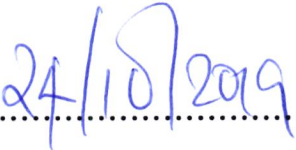
**MIN. NO. NA/DCS/LANDS/2019/299: ADJOURNMENT**

There being no other business to discuss, the meeting was adjourned at two minutes past one o'clock. The next meeting will be held on Tuesday, 29<sup>th</sup> October, 2019 at 10.00 am.

Signature  .....

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

(Chairperson)

Date  .....

**MINUTES OF THE 51<sup>ST</sup> SITTING OF THE DEPARTMENTAL COMMITTEE ON LANDS OF THE SUB-COMMITTEE'S VISIT TO KISAUNI HELD ON FRIDAY 2<sup>ND</sup> AUGUST 2019 AT COUNTY COMMISSIONER'S OFFICE, MOMBASA COUNTY, AT 10.00 A.M**

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**PRESENT**

1. Hon. Dr. Rachael Nyamai, M.P - **Chairperson**
2. Hon. Khatib Mwashetani, M.P - **Vice Chairperson**
3. Hon. Omar Mwinyi Shimbwa, MP
4. Hon. Ali Mbogo, MP
5. Hon. Owen Yaa Baya, M.P
6. Hon. Teddy Mwambire, MP

**IN ATTENDANCE**

**Representatives of Government Departments / Agencies – Mombasa County**

1. Mr. Evans Achoki - County Commissioner, Mombasa County
2. Mr. Edward Bosire - National Land Commission County Coordinator,

**The National Assembly Secretariat**

1. Mr. Leonard Machira - Clerk Assistant I
2. Mr. Joseph Tiyan - Research Officer III
3. Ms. Winfred Kizia - Media Relations Officer
4. Ms. Peris Kaburi - Serjeant At Arms
5. Ms. Joyce Chelagat - Audio Recording Officer

**MIN. NO. NA/DCS/LANDS/2019/212: PRELIMINARIES**

The meeting was called to order at eight minutes past ten o'clock and prayers were said.

**MIN. NO. NA/LANDS/2019/213 COURTESY CALL ON THE MOMBASA COUNTY COMMISSIONER**

The Chairperson outlined the purpose of the visit and briefed the County Commissioner on the petition as follows, that:

- i) Taita Teachers Investment Company Limited with a membership of more than 1200 shareholders bought 122.7 acres of land in Mshomoroni area in Junda Creek within Kisauni Constituency, namely MN11/56, 57,293,1165,766,767,771 and 222;

- ii) Before the shareholders of the company occupied the said parcels of land, squatters invade it and prevented the owners from accessing the land through harassment and threats to lynch the owners;
- iii) The Company then lodged a case in court seeking to evict the squatters and although the company won the case and obtained orders to evict the illegal occupants, it chose to seek an amicable resolution to the matter; and
- iv) The company through the petition sought the intervention of the National Assembly to halt any further developments in the land and investigate the illegal occupation of the land with the objective of overseeing the reverting of the land to the company.

The County Commissioner, in his remarks, acknowledged that the matter was complicated as it involved many squatters and noted that the court order that was obtained by the company to evict the squatters should have been implemented instead of allowing the number of squatters on the land to increase over time. He also recommended that the squatters be advised to purchase the land through an amicable agreement with the company noting that this was the only way through which such invasion of private property would be discouraged.

The County Commissioner further stated that the government would initiate measures to ensure that squatters do not invade the 20% of the company land that was unoccupied.

**MIN. NO. NA/LANDS/2019/214: BRIEFING BY THE NATIONAL LAND COMMISSION MOMBASA COUNTY COORDINATOR ON THE PETITION BY TAITA TEACHERS INVESTMENT COMPANY**

The County Coordinator, National Land Commission registered apologies from the Ag. Chief Executive Officer and informed the Committee of the following;

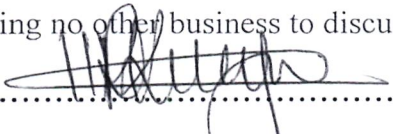
- i. Land parcel No. MN/II/22 registered in the name of Noorunia Essajee was a subject of a court case and the court ruled in favour of Taita Teachers Investment Company Limited, which had purchased the land from the initial owner, However the company did not enforce the order to evict squatters from the land ;
- ii. In 2005 the squatter approached the commission seeking assistance to solve the matter amicably. The commission then held meetings with both parties and an agreement was reached that each party undertakes valuation of the contested land with a view to facilitate its purchase by the squatters;
- iii. The company valued the land at Ksh. 10 million per acre while the squatters through their private valuer reached a value of Ksh. 2,5 million per acre. Based on the two valuation reports both parties were not able to agree on a mutual value and resolved to seek the support of the County government of Mombasa to facilitate a valuation report from the Ministry of Lands and Physical Planning;

- iv. The Ministry of Lands and Physical Planning undertook valuation of the said land and forwarded a fee note of Ksh. 875, 000 to the county government of Mombasa. However, the county government was not able to pay the fees and requested for a waiver, which the Principal Secretary declined to grant.

**MIN. NO. NA/LANDS/2019/215: ADJOURNMENT**

There no being no other business to discuss, the meeting was adjourned at 12.00 hours.

Signature .....



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

**(Chairperson)**

Date.....

15/10/2019



**MINUTES OF THE 52<sup>ND</sup> SITTING OF THE DEPARTMENTAL COMMITTEE ON LANDS OF THE SUB-COMMITTEE'S VISIT TO KISAUNI HELD ON FRIDAY 2<sup>ND</sup> AUGUST 2019 AT KADZONZO GROUNDS , KISAUNI , MOMBASA COUNTY, AT 2.30 P.M**

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**PRESENT**

1. Hon. Dr. Rachael Nyamai, M.P - **Chairperson**
2. Hon. Khatib Mwashetani, M.P - **Vice Chairperson**
3. Hon. Omar Mwinyi Shimbwa, MP
4. Hon. Ali Mbogo, MP
5. Hon. Owen Yaa Baya, M.P
6. Hon. Teddy Mwambire, MP

**IN ATTENDANCE**

**Representatives of Government Departments / Agencies – Mombasa County**

1. Mr. Edward Bosire - NLC County Coordinator
2. Juma Boy Ombata - Kenya Police
3. Mr. Josaphat Kisingu - SCCO Kisauni
4. Zuberi M. Ali - NIS
5. Residents of Junda

**The National Assembly Secretariat**

1. Mr. Leonard Machira - Clerk Assistant I
2. Mr. Joseph Tiyan - Research Officer III
3. Ms. Winfred Kizia - Media Relations Officer
4. Ms. Peris Kaburi - Serjeant At Arms
5. Ms. Joyce - Chelagat Audio Recording Officer

**MIN. NO. NA/DCS/LANDS/2019/216: PRELIMINARIES**

The meeting was called to order at thirty-seven minutes past two o'clock and prayers were said.

**MIN. NO. NA/LANDS/2018/217: MEETING WITH RESIDENTS OF JUNDA WARD ON  
THE PETITION BY TAITA TEACHERS  
INVESTMENT COMPANY**

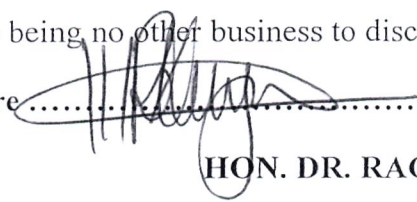
The residents of Junda currently occupying the land that is the subject of the petition informed the Committee of the following;

- i. The contested land is registered in the names of Noorunia Essajee and Taita Teachers Investment Company Limited;
- ii. The land was a subject of a court case and the court ruled in favour of Taita Teachers Investment Company Limited;
- iii. The residents occupying plot Nos. 293, 57 and 767 through their representative stated that the land in question was their ancestral land and attributed its acquisition by third parties to ignorance on their part during the adjudication process. They indicated that they had occupied the land for generation and always assumed that the land belonged to them until they saw adverts in the media on payments of land rates regarding the land in question; upon enquire they established that the land was registered in the name of Noorunia Essajee and Taita Teachers Investment Company Limited
- iv. The residents also indicated that they lived in fear of eviction and had sought to purchase the contested land, but they would not afford the price set by the company;
- v. They approached the National Land Commission seeking assistance to solve the matter amicably. The commission then held meetings with both parties and an agreement was reached that each party undertakes valuation of the contested land with a view to facilitating its purchase by the squatters;
- vi. The company valued land at Ksh. 10 million per acre, while the squatters through their private valuer reached a value of Ksh. 1 to 1.5 million per acre. Based on the two valuation reports both parties were not able to agree on a mutual value and resolved to seek the County government of Mombasa to facilitate a valuation report from the Ministry of Lands and Physical Planning;
- vii. The Ministry of Lands and Physical Planning undertook valuation of the said land and forwarded the valuation report to the residents through their Member of Parliament. The valuation report also contained valuation for ten other parcels of land, apart from the parcels mentioned in the petition.
- viii. The residents were however still not able to afford the price set in the valuation done by the ministry and argued that it also favoured the company. A majority of the representatives of the residents of Junda who made submissions to the Committee, therefore recommended that the government should buy the land from the company through the Settlement Transfer Fund like it did in the Waitiki Farm in Likoni Constituency. The residents would then pay the government through instalments over a period of at least ten years

MIN. NO. NA/LANDS/2019/218: ADJOURNMENT

There no being no other business to discuss, the meeting was adjourned at 3:40 pm.

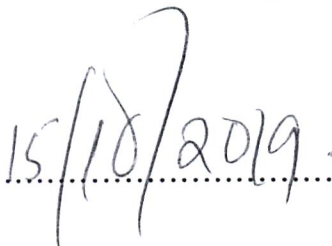
Signature .....



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

(Chairperson)

Date .....



**MINUTES OF THE 45<sup>TH</sup> SITTING OF THE DEPARTMENTAL COMMITTEE ON LANDS HELD ON WEDNESDAY, 17<sup>TH</sup> JULY 2019 IN THE BOARDROOM, 4<sup>TH</sup> FLOOR, CONTINENTAL HOUSE, PARLIAMENT BUILDINGS AT 11.30 A.M**

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**PRESENT**

1. Hon. Dr. Rachael Nyamai, M.P - **Chairperson**
2. Hon. Kimani Ngunjiri, M.P
3. Hon. Mishi Mboko, M.P
4. Hon. Omar Mwinyi Shimbwa, M.P
5. Hon. George Risa Sunkuyia, M.P
6. Hon. Jane Wanjuki Njiru, M.P
7. Hon. Owen Baya, M.P
8. Hon. Simon Nganga Kingara, M.P

**APOLOGIES**

1. Hon. Khatib Mwashetani, M.P - **Vice Chairperson**
2. Hon. Jayne Kihara, M.P
3. Hon. Joshua Kutuny, M.P
4. Hon. Ali Mbogo, M.P
5. Hon. Babu Owino, M.P
6. Hon. Catherine Waruguru, M.P
7. Hon. George Aladwa, M.P
8. Hon. Josphat Gichunge Kabeabea, M.P
9. Hon. Samuel Kinuthia Gachobe, M.P
10. Hon. Teddy Mwambire, M.P

**THE NATIONAL ASSEMBLY**

Hon. Andrew Mwadime, MP

**TAITA TAVETA TEACHERS INVESTMENT COMPANY LIMITED**

1. Mr. David Righa Mwakio - Chairperson
2. Mr. Benedict Maganga Karani - Treasurer
3. Mr. Lucas Sikahala - Board Member
4. Dr. Comm. R.I Laibuta - Advocate
5. Mr. S. A Mwadumbo - Advocate

## **THE NATIONAL ASSEMBLY SECRETARIAT**

- |                        |   |                      |
|------------------------|---|----------------------|
| 1. Mr. Leonard Machira | - | Clerk Assistant I    |
| 2. Mr. Ahmad Guliye    | - | Clerk Assistant III  |
| 3. Mr. Joseph Tiyan    | - | Research Officer     |
| 4. Mr. Nimrod Ochieng  | - | Audio Officer        |
| 5. Ms. Peris Kaburi    | - | Serjeant – At - Arms |

### **MIN. NO. NA/DCS/LANDS/2019/180: PRELIMINARIES**

The meeting was called to order at twenty four minutes to twelve o'clock, prayers said and thereafter introductions were made.

### **MIN. NO. NA/DCS/LANDS/2019/181: ADOPTION OF THE AGENDA**

The agenda of the meeting was adopted as outlined in the notice of the meeting after it was proposed and seconded by Hon. George Sunkuyia, M.P and Hon. Jane Njiru, M.P respectively.

### **MIN. NO. NA/DCS/LANDS/2019/182: PRESENTATION BY THE PETITIONERS ON THE PETITION REGARDING OCCUPANCY OF LAND OWNED BY TAITA TAVETA TEACHERS INVESTMENTS LIMITED BY ILLEGAL OCCUPANTS**

Hon. Andrew Mwadime, MP and Mr. David Righa Mwakio, the Chairperson of Taita Taveta Teachers Investment Company Limited informed the Committee of the following in respect of the above petition;

- i. Taita Taveta Teachers Investment Company Limited is a registered Company having being incorporated in March 1980 under KRA Pin number P051411254Q.
- ii. The Company's membership included over 1,200 shareholders composed of both teachers and non-teachers, and its core-business is to acquire land and subdivide it into plots for its members, as well as investing in real estate.
- iii. The Company acquired 122.7 acres of land at Mshomoroni Area (Junda Creek) in Kisauni Constituency, Mombasa County, namely Mainland North Section LR 11/56, 11/57, 293, 1165, 766, 11/767, 11/771 & 11/222.
- iv. Individuals invaded the said land and began irregularly selling parts of the land to buyers who later masqueraded as squatters.
- v. Several shareholders have since passed on without realizing gains from their investments.
- vi. Efforts to resolve the matter with relevant authorities including the Mombasa City Clerk, City Planner and Surveyor, County Executive Committee Member for Lands have been futile.

- vii. The petitioners pray that the National Assembly, through the Departmental Committee on Lands ;
- a. Intervene through the Ministry of Lands to halt any further developments on the plots of land in questions pending investigations.
  - b. Investigate the illegal occupation of the land owned by Taita Taveta Teachers Investments Company Limited with the objective of overseeing the reverting of the occupied lands back to the Company and its shareholders.
  - c. Recommend the Ministry of Lands to settle bona-fide squatters and make any other direction that it deems fit in the circumstances of this petition.

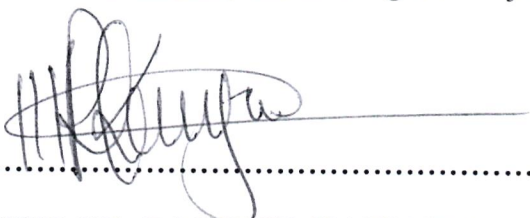
**Committee Observations**

From the interaction with the petitioners, the Committee noted the following;

- i. Over 80% of the land had been evaded by squatters over the years and the remaining portions are unproductive.
- ii. The titles of the parcels of land have been in the custody of their Advocates for twenty-eight (28) years.
- iii. The Petitioners had obtained court orders for eviction of the squatters; however, they could not proceed with the eviction due to the plight of the squatters.
- iv. The petitioners sought compensation from the government for their 122 acres of and they propose that their compensation be paid from the Settlement Trust Fund at the current prevailing market rates.

**MIN. NO. NA/DCS/LANDS/2019/183: ADJOURNMENT**

There being no other business to discuss, the meeting was adjourned at five minutes past one o'clock.

Signature ..... 

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

**(Chairperson)**

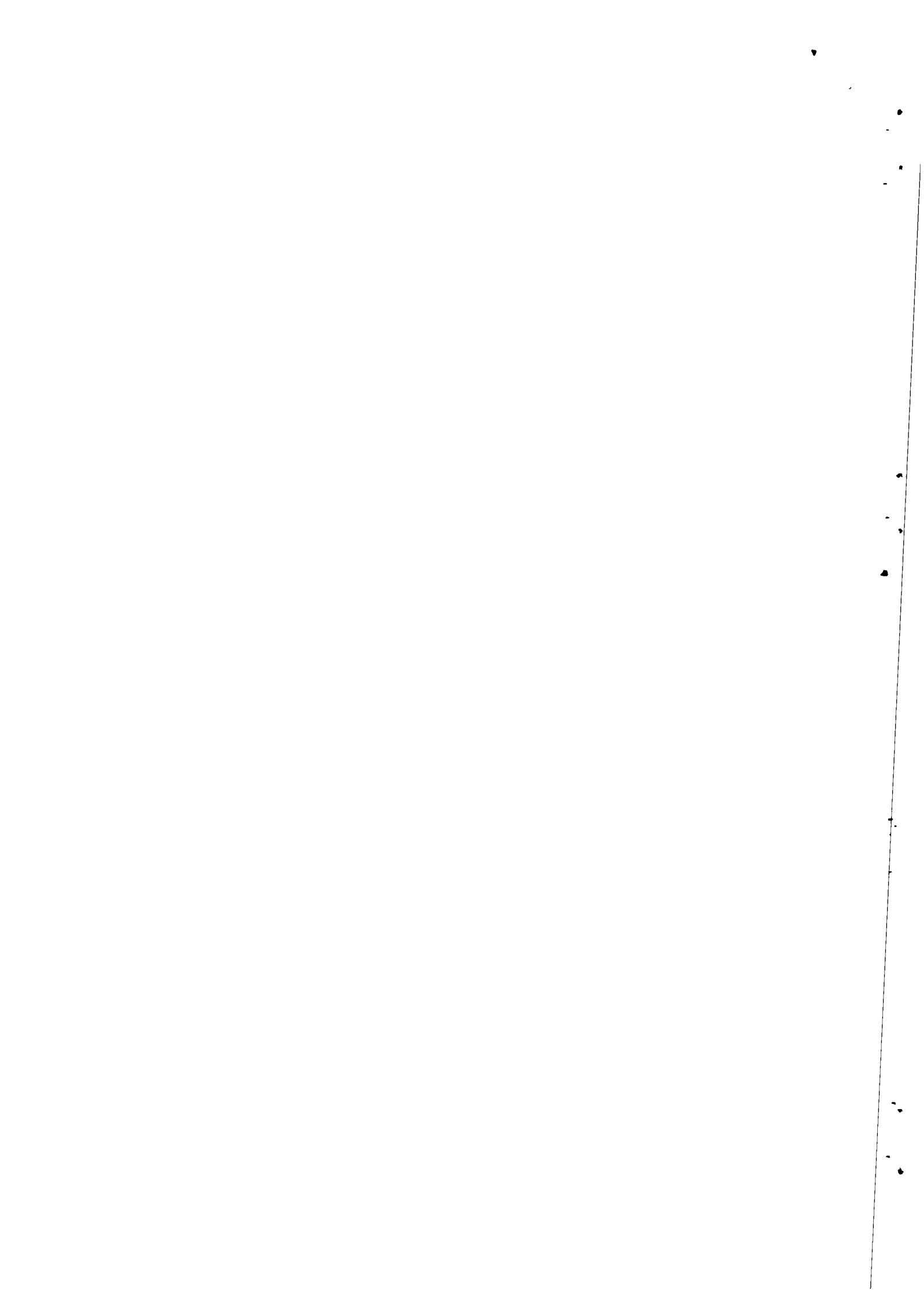
Date..... 25/07/2019

**THE NATIONAL ASSEMBLY**  
**PAPERS LAID**

DATE: 30 OCT 2019

TABLED BY: \_\_\_\_\_

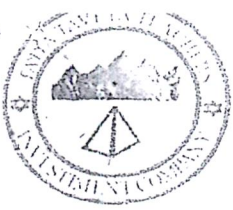
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ANNEXTURE I

SUBMISSIONS BY THE PETITIONERS





# TAITA TAVETA TEACHERS INVESTMENTS CO. LTD

P.O. BOX 1010-80304 WUNDANYI

Your Ref \_\_\_\_\_

Our Ref \_\_\_\_\_

Date: 5/03/2019

Hon Andrew Mwadime,  
The MP Mwatate constituency.

Dear Sir/Madam,

A PROFILE OF TAITA TAVETA TEACHERS INVESTMENT COMPANY LTD.  
BASED IN KISAUNI SUB COUNTY IN MOMBASA COUNTY: TO THE  
CHAIRMAN, PARLIAMENTARY LANDS COMMITTEE, NAIROBI.

On behalf of the Directors and the entire Taita Taveta Teachers Investment Company Shareholders, we the Hon Executive Directors, very sincerely appreciate the recognition and honor you have bestowed to us, to appear before the Parliamentary Lands Committee to present a brief history of our Company.

The Company was set up, inaugurated and officially registered as Taita Taveta Teachers Investment Company Ltd. on 17<sup>th</sup> March, 1980. The Company was began specifically for Teachers but later opened doors to non teachers and other interested persons from other societies.

The main objective of the company, was to acquire land in any major towns. Mombasa being a coastal town was the company's preference. Objectives for land acquisition were twofold: (1) To subdivide the land into unit plots for each member to construct rental Units to boost their meager incomes.

(2) To construct estate houses for leasing purposes to generate communal Income for all shareholders.

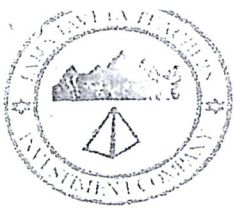
The objectives received maximum acceptance and adoption by shareholders during the first General meeting.

Through the concerted efforts of the Taita Taveta KNUT Branch Executives, championed by the KNUT Branch Secretary the late Adiel Mwangada Kachila (and later the MP VOI), the company sought and purchased land at Mshomoroni Area in Kisauni Sub County in Mombasa. The land comprises a total of 122.7 Acres.

The Capital to facilitate purchase of land was realized through payment of monthly shares through a check off system from the teacher's salaries and cash payments through loans and cash subscriptions from non-teaching shareholders.

## BOARD OF DIRECTORS

Mr. David Righa Mwako (Chairman); Mrs. Prilla Mwangada (Vice Chairperson); Mr. Charles M. Mwaiseghe (Secretary); Mr. Nelson Maganga (Vice Secretary); Mr. Benedict Mghanga (Treasurer); Mr. Raphael Nganyi (Member); Mrs. Loice Nyali (Member-Women Rep); Mr Polycap Sikahala Lucas (Member); Evelyn Kibura (Member); Mr Lukas Kisombe (Member); Mr. Harry Njai Mwanjari (Member); Mr. Ndolenji Msangi (Member).



# TAITA TAVETA LAND SERVICES INVESTMENTS CO. LTD.

P.O. BOX 1010-80304 WUNDANYI

To set the objectives and keep the program on, the company required larger amounts of capital. A consensus to solicit for Capital and Loans to fund the ground projects was adopted. Various financial institutions were approached. These include: The Co-op Bank, Bram Bhat, Capital Bank Nrb. and others. None of these institutions managed to lend us any feasible amounts, thus our company suffered a development blow and became grounded except for larger parts of the higher grounds which were partially leveled, subdivided into housing plot units, roads and other social and community plots.

It was at this juncture of dormancy, aggressive individuals invaded our land and begun to sale it. In some incidents, some of our Directors who had gone for site inspection escaped lynch attempts when they were identified as the land owners. Those selling our land colluded with buyers to identify themselves as squatters. To date, there are over a thousand of these self styled squatters. Our attempts to evict them met their fierce resistance and we feared bloodshed, as a few of our Taita Taveta people living there were molested, harassed and threatened with death, should the company seize the land.

We sought legal direction to end the stalemate amicably peacefully. The Board of Directors eventually adopted the following resolution:

- (1) To authorize our Lawyers Dr. Laibuta and Associates, to organize for the sale of the land preferably to the Government.
- (2) Seek Benefits of the land sale to the Government which are three fold:
  - (A) To compensate ALL the bona fide shareholders.
  - (B) To peacefully settle all the legible squatters on our land.
  - (C) For our Government to get credibility for compensating shareholders as well as settling the squatters.

We, the Board of Directors are very confident and optimistic, that through you – The Parliamentary Lands Committee, the Government shall purchase our land.

We thank you in anticipation.

Enclosed herewith, please find the following copies:

- (1) The Article of Association
- (2) Certificate of Registration
- (3) List of Board of Directors
- (4) List of bona fide Shareholders.
- (5) Copies of Land Title Deeds.

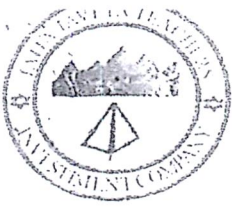
David Righa Mwakio  
CHAIRMAN

Benedict Mghanga Karani  
TREASURER

Lucas Polycarp Sikahala  
BOARD MEMBER

## BOARD OF DIRECTORS

Mr. David Righa Mwakio (Chairman); Mrs. Preilla Mwangada (Vice Chairperson); Mr. Charles M. Mwaiseghe (Secretary); Mr. Nelson Maganga (Vice Secretary); Mr. Benedict Mghanga (Treasurer); Mr. Raphael Nganyi (Member); Mrs. Loice Nyati (Member-Women Rep); Mr Polycarp Sikahala Lucas (Member); Evelyn Kibura (Member); Mr Lukas Kisombe (Member); Mr. Harry Njai Mwanjari (Member); Mr. Ndelenjai Msangi (Member).



# TAITA TAVETA TEACHERS INVESTMENTS CO. LTD

P.O. BOX 1010-80304 WUNDANYI

Your Ref \_\_\_\_\_

Our Ref \_\_\_\_\_

Date: .....

The Speaker to the National Assembly,  
National Assembly of Kenya.

C/O The Clerk,  
Kenta National Assembly,  
Parliament Buildings,  
P. O. BOX 41842-00100  
NAIROBI – KENYA.

Dear Sir,

RE: PETITION TO PARLIAMENT UNDER ARTICLES 57 AND 68 OF THE  
CONSTITUTION, PETITION TO

PARLIAMENT PROCEDURE ACT AND STANDING ORDERS 219,223  
OF THE NATIONAL ASSEMBLY ON LAND USE REGULATION AND  
PROPERTY OF PETITION.

We, the undersigned shareholders of Taita Taveta Teachers Investment Co Ltd that was  
Established in 1970's, wish to state, that for our interest and any other with a similar  
problem formally lodge this complaint:

Concerning invasion of our parcels of land amounting to 122.77 Acres LR Nos. Mainland  
North/Section 11/56, Mainland North/Section 11/57 and 293, Mainland North/Section  
1165 and 766, Mainland North/Section 11/767 and Mainland North/Section 11/771 and  
Mainland North/Section 11/222 located at Mishomoroni – Junda Creekk area in  
Mombasa County and denied us due right of developing the land as per the company  
development plan.

We draw the attention of the House to the following:

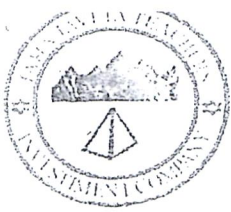
The subject properties are situated at Mishomoroni area of Mombasa mainland North  
Abutting Junda Creek within Mombasa County.

The properties are all freehold interest duly registered under the Registration of Titles  
Act Cap 281 of the Laws of Kenya (now repealed) hence deemed to now registered  
Under the land registration Act No.3 of 2012 in the County Land Registry in  
Mombasa.

At the time of registration, all the Titles had no encumbrance registered against them.

## BOARD OF DIRECTORS

Mr. David Rigma Mwakio (Chairman); Mrs. Priscilla Mwangada (Vice Chairperson); Mr. Charles M. Mwaiseghe (Secretary); Mr. Nelson  
Elaganga (Vice Secretary); Mr. Benedict Mghanga (Treasurer); Mr. Raphael Nganyi (Member); Mrs. Loice Nyati (Member-Women Rep);  
Mr Polycap Sikahala Lucas (Member); Evelyn Kibura (Member); Mr Lukas Kisembo (Member); Mr. Harry Njai Mwanjari (Member);  
Mr. Ndolenjai Msangi (Member).



# TAITA TAVETA TEACHERS INVESTMENTS CO. LTD.

P.O. BOX 1010-80304 WUNDANYI

Your Ref \_\_\_\_\_

Our Ref \_\_\_\_\_

The constitution of Kenya 2010 Article 64 recognizes Private land as that which Consists of:

- (a) Registered land held by any person under any freehold tenure;
- (b) Land held by any person under leasehold tenure and
- (c) Any other land declared private land under an Act of Parliament category under which this particular one falls under.

The illegal settlement and development on the Taita Taveta Teachers Investment Co. Ltd Land negates the right of the shareholders to live and own property in any part of Kenya. Kindly Sir, note the following events carried out on our land by the illegal settlers:

- (1) Illegal sales of parts of our land to interested parties and demanding ownership by "Adverse possession".
- (2) Constructing permanent structures and barring us from making any developments.
- (3) Denying Taita Taveta Teachers Investment Co. Ltd. Executive Directors and shareholders from accessing the land. On various occasions, our Executive Directors have escaped lynch attempts by the illegal settlers organized mobs, and demanding recognition as "Squatters".
- (4) That some of the authority in government and political positions we approached for assistance had been given parts of the land and had set up settlement projects there in.
- (5) A few out of the 1,200 force of our Shareholders who had paid heavily to acquire the land, have died out of shock as some of them were driven out forcefully.

RE: PETITION TO PARLIAMENT UNDER ARTICLES 57 AND 68 OF THE CONSTITUTION, PETITION TO PARLIAMENT PROCEDURE ACT AND STANDING ORDERS 219,223 OF THE NATIONAL ASSEMBLY ON LAND USE AND PROPERTY:

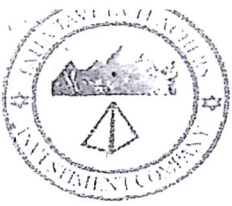
THAT:

We have made all efforts through Consultations, Correspondencies, Meetings and Telephone Calls to the government but all in vain. Taita Taveta Teachers Investment Co. Ltd. have held meetings with relevant Government and Political machinery i.e. Mombasa City Clerk – (Mayor), City Planner And Surveyors, City Minister for Lands, City Politicians – (Area MP), Prominent Business men and other prominent Mediators but all our attempts failed to reach any feasible settlement.

---

#### BOARD OF DIRECTORS

Mr. David Rigma Mwakio (Chairman); Mrs. Priscilla Mwangi (Vice Chairperson); Mr. Charles M. Mwalisoghe (Secretary); Mr. Nelson Maganga (Vice Secretary); Mr. Benedict Mghanga (Treasurer); Mr. Raphael Nganyi (Member); Mrs. Loice Nyali (Member-Women Rep); Mr Polycap Sikahala Lucas (Member); Evelyn Kibura (Member); Mr Lukas Kisombo (Member); Mr. Harry Njai Mwanjari (Member); Mr. Ndalenjai Msangi (Member).



# TAVETA TAVETA TEACHERS INVESTMENTS CO. LTD

P.O. BOX 1010-80304 WUNDANYI

THAT:

We do not have any matter pending in any court of law in respect of the petition except sporadic attempts by groups of illegal settlers often calling for adverse possession of the patches of land they forcefully and illegally occupy.

HEREFORE your humble petitioner(s) Pray that Parliament: -

Our prayer is that, Parliament to compel the Ministry of Lands and Urban Development to restrain any further development and gazette the said parcels of Land as legally owned by Taita Taveta Teachers Investment Co. Ltd and anyone who Wishes to acquire part of it to deal with the rightful owners (Taita Taveta Teachers Investment Co Ltd) as per market value.

Our prayer is that:

On behalf of the Taita Taveta Teachers Investment Co. Ltd. We humbly request:

- (1) The Parliament to visit the area and asses the real ground situation there.
- (2) Meet the bonafide Directors in charge of the said land on behalf of the shareholders.
- (3) The Government to COMPENSATE the Teachers (Shareholders).
- (4) The Government to settle the illegal settlers (Squarters).

And your PETITIONER(S) will ever pray.

David Righa Mwakio  
Chairman.

Mobl. 0726350036  
ID NO. 5403052  
BOX 1010 - 80304  
WUNDANYI

Benedict Mghanga Karani  
Treasurer.

Mobl. 0710873063  
ID NO 2274657  
BOX 470 - 80300  
VOI.

Lucas Polycarp Sikahala  
Secretary.

Mobl. 0704843974.  
ID NO. 2650742  
BOX 208 - 80302  
TAVETA.

## BOARD OF DIRECTORS

Mr. David Righa Mwakio (Chairman); Mrs. Penilla Mwangada (Vice Chairperson); Mr. Charles M. Mwaiseghe (Secretary); Mr. Nelson Maganga (Vice Secretary); Mr. Benedict Mghanga (Treasurer); Mr. Raphael Nganyi (Member); Mrs. Loice Nyati (Member-Women Rep); Mr Polycarp Sikahala Lucas (Member); Evelyn Kibura (Member); Mr Lukas Kisombe (Member); Mr. Harry Njai Mwanjari (Member); Mr. Ndalenjai Msengi (Member).



# TAITA TAVETA TEACHERS INVESTMENTS CO. LTD

P.O. BOX 1010-80304 WUNDANYI

## ATTENDANCE REGISTER OF RETIRED TEACHERS.

S/NO.	NAMES	Sub County	Pension No.	TSC No.	Contacts	Sign
1.	Lucas Polycarp Sihakals	Taveta	149149	036783	0704883974	JS
2.	Priscilla C.A. Mwangi	Mwatate	APN/PC 266112	068517	071255251	Dug
3.	Priscilla W. Mwangi	TAVETA	APN/PC 172504	62308	0729575110	Hale
4.	Joseph Mwangi	VOI	132412	0729575110	0729575110	Mwangi
5.	EUGENE A. Mwangi	MWATATE	132412	0729575110	0729575110	JS
6.	Michael Kilio Mwangi	Mwatate	APN/PC 18302	091242	0723441754	M.K. Mwangi
7.	CLEMENT MWAMBEG MANGI	MWATATE	APN/PC 132411	45396	0114255354	JS
8.	GRACE MWANJARA	MWATATE	APN/PC 132411	0729575110	0729575110	JS
9.	HANNAH A. WAKISHA	MWATATE	APN/PC 132411	108600	0713022767	Dug
10.	SALVATOR W. Mwangi	VOI	132411	0729575110	0729575110	JS
11.	GRACE M. KIBAZA	MWATATE	APN/PC 132411	0729575110	0729575110	JS
12.	ALBERT M. Mwashumbe	VOI	APN/PC 132411	7671	0729575110	JS
13.	ALBERT M. MWASHUMBE	VOI	APN/PC 132411	078882	0728577324	JS
14.	LEWIS M. MINGRA	VOI	APN/PC 132411	087625	0724235551	JS
15.	DISTONIS A. MAILLO	TAVETA	APN/PC 132411	078426	0720440814	JS
16.	FLORENCE CHAO	MWATATE	APN/PC 132411	078476	0746576771	JS
17.	LUCIA M. KIRATIWA	WUNDANYI	APN/PC 132411	53454	072302972	JS
18.	SABARWA M. Mwangi	WUNDANYI	APN/PC 132411	114616	0729575110	JS
19.	ALBERT M. Mwashumbe	VOI	APN/PC 132411	078882	0728577324	JS
20.	ALBERT M. Mwashumbe	VOI	APN/PC 132411	078882	0728577324	JS
21.	ALBERT M. Mwashumbe	VOI	APN/PC 132411	078882	0728577324	JS
22.	PAULINE WANGI MWANYAZO	WUNDANYI	APN/PC 204130	078918	0721723013	JS
23.	ATHANAS MWALA MWALIGHO	MWATATE	APN/PC 132411	058183	0711594257	JS
24.	ALBERT M. Mwashumbe	VOI	APN/PC 132411	078882	0728577324	JS
25.	ALBERT M. Mwashumbe	VOI	APN/PC 132411	078882	0728577324	JS
26.	ALEXANDER M. MWABINGO	MWATATE	APN/PC 132411	078947	0727614196	JS
27.	GIBEDON M. MWAKILENGE	WUNDANYI	APN/PC 133282	56285	0705554635	JS
28.	DORCAS K. NGONYANI	TAVETA	APN/PC 132411	078882	0728577324	JS

29. Benedict Mwangi VOI 133005 07796 0710878089 JS

30. Walter K. Mwangi VOI APN/PC 134355 07714/135 072786572 JS

31. RIBELANI M. Mwangi VOI APN/PC 134355 0729575110 JS



# TAITA TAVETA TEACHERS INVESTMENTS CO. LTD

P.O. BOX 1010-80304 WUNDANYI

## FINANCE REGISTER OF RETIRED TEACHERS.

No	NAME(S)	Sub County	Pension No.	TSC No.	Contacts	Sign
1	CHARLES N. MWAHIRU	WUNDANYI	APN/PC 1500	113760	0725702170	[Signature]
2	LORE MWAHARA KILGAA	MWATARE	APN/PC 165333	113760	0725702170	[Signature]
3	PERIS W. MWASHIGADI	WUNDANYI	APN/PC	113760	0725702170	[Signature]
4	GEORGE MWAHARA KILGAA	MWATARE	APN/PC 165333	113760	0725702170	[Signature]
5	PERIS W. MWASHIGADI	MWATARE	APN/PC	113760	0725702170	[Signature]
6	JAMES MWAHARA KILGAA	MWATARE	APN/PC	113760	0725702170	[Signature]
7	JAMES MWAHARA KILGAA	MWATARE	APN/PC	113760	0725702170	[Signature]
8	GEORGE MWAHARA KILGAA	MWATARE	APN/PC	113760	0725702170	[Signature]
9	JAMES MWAHARA KILGAA	MWATARE	APN/PC	113760	0725702170	[Signature]
10	JONATHAN MSHIRI	WUNDANYI	APN/PC 267764	60762	0705723736	[Signature]



# TAITA TAVETA TEACHERS INVESTMENTS CO. LTD

P.O. BOX 1010-80304 WUNDANYI

## ATTENDANCE REGISTER OF RETIRED TEACHERS.

S/N	NAMES	Sub County	Pension No.	TSC No.	Contacts	Sign
1	MERCY ACHA KIZAKA	VOI	APN/PC	215015	070488	} <i>[Signature]</i>
2	STEPHEN NIUMWA MWATA		194597		5793	
3	STEPHEN NIUMWA MWATA		APN/PC			
4	SUSAN CHAO WACHENJE	WUNDANYI	218044	034317	0738 635 766	<i>[Signature]</i>
5	ELEONORA MACHARI	WUNDANYI	200448	043138	0713080605	<i>[Signature]</i>
6	FABIAN M. KIRIA		APN/PC			
7	BONFACE J. OMBONINGO	MWATAIE	209215	073262	0728132893	<i>[Signature]</i>
8	THOMAS KICHANANI	MWATAIE	APN/PC	043169	07123595	<i>[Signature]</i>
9						
10						
11						



# TAITA TAVETA TEACHERS INVESTMENTS CO. LTD

P.O. BOX 1010-80304 WUNDANYI

## ATTENDANCE REGISTER OF RETIRED TEACHERS.

Sl. No.	NAMES	Sub County	Pension No.	TSC No.	Contacts	Sign	
1	ABDUL RIZQ CHAO MWAKI	WUNDANYI	APN/PC 173302	56283	0710772	DM	
2	JULIUS MWAMBURI	TAVETA		124677	0711474243	J.Mwamburi	
4	ANABELLA CHAD DIKALA	WUNDANYI	APN/PC 162383	0712440	0714057507	ANABELLA	
5	VITALIS NYAMBAU E. MANKA	MWAMBURU		007677	0724525453	Vitalis	
6	JULIUS NAIKE ANAMUYIA	WUNDANYI	APN/PC 181823	107105	116026	0717724957	J.Mwamburi
7	MILTON MWAMILI	NGULAMU	APN/PC 181823	39103	074616796	Milton	

Telegrams: "INTESTATE", Nairobi  
Telephone: Nairobi 227461  
Please address all communications  
to:



DEPARTMENT OF  
THE REGISTRAR GENERAL  
P.O. Box 30031 - 00 100  
NAIROBI

Our Ref: C 8/80  
Your Ref:

30<sup>th</sup> October, 2012

Victor Were & Associates  
P.O Box, 41079-80100  
MOMBASA

Dear Sir/(s),

**THE COMPANIES ACT (CAP 486)**

**RE: TAITA TAVETA TEACHERS INVESTMENTS LIMITED**

I refer to your letter dated 26<sup>th</sup> September 2012  
According to the company's last annual returns dated, 17<sup>th</sup> September  
2012 the names of directors/shareholders of the above Company with  
their particulars are as follows:

<b>Names</b>	<b>Address</b>
Angus Wazome mwaisege	P.O Box, 1065, Wundanyi
Harry Njai Mwanjari	P.O Box, 46, Mwatate
Luka Dixon Kisome	P.O Box, 1065, Wundanyi
Raphael Ngamji	P.O Box, 184, Voi
David Righa	P.O Box, 1065, Wundanyi
Charles Mwaiseghe	P.O Box, 1065, Wundanyi
Benedict Mghanga	P.O Box, 1065, Wundanyi
Polycap Sikahala	P.O box, 1065, Wundanyi
Priscila Mwangada	P.O Box, 1065, Wundanyi
Loice Nyati	P.O Box, 1065, Wundanyi
Evaline Kibura	P.O Box, 1065, Wundanyi
Raphael Nganyi	P.O Box, 1065, Wundanyi
Sabina Mchalongo	P.O box, 1065, Wundanyi
Nelson Maghanga	P.O Box, 1065, Wundanyi

The nominal share capital of the company is Kshs 100,000/- divided into  
1,000 ordinary shares of Kshs 100/= each.

Yours faithfully,

  
**ASSISTANT REGISTRAR OF COMPANIES**

No.

C. 8/80.



# CERTIFICATE OF INCORPORATION

I hereby Certify, that—

TAITA-TAVETA TEACHERS INVESTMENTS LIMITED.....

This is the exhibit marked "B" referred to in the Annexed Affidavit/Declaration of DAVID W. H. H. H. Sworn/Declared before me this 20 day of April 2010 at Naivasha

Commissioner for Oaths

Is this day Incorporated under the Companies Act (Cap. 486) Company is LIMITED.

Given under my hand at Nairobi this SEVEN

of MARCH One Thousand Nine Hundred and





**KENYA REVENUE AUTHORITY Taxpayer Registration Certificate**

Document Number:  
7426538

General Data of the Taxpayer			
Name	TAITA TAVETA TEACHERS INVESTMENTS LIMITED		
Taxpayer PIN	P051411254Q	TaxPayer Category	DOMESTIC
Registration Date	Feb 5, 2013		
Activity	Restaurants and mobile food service activities		

Contact Information			
District	MOMBASA NORTH	City/Town	MOMBASA CITY (NORTH)
Street / Road	HAILE SELLASIE AVENUE	Building	HUSSEIN BUILDING
Area Name	41	LR Number	
P.O. Box	80100 - 41079		
Main Email Address	swiftlinkcyber@gmail.com		

Tax Obligation	Obligation Register Date
INCOME TAX COMPANY (IT2C)	DEC 31, 2012
VAT TAX (VAT 3)	JAN 31, 2013

\*This certificate is computer generated and therefore not signed. It is valid certificate issued under the authority of KRA.

*Henry 12*



**MUNICIPAL COUNCIL OF MOMBASA**  
**THE RATING ACT, CAP. 267**  
**SECTION 21 (1)**

This is to certify that all sums due at the date of this certificate or estimated to become due on or before the date of expiry hereof to the

Municipal Council of Mombasa, in respect of the premises known as Plot No. 657 Section No. 11MN

registered in the name of TANIA TAVEIA  
TEACHERS INVESTMENT

Address P. O. Box 1065  
WUNDANI

Have been paid to the Council,

This Certificate is available to 26<sup>th</sup> DEC 20 12

Given under my hand at Mombasa this 26<sup>th</sup>

day of SEPT 20 12

for Town Treasurer  
Municipal Council of Mombasa

M. R. No. 280007 209058

V. Roll No. 11MN/657

Site Value .....

No **09087**



**MUNICIPAL COUNCIL OF MOMBASA**  
**THE RATING ACT, CAP. 267**  
**SECTION 21 (1)**

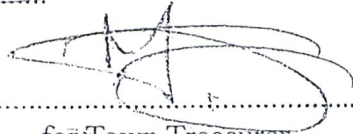
This is to certify that all sums due at the date of this certificate or estimated to become due on or before the date of expiry hereof to the Municipal Council of Mombasa, in respect of the premises known as

Plot No. 765 Section No. 11MN  
 registered in the name of TATIA - TAVEIA  
TEACHERS INVESTMENTS  
 Address P. O Box 1005  
WINDAUTI

Have been paid to the Council,

This Certificate is available to 26th DEC 20 12

Given under my hand at Mombasa this 26th  
 day of SEPT 20 12



for Town Treasurer  
**Municipal Council of Mombasa**

M. R. No. 8502010090518

V. Roll No. 11MN/765

Site Value .....

Rs No **09090**



**MUNICIPAL COUNCIL OF MOMBASA**  
**THE RATING ACT, CAP. 267**  
**SECTION 21 (1)**

This is to certify that all sums due at the date of this certificate or estimated to become due on or before the date of expiry hereof to the Municipal Council of Mombasa, in respect of the premises known as Plot No. 760 Section No. 11MN registered in the name of TATA - TAVETA TEACHERS INVESTMENTS Address P. O. Box 1065 WINDHANI

Have been paid to the Council,

This Certificate is available to 26<sup>th</sup> DEC 20 12

Given under my hand at Mombasa this 26<sup>th</sup> day of SEPT 20 12

for Town Treasurer  
Municipal Council of Mombasa

M. R. No. 250201209088

V. Roll No. 11MN/760

Site Value .....

No 09088



**MUNICIPAL COUNCIL OF MOMBASA**  
**THE RATING ACT, CAP. 267**  
**SECTION 21 (1)**


This is to certify that all sums due at the date of this certificate or estimated to become due on or before the date of expiry hereof to the Municipal Council of Mombasa, in respect of the premises known as

Plot No. 56 Section No. 11MN  
 registered in the name of TANIA - TAVETA  
TEACHERS INVESTMENTS  
 Address P. O BOX 35247  
NEA.

Have been paid to the Council,

This Certificate is available to 26<sup>th</sup> DEC 2012

Given under my hand at Mombasa this 26<sup>th</sup>  
 day of SEPT 2012

  
 for Town Treasurer  
 Municipal Council of Mombasa

M. R. No. 2862092070511

V. Roll No. 11MN/56

Site Value .....

No 09089





**MUNICIPAL COUNCIL OF MOMBASA**  
**THE RATING ACT, CAP. 267**  
**SECTION 21 (1)**

This is to certify that all sums due at the date of this certificate or estimated to become due on or before the date of expiry hereof to the

Municipal Council of Mombasa, in respect of the premises known as Plot No. 767 Section No. 11MN

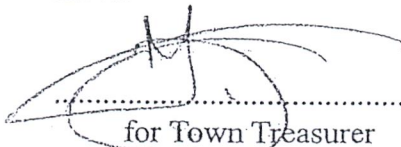
registered in the name of TATA-IAUEIA TEACHERS INVESTMENT

Address P. O BOX 1065 WUNDANI

Have been paid to the Council,

This Certificate is available to 26th Dec 2017

Given under my hand at Mombasa this 26th day of SEPT 2017

  
 for Town Treasurer  
 Municipal Council of Mombasa

M. R. No. 3502012590568

V. Roll No. 11MN/767

Site Value .....

No 09085



REPUBLIC OF KENYA  
REGISTRATION OF TITLES ACT  
(CHAPTER – 281)

CERTIFICATE OF POSTAL SEARCH AS ON 28<sup>TH</sup> JULY 2011

PLOT NUMBER	57 and 293/II/MN
TITLE NUMBER	CR. 1994
AREA	22.02 ACRES
TENURE	FREEHOLD
REGISTERED OWNER	TAITA TAVETA TEACHERS INVESTMENT LIMITED
ENCUMBRANCES:	Provisional Title issued.  Caveat dated 2 <sup>nd</sup> September 2010 by David Righa Mwakio of P. O. Box 99771 Mombasa claiming share holders interest (with other lands).

  
REGISTRAR OF TITLES

REPUBLIC OF KENYA  
REGISTRATION OF TITLES ACT  
(CHAPTER - 281)

CERTIFICATE OF POSTAL SEARCH AS ON 28<sup>TH</sup> JULY 2011

PLOT NUMBER 771/II/MN

TITLE NUMBER CR. 8594

AREA 47.62 ACRES

TENURE FREEHOLD

REGISTERED OWNER TAITA TAVETA TEACHERS INVESTMENT LIMITED

ENCUMBRANCES: Prohibitory order civil suit No. 1078 of 1990 prohibiting the registered owner from dealing with the above land.

Provisional Title issued.

Caveat dated 2<sup>ND</sup> September 2010 to David Righa Mwakio of P. O. Box 99771 Mombasa claiming shareholders interest (with other lands.)




REGISTRAR OF TITLES

REPUBLIC OF KENYA  
REGISTRATION OF TITLES ACT  
(CHAPTER - 281)

CERTIFICATE OF POSTAL SEARCH AS ON 28<sup>TH</sup> JULY 2011

PLOT NUMBER	765/II/MN
TITLE NUMBER	CR. 8593
AREA	10.0 ACRES
TENURE	FREEHOLD
REGISTERED OWNER	TAITA TAVETA TEACHERS INVESTMENT LIMITED
ENCUMBRANCES:	Prohibitory order civil suit No. 1078 of 1990 prohibiting the registered owner from dealing with the above land.  Provisional Title issued.  Caveat dated 2 <sup>ND</sup> September 2010 to David Righa Mwakio of P. O. Box 99771 Mombasa claiming shareholders interest (with other lands.)

  
REGISTRAR OF TITLES

**PETITION BY RESIDENTS OF MATISI COMMUNITY IN KITALE ON  
COMPENSATION OF LAND OWNED BY THE MATISI COMMUNITY  
ALONG KITALE – ENDEBESS – SUAM ROAD**

We refer to letter Ref. No. NA/DC/LANDS/2019/(058) dated 24<sup>th</sup> July 2019 from National Assembly in regard to the above subject matter.

Below find the queries raised and our response as tabulated:

S/No.	Query	Response
1	THAT, the Petitioners are business owners and property owners of land situated along the Kitale-Endebes-Suam Road;	The Right of Way (ROW) is 60m and thus no need for acquisition. However, there are land developments within the 60m wide road, therefore the National Land Commission (NLC) will determine the eligibility for compensation.
2	THAT, the road has been scheduled for construction and expansion and as a result, owners of property within the range of 40 metres of the road are required to be vacate;	The ROW according to Survey of Kenya (SOK) maps indicates that the road reserve is 60m wide as shown by survey plans numbers:  FR 72/1, FR 345/89, FR 371/31, FR 227/14, FR 61/170, FR 30/24, FR 25/80, FR 134/80, FR 25/43, FR 25/1, FR 71/107, FR 6/195, Kiminini Kinyoro Block 3 (Matisi) and Kitale Block 1 (Lesos) (copies attached).
3	THAT, consequently, the Kenya National Highways Authority (KENHA) and the National Land Commission (NLC) recently earmarked the property for demolition;	The road project was gazetted vide gazette notice No. 4496 of 10 <sup>th</sup> May 2019 for compulsory acquisition explicitly on areas that were realigned and areas that were originally (officially) 36m as per SOK maps but expanded to 60m. Inspection for valuation of the affected properties was done by NLC in conjunction with KeNHA personnel for properties lying within the 60m wide corridor around Matisi section. However, NLC and KeNHA are planning to go back and have inquiry hearings on the same and owners will have the opportunity to present their claims.
4	THAT, Gazette Notice No.4496 in the Kenya Gazette dated 10th May 2019 lists registered owners of the parcels of land along the road whose land is intended for compulsory acquisition by the National Land Commission on behalf of the Kenya National	

S/No.	Query	Response
5	THAT, members of the Matisi Community whose land has been earmarked for demolition have not been listed in the stated Gazette Notice yet their land is also earmarked for acquisition;	The official Kenyan Gazette only lists affected Land Parcels and their respective registered owners but not affected developments that are lying within the road reserve of 60m (ROW). Project Affected Persons (PAPs) are normally paid after valuation of their properties by NLC and the Payment schedule is forwarded to KeNHA to effect the payments.
6	THAT, the residents are apprehensive that they are likely to lose their property without compensation, since in the terms of the Gazette Notice, only the people listed therein are eligible for compensation;	The road corridor at Matisi section is 60m, therefore, there is no need for compulsory acquisition or gazettelement due to the adequate ROW. Hence, NLC & KeNHA have looked at the issue and addressed them. Meanwhile, NLC and KeNHA personnel are planning to visit the project for a sensitization mission and hence the way forward.
7	THAT, despite assurances of compensation given to the residents by the two relevant authorities (KeNHA and NLC) during a public participation exercise on 12th June 2018, there seems to be no action on the matter;	
8	THAT, efforts to resolve the matter by engaging the authorities by the community leaders have been futile; and	
9	THAT, the matter in respect of which this Petition is made is not pending before any court of law or constitutional body.	

**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT MOMBASA**  
**ENVIRONMENT AND LAND COURT**

**ELC. NO. 606 OF 2003 (OS)**

IN THE MATTER OF: PARCEL NO. 222/11/M.N MOMBASA

AND

IN THE MATTER OF: APPLICATION FOR DECLARATION THAT THE APPLICANTS/PLAINTIFFS HAVE OBTAINED OWNERSHIP OF THIRTY TWO ACRES (32) OF THE LAND BY WAY OF ADVERSE POSSESSION.

BETWEEN

1. JOSEPH KAHINDI ..... 1ST PLAINTIFF
2. KAZUNGU GONA ..... 2ND PLAINTIFF
3. KASICHANA WA MRAMBA  
(SUIING FOR AND ON BEHALF OF 310 OTHERS) ..... 3RD PLAINTIFF

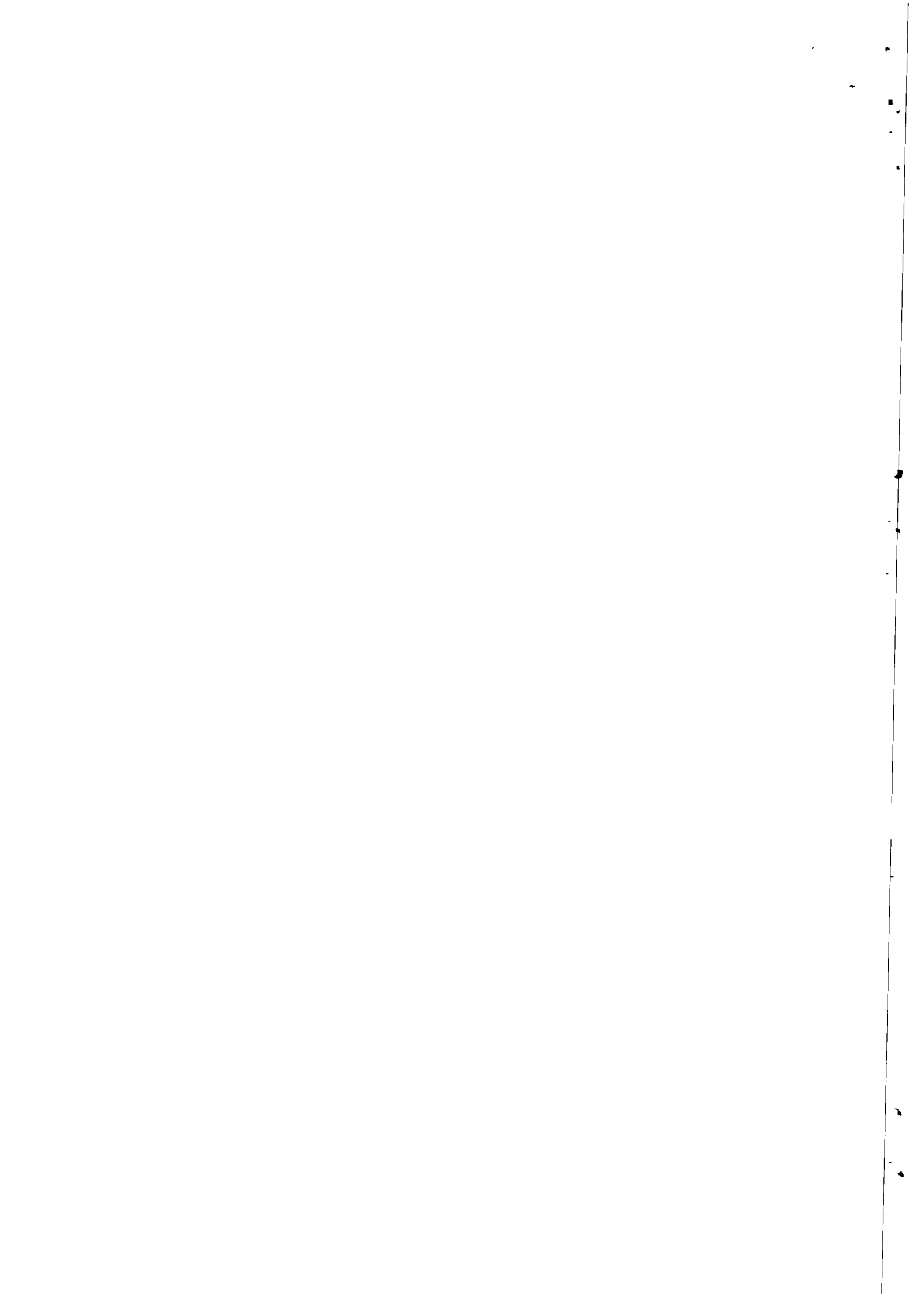
AND

THE ESTATE OF MOHAMEDALI  
SULEIMANJI ESSAJI (DECEASED) ..... DEFENDANT

**JUDGMENT**

[1] The plaintiff's filed this Originating Summons on behalf of 310 others on 23rd September 2003. They amended the Originating Summons on 26th July 2004. They raised questions and wanted the questions to be determined by the court. The questions were as follows:

1. *Are the plaintiffs/applicants entitled to be declared the proprietors of 32.0 acres of Plot No. 222 Sec .M.N Mombasa*



*which they have acquired by adverse possession after customary inheritance from great grandparents and staying on the land for 12 years.*

2. *Are the plaintiffs/applicants be registered as owners and issued with certified of titles.*
3. *Are the plaintiffs/applicants entitled to the costs of this suit.*

[2] One Joseph Kahindi Charo the first plaintiff swore a lengthy affidavit in support of the application. The salient paragraphs being from paragraph 21 onwards. The applicant confirms that there were various criminal charges preferred in court ranging from creating disturbances and charges of trespass against 115 residents. He annexed a copy of the charge sheet. He said in para 22 of his affidavit that in the suit land there are 30 graves in which they have buried their family members. Further that there are 40 families residing permanently on the suit premises. He admits that there were two "kamba fellows" who were left by the owner of the estate to be herding cattle in the suit land. He averred that at all material times the families of the applicants have occupied the 32.0 hectares without any permission, harassment or being sued by anyone over claim of property. He said it is over 50 years since Mohamed Sulemani Essaji died. He stated that therefore they have acquired this land by adverse possession and that they should be declared the owners. On 23rd September 2003 the plaintiffs herein filed an ex parte application in court seeking leave of the court to authorize them to act in a representative capacity on behalf of 310 others.

This application came before the Deputy Registrar of the court to authorize them to act in a representative capacity on behalf of 310 others. This application came before the Deputy Registrar of the court on 4th November 2003 and the plaintiff applicants were allowed to do so.

[3] One Noorunisa Mohamedali Sulemani Essaji swore an affidavit. She swore that she is an executor of the estate of Sugrabai Mohamedali Essaji who died on 22nd May 1997. She stated in her affidavit that Sugrabai Mohamedali Essaji was her mother. She explained in her affidavit how the land was transferred to her father, how it is still charged to the National Bank of Kenya. She went on to explain how her father sunk a well, planted bananas, mango and coconut trees for commercial purposes and reared cattle in the farm. She states that until 22nd February 1997 apart from a few cattle sheds and a 'Makuti' house which was used by a caretaker known as Mukutano Ngasho and two other herdsmen Mulei and Mwetu there were no other structures on the land since the rest of the land was utilized for coconut and mango farming. She states that her father died on 3rd August 1984 and her mother Sugrabai Mohamedali Essaji and her brother Moizali Mohamedali Essaji continued to supervise the farm. She states that her mother died on 22nd May 1997 and around 1999 few trespassers started moving into the land and started putting Makuti houses without authority. She says that eventually the trespassers harvested sand, cut down mango trees and sold. Thereafter they invited several people who came to occupy the land. That she raised concerns



with the District Land Registrar who wrote to Mombasa District Commissioner a letter dated 21st February 2003. She avers that the trespassers became violent and threatened to beat up their caretaker Mukutano Gasho. She said she reported the matter to Nyali Police Station and several people were charged in court for creating disturbance and trespass on private property in criminal case no. 1845 of 2003 and 1050 of 2003. She denied the allegations of the plaintiffs in para 7-11 of the affidavit of Joseph Kahindi herein and termed them as false. She averred that she is the one who had been paying rates to the local authority in respect of the suit property. She annexed a letter from the Municipal Council of Mombasa to that effect. She denied that the applicants have been on the land for a continuous period of 12 years. She relied on an affidavit sworn by Mukutano Ngasho showing that there were no squatters prior to 1999. She averred that the plaintiffs have occupied the suit property with the sole purpose of denying the beneficiaries their rights to quiet enjoyment of the property. She annexed a Grant of probate of the written Will of Sugrabai Mohamedali Essaji which was granted to her on 17th October 2003 by the High Court Mombasa.

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[4] When this matter came for hearing, the plaintiff Kazungu Gona the 2nd plaintiff gave evidence that he lives on Plot No. 227. He alleged he was born on the suit property in 1951. He said he has built a house and lives there with his children and that he has rental houses. He said the land is 32 acres but he uses 6 acres for his residence and cultivation. He said the other section is used by 5000 people. He said

that the only cows he saw there were his fathers cows. He said that no one has ever asked him to leave the suit land.

During cross-examination he said he had no photographs to prove that he had houses on the premises. He further said he does not know the acreage of the others. He admitted having been taken to court in the year 2003. He said he was taken to court because the defendant was saying the land was his. He admitted that he had not known his neighbours.

[5] The second plaintiff Joseph Kahindi Nyare said he lived in Kisauni, That he was a farmer and that he lived on plot no. 222 Mainland North. He said he started living there in 1969. He said he farms on the said land and keeps cows. He alleged that he had 20 houses made of soil and makuti. He said he lives there with his wife and children. He said his nieghbours are Mutende Kumbe, Kazichana wa Mramba and that all of them are dead. He said he uses fifteen (15) acres. That he has used that land from 1979 todate and no one has asked him to move and vacate from there. He said that they are about 5,000 people in the plot and the plot is full. He said he needed a title deed.

When cross-examined by Mr. Sitonik advocate, he said he does not know how many acres Kazungu Gona has. He suspected it is about 20 acres. He however reiterated that he occupies 15 acres. He said he had 8 wives and 30 children. He said the signature on the replying affidavit is his.

On being re-examined by Learned Counsel Mr Okanga he still

insisted the land is 32 acres and that he occupies 15 acres. He confirmed that the other 5000 people stay on the remaining 17 acres.

[6] Mrs Noorumasa Mohamedali Sulemanali Essaji for the defendant gave evidence that she lives in Nyali Estate Mombasa and is the daughter of the deceased owner of the land. She explained how her mother was appointed the administrator of her husband's estate vide *Mombasa Succession Cause No. 217 of 1984*. And further, how on her mother's death she was appointed the administrator of her estate in *Mombasa High Court Succession cause No. 186 of 2007*. She produced the grant of probate in the said cause. She further stated that she pays all the land rates and had a letter for such confirmation from the Town Clerk Mombasa. She explained how she had been visiting the suit land. Further that the first invasion was in 1999. She said she went to the Chief and to Land Office. She produced a letter from District Commissioner dated 21st February 2003. She explained how the trespassers were charged in court vide criminal cases no. 1050 of 2003 and criminal case 1845 of 2003. She denied that there was anyone living on the land prior to 1999 other than their domestic workers. She asked the court to issue eviction orders against the plaintiffs.

[7] Mr Moizal Mohamed Sulemanji gave evidence that he is the son of the deceased proprietor. He deserved his fathers land, how they kept fruit trees and cows. He also told the court how they had kept employees there one Mwetu, Mulei and Makutano Gasho as the supervisor. He explained that he knew his father's land well. They had a

Makuti house, an engine room for pumping water. He said his father died in 1984. He said he used to visit the land daily. That just before 1999 he relocated from Mombasa to Nairobi. He said squatters started coming to his fathers land in 1999 putting makuti houses. He said they arrested some people with the supervisor Makutano and they were charged in a court of law. He said he reported the matter to Nyali Police Station and people were arrested for trespassing onto his land. He said he had tried to visit the land, but those people who had by then been released by the court had become hostile and have prevented his entry therein. He applied to court to evict those persons to stop destruction and wastage on his land.

On cross-examination by Mr Okanga he said those people demolished the cattle dip, the engine room and took all the properties.

[8] These are the issues and the competing interests in this case. Under the circumstances have the plaintiffs acquired the suit land by adverse possession as alleged?

[9] This suit was filed on 23rd September 2003 by the plaintiffs as a representative suit on behalf of 310 people allegedly on the suit land. There was an amendment on 26th July 2004. It still remained a representative suit for 310 persons. The Civil Procedure Rules Order 1 rule 13 (i) & (2) provides;

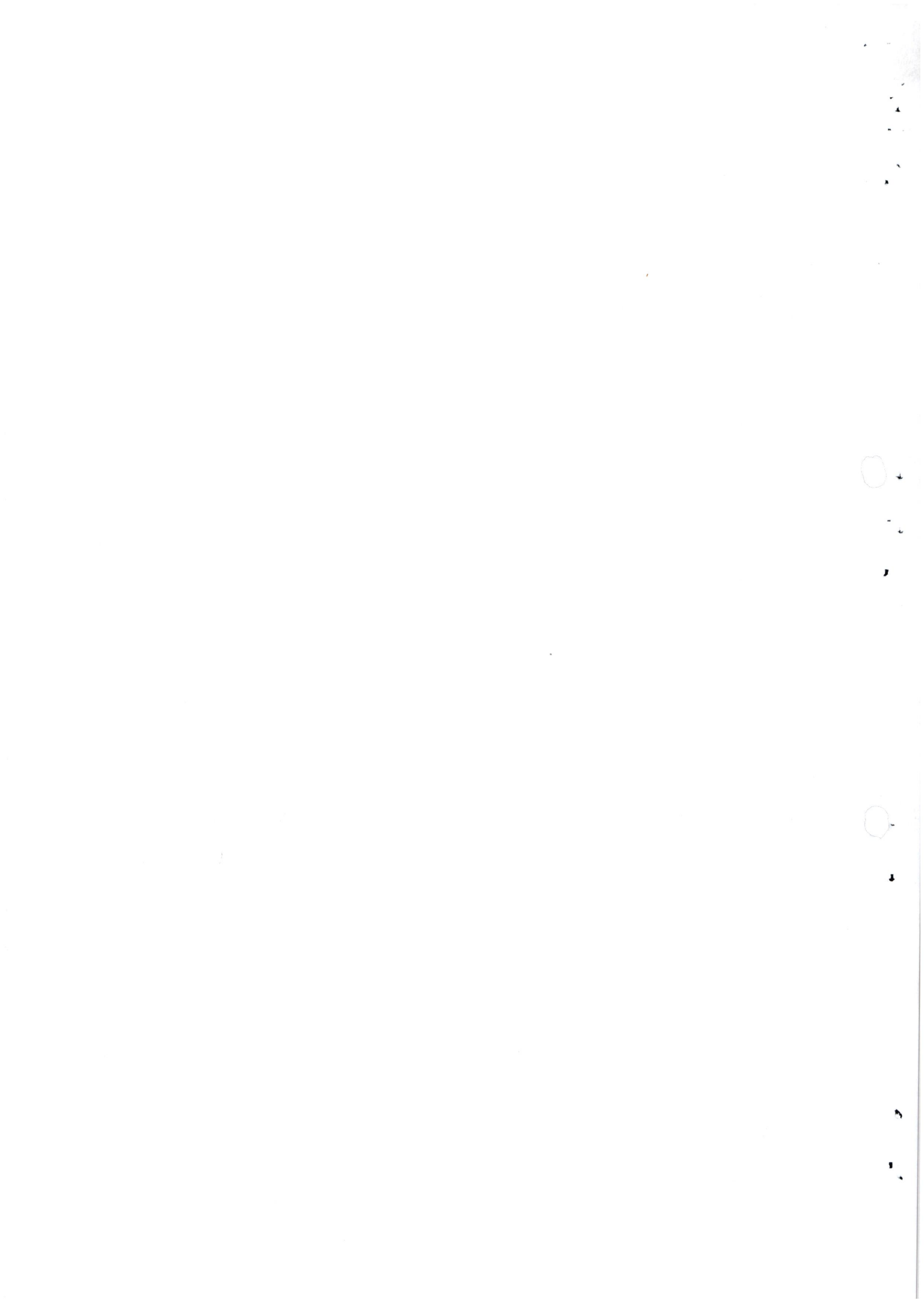
*"13.(1) Where there are more plaintiffs than one, any one or more of them may be authorized by any other of them to appear, plead or*

*act for such other in any proceeding, and in like manner, Where there are more defendants than one, anyone or more of them may be authorized by any other of them to appear, plead or act for such other in any proceedings.*

*(2) The authority shall be in writing signed by the party giving it and shall be filed in the case."*

When this suit was filed there was no authority on behalf of 307 others to file the same. However on 4th November 2003 the applicants filed an ex parte application to be allowed to file a representative suit. The order was granted. This authority was not filed in court until 27th February 2014. The authority filed is for 314 persons. The same is not signed by any party giving the alleged consent. The same is filed contrary to Order 1 rule 13(2). This section is couched in mandatory terms.

This suit having been filed eleven (11) years ago and the authority having been filed 10 years later, this suit cannot be said to be a representative suit. The authority should have been filed immediately after November 2003 when leave was granted by the Deputy Registrar of the Court. The letter of authority to act filed on 27th February 2014 is no authority at all. The same is not signed as per requirement of the law above quoted. This suit therefore remains a suit for the three plaintiffs. In any case, none of the 307 alleged plaintiffs was proved to have ever sworn an affidavit and/or was privy to any pleadings before the court or in any other way gave any form of evidence or at all. There is absolutely no nexus between them and the claim in this originating



summons.

[10] The first plaintiff Mr Kazungu Gona's evidence was that he was born in the land he uses 6 acres. It cannot be true that he has been on suit and for over 12 years uninterrupted. He admitted that he had been taken to court in the year 2003 by the owner of the land and that the owner of the land was saying the land was his. This dovetails with the charge sheet filed in the District Magistrate's Court No. 17 in Mombasa on 25th July 2003 where various persons were charged with trespass upon private land with intent to annoy Contrary to Sec 5 (i) (a) of the Trespass Act. The particulars of that offence was that between June 1999 to May 2003 at unknown time in Juda area Mishomoroni in Mombasa District of Coast Province, jointly with others not before court were found to have trespassed into plot no. 222 MN property of Noorumbai Mohamed without her consent and with intent to annoy. The names of the accused were in a separate sheet. This clearly demonstrates that the defendant and/or his representatives was grappling with invaders in the year 2003 and therefore what she stated in her evidence that the plaintiffs were taken to court in the year 2003 is true. The first plaintiff was not at all able to show any evidence of his occupation of the suit premises by either showing photographs of his houses and/or his cultivation. It was curious that he did not even know his neighbours. He said the rest 5,000 people live on the rest of the land.

[11]. The second plaintiff Mr Joseph Kahindi Nyare said that he lives on Plot 222 MN. He said he farms and keeps cows and that he has

20 houses of soil and Makuti. He said all his neighbours are dead. He said he uses 15 acres of land. He said that the rest 5,000 people live in the rest of the land. When cross-examined by Mr Sitonik the learned counsel for the defendant, he said he does not know how many acres the 2nd plaintiff occupies. He said they were about 20 acres. He reiterated his acreage was 15 . If this is true, are the two of them occupying 35 acres, 3 more than the suit land? Since both said there were 5,000 other squatters, where then do 5000 others stay? Why would people who allege that they were born on the suit land, and with such hefty acreage in town not know each other? The applicants are not at all sure of the area they occupy.

[12]. The plaintiff had to show in this case the following:-

- (a). That prior to the commencement of the suit they had been in occupation of the suit land for a period of twelve years during which time they had dispossessed the defendant.
- (b). That they enjoyed the occupation of the land openly and peacefully.
- (c). That their occupation was continuous and uninterrupted by the defendant.
- (d). That their possession was adverse to the interest of the registered owner.
- (d). They had to show the exact acreage they were each claiming.

In *John Kiplangat Barbaret & 8 others (suing on behalf and*

*representing and for members of Sagamen community) vs. Isiah Kiplangat Arap Cheluget Misc. Civ. Appeal no. 400 of 2993 (O.S).* The plaintiffs claimed that their ancestors had lived on the piece of land since 1920's openly and without interruption for accumulative period of over 70 years. The Plaintiffs had been arrested and jailed for one year. They later moved back to the land. The judge in that case stated that the law of adverse possession is succinctly stated in ***The law of real property 6<sup>th</sup> edition/London: Sweet & Maxwell 2000*** by Sir. ***Robert Miarry and Sir. William Wode (P 1308).***

*Today it merely means possession inconsistent with the title of the true owner..... there is presumption that the owner of the land with paper title is in possession of the land. To establish adverse possession a squatter must prove that he had both factual possession of the land and requisite intention to possess (animus prossidendi).*

The plaintiffs in that case did not identify what portion of the suit land was being claimed by each of the hundreds of claimants and that fact undermined their case.

In ***Assumption of Sisters of Nairobi registered Trustees vs. Benson Mukuwa Wachira*** the issue of proper identification of property being claimed was examined thus;

*The only business of the squatter is to equal, posses, enjoy and retain; and once the minimum duration (twelve years) is completed he can seek the formal indicia of ownership of the land which he has possessed for so long.*

The judge opined that if the land claimed by adverse possession could not be identified in some clear and practical mode, then the claim could not succeed.

The plaintiff must prove that they had been in exclusive possession of the suit land for the statutory period of twelve years. The test for the 12 year rule was set in **Kimani Ruchine & another vs. Swift Rutherford company limited and another [1977] KLR 10** the court stated

*The plaintiffs have to prove that they have used this land which they claim as of right nec vi, neclam, nec precasio (no force no secrecy no evasion).*

It was therefore held in **John Kiplagat Vs. Isiah Kiplagat** aforesaid that the plaintiffs had broken the principle by use of force and could not benefit from the doctrine of adverse possession.

[13].The plaintiffs in this case were not able to show the acreage, they were claiming they admitted that there were court cases with the plaintiffs in the year 2003 and the evidence adduced shows they entered the land by force in 1999. This necessitated the various reports to the police and culminated in criminal charges herein before and after referred to. The plaintiffs had been on the land for only five years when the respondent took positive steps to have them prosecuted for entering his land in 2003. The twelve year rule was not therefore met and/or satisfied. The essential elements of adverse possession

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were not proved.

[14] The personal representative of the defendant gave a consistent story how her land was invaded in 1999. She reported to various authorities the letter of 21st February 2003 to the District Commissioner is telling, the letter stated;

"RE: SQUATTERS ON LR 222/II/MN

*I have received a complaint from the registered owners of the above parcel of land to the effect that the above plot is being invaded by squatters and they are causing damage on the land by harvesting sand and cutting trees.*

*The complainants claim that the destruction is being done with the full knowledge of the Local Administration which is doing nothing to contain the situation.*

*The purpose of this letter is to seek your intervention to help stop the encroachment and destruction of the private property. The plot is registered in the name of Mohamedali Suleimanji Essaji with a freehold tenure.*

S.N. OSODO  
For: District Land Officer  
Mombasa/Kwale

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cc. Mohamedali Suleimanji Essaji  
MOMBASA'

In the same year she had the trespassers charged vide criminal cases 1050 of 2003 and *Trespass case no. 1845 of 2003*. In both these cases the trespassers were charged with trespassing her land



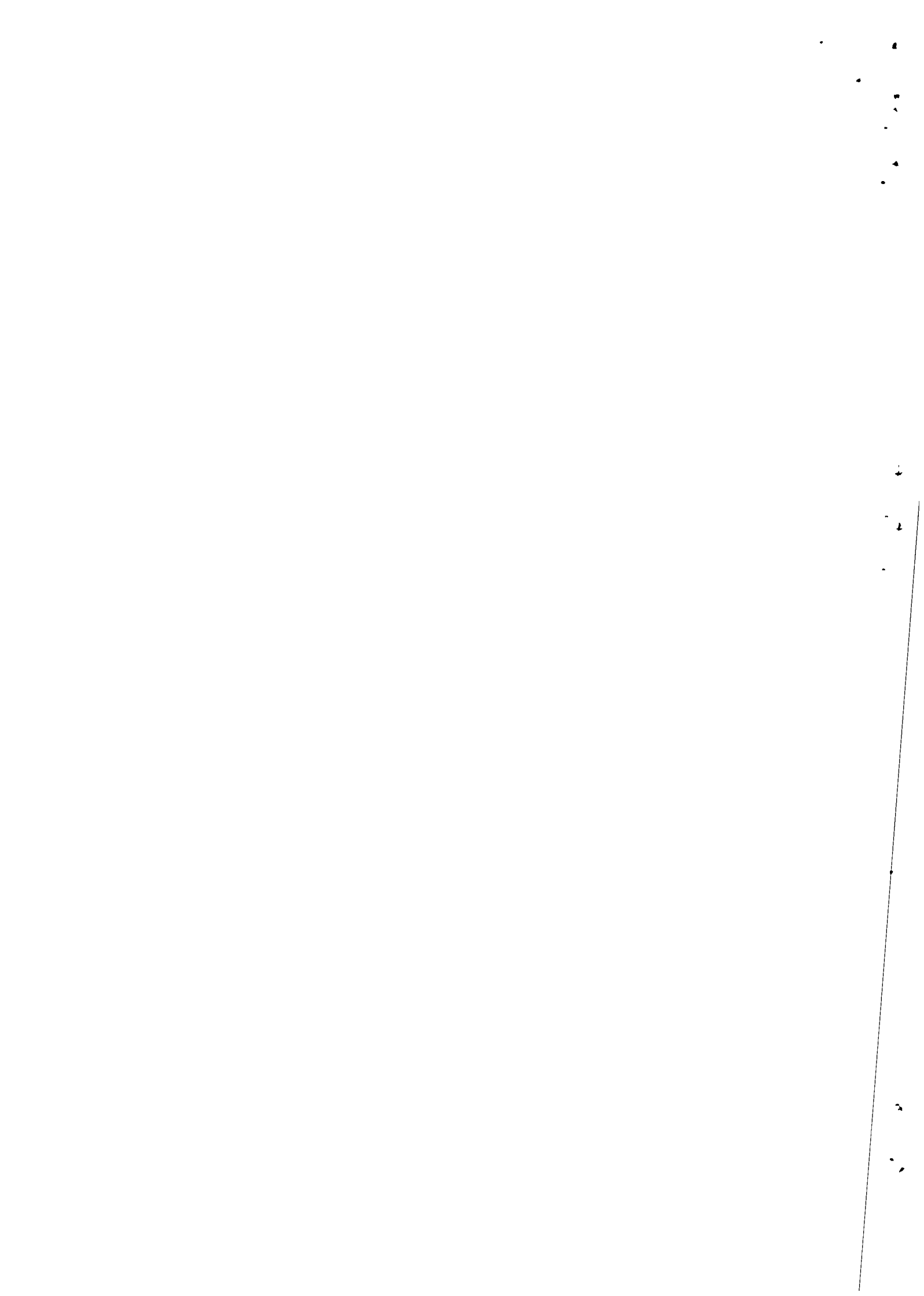
LR No. 222 MN. This is quite consistent with the complaint to the land officer in Mombasa aforesaid. This evidence is supported in by the affidavit sworn by Mukutano Gasho her foreman in the suit land. The affidavit supports the defendant case in all material particulars and explaining how the land was free up to 1999 when some squatters came and tried to invade. How they were arrested and taken to court. Indeed the charge sheet in Criminal case no. 1050 of 2003 one Safari Sharo is charged with creating disturbance in a manner likely to cause a breach of the peace contrary to Section 95 (1) of the Penal Code.

The particulars are;

*"Safari Charo - On the 5th day of April 2003 at about 8.00 a.m. at Mishomoroni area in Kisani location within Mombasa District of the Coast Province, jointly with others not before court created disturbance in a manner likely to cause a breach of the peace by threatening to beat Mukutano Ngasho and chasing him away from his place of employment."*

The defendant was able to show that he pays all the rates for the premises as evidenced by the Town Clerks letter of 3rd June 2004.

[15] In the circumstances I am unable to answer the questions raised in the Originating Summons in the affirmative. The applicants have not at all proved any case of adverse possession. The Originating Summons is dismissed with no order as to costs. The plaintiff's by themselves and/or their servants and/or agents are ordered to move



and vacate out of the suit land within 30 days failing which they will be removed therefrom by the Court Bailiff with the help of the OCS and policemen and administration policemen of Nyali police station. They shall also pay the costs of such forced removal, if they do not move out in the stated period. It is so ordered.

DATED this .....14<sup>th</sup>..... day of..... Dec..... 2014

  
S. MURUNYA  
JUDGE

DELIVERED at Mombasa this .18<sup>th</sup>... day of .December..... 2014 by,

  
A. OMOLLO  
JUDGE.

In the presence of

.....*Ms Muthie L/b for Okaya*..... for the plaintiff's  
.....*Ndegwa*..... for the defendant



ANNEXTURE II

SUBMISSIONS BY THE NATIONAL LAND  
COMMISSION



**NATIONAL LAND COMMISSION**

**RESPONSE TO PETITIONS REFERRED TO THE  
DEPARTMENTAL COMMITTEE ON LANDS**

**REPORT SUBMITTED BY  
KABALE TACHE ARERO  
AG. SECRETARY/CHIEF EXECUTIVE OFFICER**

**10<sup>TH</sup> SEPTEMBER, 2019**

Hon. Chair

We received an invitation dated 14<sup>th</sup> August 2019, from the Clerk of the National Assembly requiring us to appear to this Committee to respond to four petitions referred to your esteemed Committee. We wish to respond to the petitions as follows:-

#### PETITION NO.1

**PETITION BY HON. ANDREW MWADIME MP ON BEHALF OF TAITA TAVETA TEACHERS INVESTMENT COMPANY LIMITED ON ILLEGAL OCCUPANCY OF LAND OWNED BY TAITA TAVETA TEACHERS INVESTMENT COMPANY LIMITED.**

#### THE PETITION:

1. **THAT**, Taita Taveta Teachers Investment Company Limited is a registered Company having been incorporated in March 1980 and operating under Kenya Revenue Authority PIN number **P051411254Q**.
2. **THAT**, the Company's include over 1,200 shareholders composed of both teachers and non-teachers, and its core business is to acquire land subdivide into plots for its members, as well as investing in real estate.
3. **THAT**, through concerted efforts of Taita Taveta KNUT Branch officials, the Company bought 122.7 acres of land at Mshomoroni Area (Junda Creek) in Kisauni Constituency of Mombasa, namely **MN/II/56, 57, 293, 1165, 766, 767, 771 and 222**
4. **THAT**, the Capital to purchase the said chunks of Land was realized through a check-off system from the teachers' salaries and cash payments through loans and cash subscriptions from non-teaching shareholders.
5. **THAT**, at a time when the Company was experiencing financial hardships, aggressive individuals invaded the said lands and began to irregularly sell parts of the land to buyers who later masqueraded as squatters.

6. **THAT**, to date over one thousand irregular occupants on the lands owned by the Company, and who on occasions have harassed and threatened to lynch Company directors who make visits to the land.
7. **THAT**, several shareholders have already died on account of shock of not realizing any gains from the hard work of the Investment and being forcefully driven out of their land.
8. **THAT**, efforts to resolve the matter with relevant authorities including the Mombasa City Clerk(Mayor), City Planner and Surveyor, County Executive for Lands, various leaders and even reaching out to the illegal occupants in an attempt to solve the matter amicably have been completely futile.
9. **THAT**, the issue in respect of which this petition is made are not pending before any court of law, or any constitutional or statutory body.

**Therefore**, your humble petitioners pray that the National Assembly through the departmental Committee of Lands;

- i. Intervenes through the ministry of Lands to halt any further developments on the plots of lands in question pending investigations.
- ii. Investigate the illegal occupation of the land owned by the Taita Taveta Teachers Investment Company Ltd with the objective of overseeing the reverting of the occupied lands back to the Company and its shareholders.
- iii. Recommends to the ministry of Lands to settle bonafide squatters and
- iv. Makes any other order or direction that it deems fit in the circumstances of the petition.

## RESPONSE TO THE PETITION

Hon chair,

Taita Taveta Teachers' Investment Company Limited is the registered owner of the following properties having bought the properties in the 1980s:

S/NO	L.R NO.	ACRES
1	MN/II/56	4.93
2	MN/II/57	12.02
3	MN/II/293	10.00
4	MN/II/765	10.00
5	MN/II/766	3.10
6	MN/II/771	47.62
7	MN/II/767	3.10
<b>TOTAL ACREAGE</b>		<b>90.77</b>

However, Taita Teachers Investment Company Limited claim that they had entered into a sale agreement with the registered owner of **LR. MN/II/222** and that they had paid half of the purchase price of the property in the 1990s and that they have a legitimate claim in the parcel of land known as **MN/II/222**. This property has been included in the petition to parliament hence bringing the acreage of the parcels claimed by Taita Taveta Teachers Investment Co. Ltd to a total of **122.77** Acres.

Taita Taveta Teachers Investment Company Ltd claim that the intention of purchase of these parcels of land was to subdivide the land among the members and put up rental houses for income generation. They allege that their intended project stalled in 1988 when the Taita/Taveta KNUT branch Executive Secretary, the late Adiel M. Kachili, who was the pioneer of the project, was elected to parliament and handed over to a new Executive secretary. They allege that the new executive secretary never called a single meeting and that the project stalled to date.

That Taita Taveta Teachers Investment Company Limited was revived in the year 2008, and immediately did a follow up of their lands. That is when they realized that their land was fully occupied by squatters. The board of directors therefore resolved to sell these parcels of land to recover member's contributions

#### **LITIGATION AND ADR IN RESPECT OF MN/II/222**

- The property was a subject of a suit in court for 11 years (2003 - 2014)
- The court ruled in favor of the (defendant) landowner and the plaintiffs (Squatters) were ordered to vacate the land.
- To avoid eviction the squatters sought for the intervention of the Commission. The Chairman reached out to both parties and advised them to embrace Alternative Dispute Resolution (ADR) for an amicable solution.
- Several sessions were held between the squatters and the administrators of the estate **MN/II/222**
- The commission advised the parties to do their private valuations and table offers for purchase and sale.
- Squatters tabled a valuation of 2.5 Million per acre and the land owner presented a valuation of 10 Million per acre.

- An agreement was reached that the Government should do valuation to give a compromise value to pave way for further negotiation.

### **GOVERNMENT VALUATION FOR MN/II/56, 57, 293, 1165, 766, 767, 771**

The Chairman of the Commission vide his letter **Ref: NLC/CHAIRMAN/VOL. VIX/28** of 13th January, 2016 informed the Governor of Mombasa County that he had received a request from lawyers representing two clients (Taita Taveta teachers Investment Co. Ltd and Noorunisa Essaji), that their clients were willing to sell their properties which were occupied by squatters at 10 Million per acre.

The Chairman suggested that the County Government should purchase the pieces of land to settle the squatters at a fee the - Waitiki model.

The Chief Officer - Lands, Planning and Housing, County Government of Mombasa vide his letter **Ref: LPH/LND/1-1** of 22nd March, 2016 and addressed to the County Secretary confirmed that the department held a meeting with the squatters and that the squatters expressed willingness to be settled/documentated and to be allowed to pay for the land in small installments.

Evidence that indeed the National Government Valuer did valuation of the above properties is contained in a letter **Ref: LPH/LND/4-1/(19)** of 22nd February, 2017 by the Chief Officer-Land, Planning and Housing addressed to the Chief Officer-Finance and Economic Planning. National Government Valuers completed valuation, and issued a fee note of Kshs 875,000. The amount was required to facilitate release of the valuation report.

The County Government of Mombasa requested for waiver of the valuation fee but the ministry of Lands and Physical Planning vide letter **Ref: MOLPP/ADM/LND.7/13** of 13th December, 2017 declined the request and advised that the fee has to be paid before the report is released.

## **Succession Issues In respect of MN/II/222**

There is a family dispute between the possible heirs of the estate of the deceased Mohamedali Sulemanji Essaji. Taita Teachers Investment Co. Ltd will need to have further negotiation with the heirs to the property **MN/II/22** in respect of their interest emanating from the partial purchase.

### **OBSERVATIONS:**

From the forgoing the following observations can be deduced.

1. The parcels of land listed in this petition are heavily squatted.
2. The County Government of Mombasa has previously attempted to address the dispute.
3. The County Government of Mombasa recommended that Government valuation be done in order to assist in further negotiation.
4. The Chairman of the Commission also proposed for Government Valuation followed by purchase of the parcels of land by the County Government for squatter settlement at a fee.
5. The Land owners have also proposed that they should be compensated for their lands and that squatters should not be evicted.

### **RECOMMENDATIONS:**

Owing to the forgoing the Commission recommends as follows:

1. The County Government of Mombasa should hasten the valuation fee payment to the Ministry of lands in order for the report to be issued.
2. Mediation to be done between the squatters and the Taita Taveta Investment Co. Ltd

3. Agreement to be reached on in respect of purchase price by the squatters.
4. Taita Taveta Teachers Investment Co. Ltd should be adequately compensated for their parcels of land.
5. After agreement in respect of compensation Taita Taveta Teachers Co. Ltd to surrender their titles to Government to pave way for squatter regularization.

## **PETITION NO 2.**

### **PETITION BY HON. DAVID GIKARIA MP ON BEHALF OF MRS. JULIET NYAGUTHI, A RESIDENT OF NAKURU COUNTY ON PUBLIC ACCESS AND USE OF PUBLIC UTILITY PLOTS IN NAKURU WEST WARD.**

**Hon. Chair,**

This petition was lodged by Hon. David Gikaria, Member of Parliament, Nakuru Town East Constituency on behalf of Juliet Nyaguthi, a resident of Nakuru County.

The petition relates to seven (7) parcels which the public claim are public utility plots and would therefore want to have access and utilize the plots for public good.

#### **The parcels are as follows**

1. LR. 12570/183----- Market
2. LR. 12570/184----- Water Reservoir
3. LR. 12570/185----- Market
4. LR. 12570/186----- Religious
5. LR. 12570/187-----Primary School
6. LR. 12570/188-----Service Station

7. LR. 12570/189----- Nursery School

**Methodology used in gathering information on the said petition.**

- a. Scrutiny of available records held by the ministry of Lands and physical planning
- b. Site visit to determine ground status including gathering information from institutions and key persons who would have a stake in the petition.
- c. Survey records scrutiny

In answering the above petition the Commissions objective is to determine the legitimacy of claims made by the residents, investigate what rights prevail in the circumstances while recognizing the supremacy of public interest since public right overrides any other individual rights.

**BACKGROUND**

The above parcels originated from a subdivision and change of user of LR. 11264 measuring 219 Acres owned by Nagara Estates Limited a subsidiary of Nakuru Industries Limited. The subdivision scheme plan was approved by the then commissioner of lands vide approval granted as 19068/111/33 dated 1.2.1983. However, file 19068/111 cannot be traced.

**CURRENT RECORD AND GROUND STATUS**

**LR 12570/183 (1.466 HAC) NURSERY SCHOOL/MARKET**

According to residents in the neighborhood the plot is reserved for a market and should be surrendered to the public. However the subdivision scheme plan indicates that the plot was proposed for a nursery school.

A site inspection indicates that the plot is not developed but under subsistence cultivation.

According to records held by the Ministry of Lands and Physical Planning the plot was re-granted to M/S Nakuru Industries Ltd. Of Box 22, Nakuru vide letter of allotment ref 19068/VI/27 dated 19<sup>th</sup> March 1997 for 99 years w.e.f. 1.4.1997 at an annual rent of Kshs. 6,500 for residential purpose.

No stand premium was demanded. The offer was paid for vide receipt D 715126 dated 23<sup>RD</sup> April 1997 and E 026549 dated 10/12/1997 and a title prepared and issued as IR 75295.

A proposal was then received for subdivision of the said plot into 21 portions measuring approx. 0.046 Hac each. A letter of consent dated 29<sup>th</sup> Nov 2016 L.C.R No. NELCB/10/11/16 from the Land Control Board for the subdivision was received in the commissioner of lands office. This was however, not permissible because the said land was not freehold nor was it for agricultural purposes.

A letter ref 190772/21 dated 1<sup>st</sup> Feb 2018 purporting to have granted provisional approval for the subdivision did not originate from the National Land Commission office nor the alleged author of the letter. Thus the status remains the same.

#### **LR 12570/184 (3.906 HAC) - OPEN SPACE AND WATER RESERVOIR**

According to the residents the plot is a water reservoir that should be surrendered to the public. According the proposed subdivision the plot was proposed for an open space with existing water tanks.

A site visit shows that there is a dilapidated water tank that has not been in use for a long time. No other development is on site.

According to one of the directors of Nakuru industries limited the tanks were constructed by the company for their own water needs.

Records indicate that the said plot was re-granted by the government for residential purpose to M/S Nakuru Industries Ltd. Of Box 22, Nakuru vide letter of allotment ref 19068/VI/26 dated 19<sup>th</sup> March 1997 for 99 years w.e.f. 1.4.1997 at an annual rent of Kshs. 15,500.

No stand premium was demanded. The offer was paid for vide receipt D 715129 dated 23<sup>RD</sup> April 1997 and E 026548 dated 10/12/1997 and title prepared and issued as IR 75293.

### **LR 12570/185 (1.073 HAC) OPEN SPACE /MARKET**

According to the residents the plot is reserved for a market and should be surrendered to the public for the same purpose. According the subdivision scheme plan the plot was earmarked for an open space.

A site visit shows that it is not developed and is being used as volley ball playing ground.

The office records were not available for scrutiny.

### **LR 12570/186 (1.073HAC) RELIGIOUS PURPOSES**

The residents want the plot availed to them for religious purposes.

The ground is not developed and is under grass cover

The said plot was re-granted for residential purposes to M/S Nakuru Industries Ltd. Of Box 22, Nakuru vide letter of allotment ref 19068/VI/24 dated 19<sup>th</sup> March 1997 for 99 years w.e.f. 1.4.1997 at an annual rent of Kshs. 5,000.

No stand premium was demanded. The offer was paid for vide receipt D 715128 dated 23<sup>RD</sup> April 1997 and a title prepared and issued as IR 75292.

File 19068/VI could not be traced for more clarification. The MRT is dated 17/12/1997

#### **LR 12570/187 (4.903 HAC) PRIMARY SCHOOL**

There is an existing primary school (Hyrax Hill Primary School) run by the Ministry of Education.

According to one of the Directors of Nakuru Industries they developed the school infrastructure and handed over to the government (Municipal Council of Nakuru) for day to day management as a public school.

However, according to records there is a re-grant for residential purposes to M/S Nakuru Industries Ltd. Of Box 22, Nakuru vide letter of allotment ref 19068/VI/28 dated 19<sup>th</sup> March 1997 for 99 years w.e.f. 1.4.1997 at an annual rent of Kshs. 20,000.

No stand premium was demanded. The offer was paid for vide receipt D 715127 dated 23<sup>RD</sup> April 1997 and D838253 dated 12/11/1997 and title prepared and issued as IR 75293.

File number 19068/VI could not be traced for more clarification.

#### **LR 12570/188 (1.498 HAC) SERVICE STATION**

The plot is owned by a cousin to one of the directors of Nakuru Industries Ltd. This information was given by Mr. Raju Shah

The plot abuts the Nakuru Gilgil Highway and is not developed. Remnants of the stone fence that was demolished by residents can be seen.

There is an ongoing court case.

## **LR 12570/189 (1.637HAC) NURSERY SCHOOL**

The plot is not developed but is under subsistence cultivation.

Records indicate that there was re-grant for residential purposes to M/S Nakuru Industries Ltd. Of Box 22, Nakuru vide letter of allotment ref 19068/VI/29 dated 19<sup>th</sup> March 1997 for 99 years w.e.f. 1.4.1997 at an annual rent of Kshs. 7,300. No stand premium was demanded.

The offer was paid for vide receipt D 715130 23<sup>RD</sup> April 1997 and title prepared and issued as IR 75294. Files 19068/VI could not be traced for more clarification.

## **EFFORTS MADE BY THE COMMISSION TO RESOLVE THE MATTER**

The commissioners had looked at the issues raised by the Nakuru residents and concluded as follows

- That LR.Nos 12570/183, 184, 185, and 189 were all converted from public to residential user. The total acreage of the loss being 8.082Hac
- LR. 12570/188 is not a public purpose because the operation of a service station does not constitute a public purpose.
- L. R. No. 12570/194 (amalgamation of LRs. 12570/131 – 142 on F/R 241/11) – 3.788 Ha and L.R. 12570/155 – 1.1317 Ha adding to a total of 4.920Hac surrendered for public purpose.
- There is therefore a net loss of 3.162 Ha of public purpose land to the developer.
- According to the commissioners there was a negotiation between the developer, the Government through the Commissioner of Lands and Nakuru Municipal Council and the following consensus arrived at :-

1. Nakuru Industries Limited donated L.R 21975 (adjacent to Nagaria Estate) to the National Museum of Kenya for Museum purpose free of cost. This is a 13.77 Ha parcel of land
2. Nakuru industries Limited to build and equip hyrax Hill Primary School on LR 12570/187 and hand over the management of the school to the Municipal Council of Nakuru.
3. Nakuru industries Limited to develop the Religious Site and Feeding Centres on LR Nos 12570/155 and L.R. 12570/156 respectively, adding upto 0.7545 Ha.
4. Nakuru Industries Limited to build a Diagnostics Centre for the poor and less fortunate members of the community on parcel LR No. 12570/157 and provide treatment at no cost to the patients. The area of this parcel 0.3773 Ha.
5. Nakuru Industries Limited to vacate the residential status of L.R. Nos 12570/131 – 142 adding up to **3.788** Ha and convert them into a Nursery and Primary school with ancillary facilities including a sports ground, auditorium and swimming pool. The amalgamated parcel is L.R 12570/194 on F/R 241/11. This is where Shah Lalji Nagpar Academy now stands.
6. L.R. No. 12570/185, which was proposed as a market was vacated because there are adequate markets in the neighborhood.

The net gain by the public after the above donations and conversions is 10.608 Ha.

According to the commissioners the public gained in the exchange of land and at the same time got further concessions from the developer to build schools, a Diagnostic Centre, religious and social facilities and feeding centres on land they

donated, built and equipped for the benefit of the community. In exchange the Government transferred and changed the use of the subject parcels to residential.

However, there is a general feeling by the public that the facilities are not benefitting them as residents of Nakuru hence, the reason for the petition.

### **WAY FORWARD/OPTIONS FOR REVERTING THE PARCELS TO PUBLIC**

For the parcels to revert back to public there are two options;

- Through the court process
- Through review of grants and dispositions on public land by the National Land Commission. However, the period for the same lapsed and has not been renewed by the National Assembly.

### **PETITION NO 3**

**PETITION BY FORMER WORKERS OF THE LATE MAYOR JACOB SAMUELS REGARDING INVASION AND EVICTION OF FORMER WORKERS OF THE LATE MAYOR JACOB SAMUELS FROM THEIR LAND IN ROYSAMBU CONSTITUENCY BY THE KENYA DEFENCE FORCES.**

**Hon chair,**

We request for more time to respond to this matter. We however note that apart from the Department of Defense, and the petitioners, Uchumi Supermarket also lay claim to the land that is the subject of the petition.

We have also noted from the documents supporting the petition that letters of offer were issued both by the Ministry of Lands and the County Government of Nairobi.

Considering the complexity of the matter, and considering that the former Commission chair had taken a position on the claim, we do request that the petition be addressed by the incoming Commission. We hope the ministry will avail the correspondence file for our perusal and to inform decision making on the petition.

**PETITION NO 4**

**PETITION BY MACKINNON ROAD LAND OWNERS ASSOCIATION REGARDING ALLEGED IRREGULARITIES IN THE ALLOCATION OF LAND IN MACKINNON ROAD SETTLEMENT SCHEME.**

Hon chair, the settlement function was moved from the Commission to the Ministry of Lands and Physical Planning by the Land Laws Amendment Act of 2016.

The Cabinet Secretary in charge of land would be in a better position to respond to the petition since this matter is squarely within the mandate of the ministry.

**Thank you.**



**KABALE TACHE ARERO**  
**Ag. SECRETARY/CEO**



**NATIONAL LAND COMMISSION  
DIRECTORATE OF LEGAL AFFAIRS AND ENFORCEMENT**

**REPORT ON THE OWNERSHIP STATUS OF LR. No. 5875/2 DATED 3<sup>RD</sup> JUNE 2016**

**CHRONOLOGY OF PARCEL KNOWN AS LR No. 5875/2 NAIROBI**

LT. Col. James Hays Sadler who was his Majesty's Commissioner for East Africa Protectorate leased LR No. 1012 comprising of 4,443 acres in 1904 to a Mr. Henry Herbert Tarlton for a period of 99 years with effect from 1<sup>st</sup> November 1904 on annual rent of 138/-.

According to the records, the leasee i.e. Mr. H. H. Tarlton subdivided the said land in 1920 into the five sub plots each comprising of 200 acres. In 1927 the sub-plots were further subdivided into 20 acres, the subdivision which created L.R. 5875/2 comprising 17.16 acres.

This plot was transferred to Mr H.V. Briscoe, On 19<sup>th</sup> February 1930, Mr Briscoe transferred the plot to Mrs K.M. Forbes who in turn, on the 1<sup>st</sup> of March 1940, transferred it to Mr F.K Kelly, who in turn transferred the plot to E.A. Residential Estate Limited who built residential houses on the plot without approved building plans and without an approved change of user. However, on application the situation was regularised in 1963.

In 1964, a Mr Smith was appointed a liquidator of the Company by the Kenya Government but it would appear the company, E.A. Residential Estate Ltd, with Mr Smith acting in his capacity as liquidator transferred the property to a Mr Bau Salou Dean. Mr B.S. Dean transferred the property during the same year to a Mr Mayer Jacob Samuels who died on the 12<sup>th</sup> December 1974 but remains the registered owner of the property to date on records

However in 1976, a Mr Raphael Jacob Samuel the deceased brother of the full blood brother and Meshumor Jacob Samuels the deceased's brother of the half-blood brother by the same father applied to the High Court in Nairobi for the grant of letters of administration under Probate and Administrative Cause No. 103 of 1976. *(See Kenya Gazette Notice No.1247 dated 23<sup>rd</sup> April 1976 page 458)*

Since the deceased was Jewish, it is not known whether letters were granted because under the law of inheritance applicable to the Jewish Community of Aden, only the surviving brothers can inherit the deceased's. The deceased had a brother and therefore an heir who can inherit the property.

But in a letter from Robson, Harris & Company Advocates dated 31<sup>st</sup> January 1986 to the Commissioner of Lands, it is claimed that Meshumor Jacob Samuel obtained an order vesting in him sole beneficial and became the registered owner.

### **PURPORTED ACQUISITION BY THE KENYAN MILITARY IN 1985**

The government through a Kenya Gazette notice No. 5151 dated 22<sup>nd</sup> November 1985 published an intention to compulsorily acquire the same parcel to set up a Kenya Army School. The land was registered in the name of Mayer Jacob Samuel who died in 1974.

On 31<sup>st</sup> January, 1986 Robson, Harris & Company Advocates wrote to the then Commissioner of Lands Mr J.R. Njenga on behalf of M.J. Samuel to protest that his client just stumbled on a gazette notice that the government intends to acquire his land without the courtesy of writing to the client, and that he did not believe and seriously doubted if the government intended to acquire the estate for a public purpose.

Albeit, the inquiry on acquisition was held on the 5<sup>th</sup> and 18<sup>th</sup> of February 1986, and Meshumor Jacob Samuel gave oral claim of 25,000,000/- Chief Government Valuer had valued the land at 3,535,000 which Mr. Meshumor Jacob Samuel rejected and went to court. The High Court enhanced the value to 23,000,000.

The government in Civil Appeal No. 109 of 1997, appealed against this award and the government appeal stayed in court for over ten years. On 27<sup>th</sup> February 1997, the Court of Appeal stood over the case generally to allow the parties reach out of court settlement to date nothing went on.

In the meantime in a letter dated 26<sup>th</sup> January 1987 referenced DOD/698/2/Wks the Permanent Secretary in the Department of Defence wrote to the Commissioner of Lands explaining that a team from DoD had carried a ground visit on the proposed site and they found it unsustainable for the intended purpose unless additional surrounding properties were also acquired due to security reasons, the major one being that it was located in a residential area.

They listed four additional properties in the neighbourhood and requested that they too be acquired and requested to know the value. The Commissioner of Lands, in a comment on the same letter indicated that he was not convinced that DoD required the land.

On 10<sup>th</sup> April 1987 Major General Munyao wrote to the Commissioner of Lands in a letter reference DOD/CGS/49/LND to disregard the content of the letter dated 26<sup>th</sup> January 1987 reference DOD/698/2/Wks which discussed intention to acquire land in Roysambu and wait until they make further contacts on the issue. No further contacts on the issue were made to date.

In a letter dated 12<sup>th</sup> March 1986, the Deputy Chief Valuer wrote to the accountant to prepare a cheque for 3,530,500 being the cost of the acquisition, but he commented that he had written to the Ministry of Defence to facilitate the cheque but they could not pay due to financial hardship hence the acquisition was not completed because no payment was done.

#### **CURRENT STATUS OF LR No. 5875/2**

Current search at the registry on LR No. 5875/2 shows that no records exist on it in the systems. I endeavoured from 22<sup>nd</sup> April 2015 to date, to get the correspondence file in the records office but they have failed to trace the file and our assumption is that it has been stolen, hidden or maliciously destroyed.

The only available record at the ministry of lands is the valuation file where I have been able to extract the available information contained in this report. Current search at the County government of Nairobi still shows that the property still belongs to Mr M. J Samuels who was the last registered owner. On 4<sup>th</sup> November 1985, Tysons Habenga Limited in a letter reference BOR/VAL/mm wrote to the Commissioner of Lands requesting an extension of lease for LR No. 5875/2 on behalf of Mr. M.J. Samuel for a further 99 years explaining that the land only had eighteen years left into the lease.

On 10<sup>th</sup> December 1985 Robson, Harris & Company Advocates wrote a further letter referenced CF/15/83 Vol. II, again to the Commissioner of Lands on behalf of Mr. M.J. Samuel requesting for the same extension of lease.

On 13<sup>th</sup> March 1986, in a letter referenced 21046/II/50 Miss Akinyi Valerie Onyango, responded to Robson, Harris & Company Advocates on behalf of the Commissioner of Lands in which the Commissioner of Lands declined the application for extension of lease.

**Technically the land then reverted back to the government and by extension of the new constitution 2010 to the County Government of Nairobi.**

### **OTHER CLAIMANTS**

Other players have also made several attempts to take over the parcel of land fraudulently. Solio Constructions Limited claimed to have been allocated the land by the government of Kenya. But this grant is fraudulent because of the following anomalies in their title:-

- 1. Solio Constructions Company Limited has two sets of title for the same property. The first set was registered 18<sup>th</sup> May 1992 bearing two different IR numbers, and charged to Barclays Bank of Kenya on 26<sup>th</sup> October 1993. How could it have been charged to the Bank before the title was registered, stamp duty paid and signed?***
- 2. The second set of title to Solio Constructions Company Limited was registered on 24<sup>th</sup> January 2001, when the same according to the records the property had been charged to Barclays Bank on 26<sup>th</sup> October 1993.***
- 3. There was no surrender of the original certificate of lease.***

4. *They claim that this is a new grant whose leases is for 99 years effective from 1/7/1999, but this cannot be so because the old lease held by Mr Mayer Jacob Samuels was still valid and effective as it was to expire in 2003.*
5. *Solio Constructions Limited title was registered on 18<sup>th</sup> May 1992 before their Lease even commenced on 1/7/ 1999.*
6. *The Lease to Solio Constructions Limited became effective on 1/7/1999 according to their title.*
7. *This title has two IR Nos. 85371 and 55575/1 which is not possible and makes this title outright forgery.*

These are just but a few outright anomalies on this title.

Solio Constructions Limited then purport to have sold the same property to Kasarani Mall Limited who transferred it to Uchumi Supermarkets.

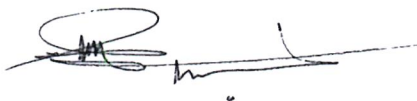
#### WHO ARE KASARANI MALL?

1. According to the Registrar of Companies; this is how shareholding is filed with the Registrar of Companies.
  2. Uchumi Supermarkets Limited      Kenyan      Shares9998
  3. Kwa Holdings (EA) Limited      Kenyan      Shares1
  4. (ICDC)      Kenyan      Share      1
- Total      Shares10,000**

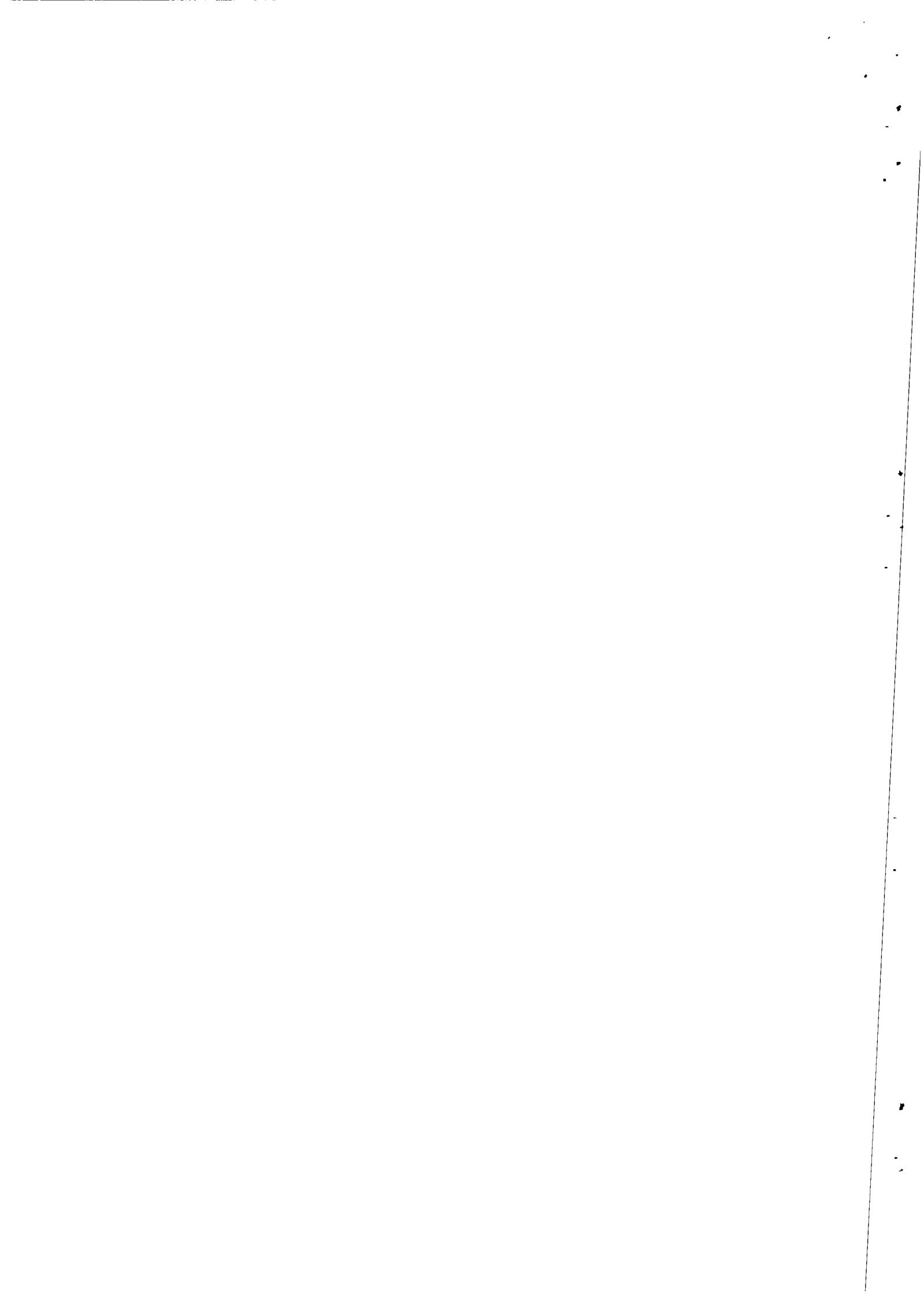
Uchumi Supermarkets became stakeholders through this fraudulent transfer. Kasarani Mall Limited and Uchumi Supermarkets which is the same thing went to Civil Court with their dubious title.

### **CONCLUSION**

In a letter dated 13<sup>th</sup> March 1986, referenced 21046/II/50 by Miss Akinyi Valerie Onyango, to Robson, Harris & Company Advocates on behalf of the Commissioner of Lands in which the Commissioner of Lands declined the application for extension of lease to Mr Mayer Jacob Samuels reverted the land back to the government and by extension of the new constitution 2010, to the County Government of Nairobi.

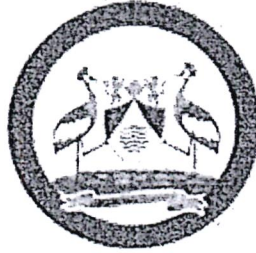


**ANTIPAS NYANJWA**  
**DEPUTY DIRECTOR INVESTIGATIONS & FORENSIC SERVICES**  
**NATIONAL LAND COMMISSION**



# NAIROBI CITY COUNTY

Telephone: 020 344194  
Web: [www.nairobi.go.ke](http://www.nairobi.go.ke)



City Hall,  
P. O. Box 30075-00100,  
Nairobi,  
KENYA.

## OFFICE OF THE GOVERNOR COUNTY SECRETARY AND HEAD OF COUNTY PUBLIC SERVICE

Our Ref: LS/007/001754/SGM/mk

9<sup>TH</sup> AUGUST, 2018

The Permanent Secretary  
Ministry of Lands & Physical Planning  
P.O. Box 30540-00100  
NAIROBI

**RE: ALLOCATION OF LR.5875/2**

Reference is made to a letter from The National Land Commission on the above plot, Reference NLC/CHAIRMAN/VOL.XIX/143 dated 10<sup>th</sup> March, 2016.

The new lease should be made in the name of Nairobi City County Government.

Since the land was occupied by Roysa Community Development Society and the County Government had already regularized the settlement, it's requested that the Roysa members be included in the titling program and be issued with personal titles.

The letter is attached for ease of reference.

*S. G. Mwangili*

**S. G. MWANGILS (K)**  
**FOR: COUNTY SECRETARY**

C.c H.E. The Governor  
“ CECM, Urban Planning, Urban Renewal, Housing & Building Services  
“ County Secretary





MOMBASA COUNTY COORDINATION OFFICE

**PETITION REGARDING LAND OWNED BY TAITA TAVETA  
TEACHERS INVESTMENT COMPANY LTD BY ILLEGAL OCCUPANTS  
- MSHOMORONI, MOMBASA**

**THE PETITION:**

1. **THAT**, Taita Taveta Teachers Investment Company Limited is a registered Company having been incorporated in March 1980 and operating under Kenya Revenue Authority PIN number **P051411254Q**.
2. **THAT**, the Company's include over 1,200 shareholders composed of both teachers and non-teachers, and its core business is to acquire land subdivide into plots for its members, as well as investing in real estate.
3. **THAT**, through concerted efforts of Taita Taveta KNUT Branch officials, the Company bought 122.7 acres of land at Mshomoroni Area (Junda Creek) in Kisauni Constituency of Mombasa, namely **MN/II/56, 57, 293, 1165, 766, 767, 771 and 222**
4. **THAT**, the Capital to purchase the said chunks of Land was realized through a check-off system from the teachers' salaries and cash payments through loans and cash subscriptions from non-teaching shareholders.
5. **THAT**, at a time when the Company was experiencing financial hardships, aggressive individuals invaded the said lands and began to irregularly sell parts of the land to buyers who later masqueraded as squatters.
6. **THAT**, to date over one thousand irregular occupants on the lands owned by the Company, and who on occasions have harassed and threatened to lynch Company directors who make visits to the land.
7. **THAT**, several shareholders have already died on account of shock of not realizing any gains from the hard work of the Investment and being forcefully driven out of their land.

8. **THAT**, efforts to resolve the matter with relevant authorities including the Mombasa City Clerk(Mayor), City Planner and Surveyor, County Executive for Lands, various leaders and even reaching out to the illegal occupants in an attempt to solve the matter amicably have been completely futile.
9. **THAT**, the issue in respect of which this petition is made are not pending before any court of law, or any constitutional or statutory body.

**Therefore**, your humble petitioners pray that the National Assembly through the departmental Committee of Lands;

- i. Intervenes through the ministry of Lands to halt any further developments on the plots of lands in question pending investigations.
- ii. Investigate the illegal occupation of the land owned by the Taita Taveta Teachers Investment Company Ltd with the objective of overseeing the reverting of the occupied lands back to the Company and its shareholders.
- iii. Recommends to the ministry of Lands to settle bonafide squatters and
- iv. Makes any other order or direction that it deems fit in the circumstances of the petition.

### **BRIEF FROM NATIONAL LAND COMMISSION**

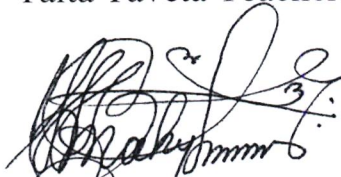
- The property **MN/II/222** belongs to one **Noorunisa Essajee** and it was a subject of Court for some time.
- The Court ruled in favour of the land owner and ordered eviction of the squatters.
- Early 2015 the squatters approached NLC with a request to help them negotiate with the owner to sell the land to them.
- The Commission held ADR sessions with the parties and an agreement was reached that each party conducts its own valuation.
- The squatters through their private valuer came up with a price of **2.5 Million** Shillings per acre.
- The Land owner (Ms Noorunisa Essajee) came up with a value of **10.0 Million** per acre.
- The parties by themselves or their representatives engaged the NLC Chair for way forward.
- Taita Taveta Teachers Investment Company Limited must have approached the NLC Chairman at this time.
- The NLC Chairman, in his letter **Ref: NLC/CHAIRMAN/VOL.VIX/28** of 13th January, 2016, addressed to **H.E. the Governor** of Mombasa, recommended that modalities should be put in place for the County

Government to purchase the parcels of land and settle the squatters the 'Waitiki way'.

- The County Government vide their letter **Ref: LPH/LND/4-1/VOL.I/(39)** of 31st July, 2019 have confirmed that they held several meetings with the squatters and that the squatters agreed to purchase the parcels of land which they occupy.
- That the County Government advised the parties to engage the services of Valuers.
- That the County Government decided to seek a second opinion from the Government Valuers.
- That the County Government wrote a letter to the Principal Secretary, Ministry of Land, Housing and Urban Planning.
- That the MOLPP did valuation for all the parcels and that a fee note of Kshs 875,000 was given to the County Government of Mombasa.
- That the County Government of Mombasa requested for a waiver of the fee on the 13th December, 2017 but the Principal Secretary declined the request.
- That the County Government is trying to solve the deadlock and bring the two parties on board for a comprehensive and logical conclusion of the matter.

#### **ATTACHMENTS:**

1. A letter by the National Land Commission County Coordinator-Mombasa to the County Government of Mombasa requesting for a brief in respect of the Matter of the Petition.
2. A letter from the County Government of Mombasa responding to the request in respect of the Petition.
3. A letter from the Chairman, National Land Commission addressed to H.E. the Governor of Mombasa in respect of the parcels of land belonging to Taita Taveta Teachers Investment Company Ltd.



**EDWARD M. BOSIRE**  
**COUNTY COORDINATOR - MOMBASA COUNTY**  
**FOR: AG. CEO, NATIONAL LAND COMMISSION**





MOMBASA COUNTY COORDINATION OFFICE

Tel.0708009556  
Email.info@nlc.or.ke  
website:www.nlc.or.ke

Uhuru na kazi building  
7th floor, Room 14  
P.O.Box 16821-80100  
Mombasa.

Ref: NLC/CC/MSA/VOL 1/226

Date: 30<sup>th</sup> July, 2019

**Chief Officer,  
Land Administration  
County Government of Mombasa**

**RE: PETITION REGARDING LAND OWNED BY TAITA TAVETA TEACHERS  
INVESTMENT COMPANY LTD BY ILLEGAL OCCUPANTS - MSHOMORONI,  
MOMBASA**

The National Land Commission has received communication from the National Assembly in respect of the above petition and we are instructed to prepare a brief in respect of the issues raised therein.

**THE PETITION:**

1. **THAT**, Taita Taveta Teachers Investment Company Limited is a registered Company having been incorporated in March 1980 and operating under Kenya Revenue Authority PIN number **P051411254Q**.
2. **THAT**, the Company's include over 1,200 shareholders composed of both teachers and non-teachers, and its core business is to acquire land subdivide into plots for its members, as well as investing in real estate.
3. **THAT**, through concerted efforts of Taita Taveta KNUT Branch officials, the Company bought 122.7 acres of land at Mshomoroni Area (Junda Creek) in Kisauni Constituency of Mombasa, namely **MN/II/56, 57, 293, 1165, 766, 767, 771 and 222**
4. **THAT**, the Capital to purchase the said chunks of Land was realized through a check-off system from the teachers' salaries and cash payments through loans and cash subscriptions from non-teaching shareholders.
5. **THAT**, at a time when the Company was experiencing financial hardships, aggressive individuals invaded the said lands and began to irregularly sell parts of the land to buyers who later masqueraded as squatters.
6. **THAT**, to date over one thousand irregular occupants on the lands owned by the Company, and who on occasions have harassed and threatened to lynch Company directors who make visits to the land.
7. **THAT**, several shareholders have already died on account of shock of not realizing any gains from the hard work of the Investment and being forcefully driven out of their land.
8. **THAT**, efforts to resolve the matter with relevant authorities including the Mombasa

9. **THAT**, the issue in respect of which this petition is made are not pending before any court of law, or any constitutional or statutory body.

**Therefore**, your humble petitioners pray that the National Assembly through the departmental Committee of Lands;

- i. Intervenes through the ministry of Lands to halt any further developments on the plots of lands in question pending investigations.
- ii. Investigate the illegal occupation of the land owned by the Taita Taveta Teachers Investment Company Ltd with the objective of overseeing the reverting of the occupied lands back to the Company and its shareholders.
- iii. Recommends to the ministry of Lands to settle bonafide squatters and
- iv. Makes any other order or direction that it deems fit in the circumstances of the petition.

The above is the petition before the National Assembly.

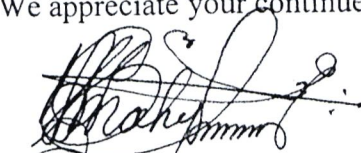
In this matter the National Land Commission has been instructed to prepare a brief to inform on the status of this matter.

The purpose of this letter is to request your good office :

1. To provide an overview of the matter raised by Taita Taveta Teachers Investment Company Ltd.
2. To confirm and brief on the applications, complaints, requests and concerns raised by the said Company with the Municipal Council of Mombasa and later with the County Government of Mombasa.
3. To update on the actions taken by the County Government of Mombasa in trying to address this issue.
4. To update on any interventions and partnerships with other institutions like National Land Commission in addressing this issue.( Kindly supply copies of any correspondences for information).

Your earliest response will assist us to prepare a brief for presentation before Parliament on 1st August, 2019.

We appreciate your continued cooperation and support.



**EDWARD M. BOSIRE**  
**MOMBASA COUNTY COORDINATOR**  
**FOR: AG. CEO, NATIONAL LAND COMMISSION**

CC:

- Ag. CEO, National Land Commission
- CECM, Lands, Planning and Housing



**COUNTY GOVERNMENT OF MOMBASA**  
**DEPARTMENT OF LANDS, PLANNING & HOUSING**

**Ref:** LPH/LND/4-1/Vol.I/(39)

31<sup>st</sup> July, 2019

The County Co-ordinator,  
 National Land Commission,  
 Uhuru na Kazi Building,  
 P.O. Box 16821 - 80100,  
**Mombasa County.**

**RE: PETITION REGARDING OF LAND OWNED BY TAITA  
 TAVETA TEACHER'S INVESTMENT COMPANY LIMITE BY  
 ILLEGAL OCCUPANTS – MSHOMORONI MOMBASA**

Reference is made to your letter Ref.No. NLC/CC/MSA/Vol.I/226 dated 30<sup>th</sup> July, 2019 on the above mentioned subject matter.

Appended herewith kindly find a brief report of the above parcels of land for your further necessary action.

S/NO.	LRN	ACRAGE	CR. NO.	DATE TRANSFERED
01.	MN/II/56	4.93	1073	03.06.1985
02.	MN/II/57	12.02		
03.	MN/II/293	10.00	1994	03.06.1986
04.	MN/II/657	22.02	1994	03.06.186
05.	MN/II/765	10.00		
06.	MN/II/766	3.10	8593	03.06.1985
07.	MN/II/767	3.10	8592	03.06.1986
08.	MN/II/771	47.62	8594	03.06.1985

The department of Land, Planning and Housing received a letter from the National Land Commission through the office of His Excellency the Governor, to the effect that the owners of the above mentioned plots, Taita Taveta Company and Ms Noorunisa Essajee have accepted to sell the plots

to the squatters who are already settled there. After several meetings with the squatters, they agreed to purchase the same.

The department therefore asked the two parties to engage the services of Valuers for a smooth process. The department also decided to seek a second opinion through engaging the Government Valuers.

A letter seeking the services of a Valuer from the National Government was done to the Principal Secretary, Ministry of Land, Housing and Urban Planning. The Valuation service was done and a fee note of kshs.875,000/= delivered to Mombasa County Government through the department of Land, Planning and Housing.

The Mombasa County Government requested for waiver of the fee note on the 13<sup>th</sup> December, 2017, which the Principal Secretary declined.

The County is therefore yet to solve the deadlock and bring the two parties on board for a comprehensive and logical conclusion of the matter.



Dr. J. June Mwajuma  
**Chief Officer – Land Administration**

Copy to: CECM – Land, Planning & Housing

“ Ag. CEO, National Land Commission



13

**OFFICE OF THE CHAIRMAN**

MINILANDS, Nairobi  
 Tel: 020 2718050  
 Fax: 020 2718050

Ardhi House  
 1st Ngong Avenue  
 P. O. Box 44417  
**NAIROBI**

13<sup>th</sup> January, 2016

**NLC/CHAIRMAN/VOL.VIX/28**

Governor  
**MOMBASA COUNTY**

**OFFER TO SELL LAND TO SETTLE SQUATTERS**

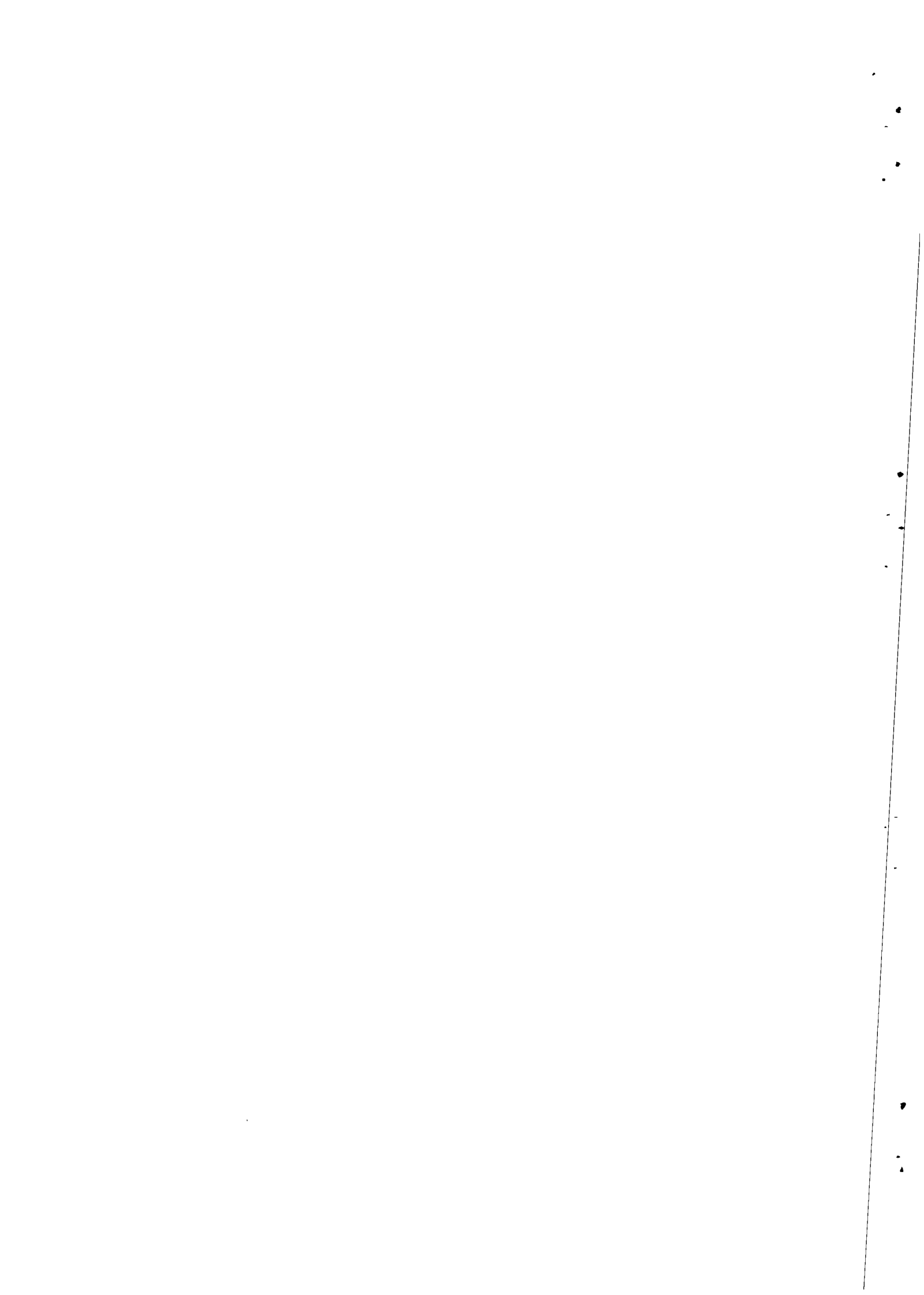
Enclosed are three requests and offers from lawyers representing two clients who are the registered owners of several parcels of land situated in Junda, Kisauni in your County.

The parcels are 7 in number, totaling 122 acres. The clients are asking for Kshs.10m per acre, a quite modest price given the locality of the area, accessibility and ocean frontage. Borrowing from the experience of Waitiki Farm, the National Land Commission strongly recommends that modalities be put in place for you to purchase and settle the squatters, at a fee. We shall be available to offer all the necessary legal, logistical and technical support required.

Thank you for your continued cooperation.

02 FEB 2016

**Prof. Muhammad A. Swazuri, PhD, OGW**  
**Chairman, National Land Commission, and**  
**Associate Professor in Land Economics**



# ANNEXTURE III

## SUBMISSIONS BY THE MINISTRY OF LANDS AND PHYSICAL PLANNING





## MINISTRY OF LANDS AND PHYSICAL PLANNING

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### PETITIONS FROM THE NATIONAL ASSEMBLY DEPARTMENTAL COMMITTEE ON LANDS

Honourable Chair,

Pursuant to a letter Ref: NA/DC/LANDS/2019(035) dated July 24, 2019, the Departmental Committee on Lands invited the Cabinet Secretary, Ministry of Lands and Physical Planning to a meeting on August 6, 2019 to consider the following petitions-

1. Petition by Mr. Philip Njuguna on behalf of the residents of Kandara Residents Association on irregular renewal of leases of land by Delmonte Kenya Limited
2. Petition by Honourable Andrew Mwadime, Member of Parliament, on behalf of Taita Taveta Teachers Investment Company Limited on illegal occupation of land owned by Taita Taveta Teachers Investment Company Limited
3. Petition by Honourable David Gikaria, Member of Parliament, on behalf of Ms. Juliet Nyaguthii, a resident of Nakuru County, on public access and use of public utility plots in Nakuru West Ward
4. Petition by Honourable Alfred Agoi Masadia, Member of Parliament, on behalf of Mr. Thomas Anzeze Musila on irregular transfer and subdivision of land belonging to Mr. Thomas Anzeze Musila

Honourable Chair, I wish to respond as follows: -

#### 1. PETITION NO. 50 OF 2019 BY MR. PHILIP NJUGUNA ON IRREGULAR RENEWAL OF LEASES OF LAND BY DELMONTE KENYA LIMITED

##### 1.1. Petition

The petition is submitted by Mr. Philip Njuguna on behalf of Kandara Residents Association, which draws its members from Murang'a and Kiambu counties. The

petitioners claim to be the original owners of land presently occupied by Del Monte Kenya Limited but were illegally displaced and the land was leased to the company.

The petitioners are aggrieved that the County Government has renewed the leases for the company without first involving the public contrary to Section 13 of the Land Act, 2012, which provides that, at the expiry of a leasehold tenure, the National Land Commission shall inform the lessee of his or her pre-emptive right to allocation of the land upon application, provided that-

- i. such lessee is a Kenyan citizen, and
- ii. the land is not required by the National or County Government for public purposes.

The Petitioners state that, by proceeding to unilaterally renew the lease, the County Government of Murang'a not only usurped the exclusive power vested in the Commission to renew leases, but also side-stepped the constitutional principle of public participation to determine whether the public also had an interest in the land. According to the petitioners, this is in total disregard of the resolutions of Kandara residents made on February 7, 2017.

The Petitioners also allege that the Commission intends to renew the leases despite recommending on February 7, 2017 that, to address the historical land injustice, the County Government of Muranga should retain adequate amounts of land for settlement of claimants and public purpose when the leases expire in May 2019.

The petitioners are concerned that their hope of reclaiming ancestral land at the expiry of the lease held by Del Monte Kenya Limited will be permanently curtailed. They therefore request the National Assembly through the Departmental Committee on Lands to inquire into the matter with a view to ensure that the process of renewing the leases are conducted within the law and in a transparent and participatory process that takes into account the rights and interests of members of Kandara Residents Association over the said land.

## **1.2. Response**

**Honourable Chair, wish to respond as follows-**

Del Monte land in Kenya is situated in Kiambu and Muranga Counties. The Government of Kenya purchased several parcels of land from the British

Settlers/Companies for leasing to Del Monte Corporation on behalf of California Packing Company (CALPAK). The lease agreement was made on June 3, 1965. This was in order to promote the acceleration of pineapple fruit cultivation and processing in Kenya. The parcels of land leased to Del Monte Kenya Limited are as shown in **Annexure 1**.

The Petitioners are concerned with land held by the company situated in Muranga. As per our records, and as tabulated in Annexure 1, **L.R. No. 12158** measuring approximately **2900 acres** is currently registered in the name of Del Monte Kenya Limited and falls within Muranga County. **L.R. No. 12158** arose out of amalgamation of LR. Nos. 10862, 10741, 4987, 11312, 2953, 4873 and 11146.

The term of the Lease is **49 years** from May 1, 1973. The lease expires on **May 1, 2022**. An application for extension has been made to the National Land Commission and the County Government and is undergoing consideration as per the provisions of the Land Act, 2012 and the Physical Planning Act, Cap 286 of 1996. The Ministry is not aware of any approval of the extension of lease granted by the County Government of Murang'a in respect of any Del Monte Kenya Limited.

A copy of the official search is attached marked **Annexure 2**.

## **2. PETITION NO. 52 OF 2019- BY HONOURABLE ANDREW MWADIME MP ON ILLEGAL OCCUPANCY OF LAND OWNED BY TAITA TAVETA TEACHERS INVESTMENT COMPANY LIMITED**

### **2.1. Petition**

The petition dated June 4, 2019 has been presented by Honourable Andrew Mwadime, Member of Parliament for Mwatate Constituency on behalf of Taita Taveta Teachers Investments Company Limited. The company is said to have at least 1,200 shareholders comprising teachers and non-teachers. Its core business is to acquire and subdivide land for the benefit of the members.

The Petition states that the company purchased various parcels of land measuring approximately 122.7 acres at Mshomoroni area (Junda Creek) in Kisauni Constituency of Mombasa County known as-

- i. Mainland North/Section 11/56
- ii. Mainland North/Section 11/57 and 293
- iii. Mainland North/Section 11/765 and 766
- iv. Mainland North/Section 11/767
- v. Mainland North/Section 11/771
- vi. Mainland North/Section 11/222

From the petition, unscrupulous individuals invaded the said parcels and irregularly sold them off to other people who have since settled thereon. There are currently over 1000 illegal occupants. Efforts to address the issue through the county administration and various leaders have borne no fruits.

This Committee has therefore been invited to intervene to resolve the matter through the Ministry of Lands and Physical Planning to: -

- i. halt further developments on the properties;
- ii. Investigate the illegal occupations on the property; and
- iii. Recommend to the Ministry to resettle the bona fide squatters.

## 2.2. Response

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

According to our records, parcels Mainland North/Section 11/56, 11/57 and 293, 11/765 and 766, 11/767 and 11/771 are registered in the name of Taita Taveta Investments Limited. While parcel Mainland North/Section 11/222 is registered to Mohamedali Sueliman Essaji. Copies of the official searches are attached marked **Annexures 3a, b, c, d, e & f.**

The Ministry is not empowered to halt invasion and developments on private property, since there are established legal mechanisms to address such concerns.

We propose that investigations on the alleged illegal occupation be done by the Departmental Committee on Lands, the Ministry of Interior and Coordination of National Government and the County Government to come up with a sustainable solution to the problem.

### 3. PETITION NO. 49 OF 2019- BY HONOURABLE DAVID GIKARIA MP ON PUBLIC ACCESS AND USE OF PUBLIC UTILITY PLOTS IN NAKURU WEST WARD

#### 3.1. Petition

The petition has been presented by Honourable David Gikaria, Member of Parliament for Nakuru Town East Constituency on behalf of Ms. Juliet Nyaguthii, a resident of Nakuru County.

The Petition states that residents of Nakuru East Ward wrote to the then Municipal Council of Nakuru in the year 2005, seeking permission to access seven (7) parcels of land within the municipality for public utilities as follows-

- i. LR. Nos. 12570/183 (market)
- ii. LR. Nos. 12570/184 (water reservoir)
- iii. LR. Nos. 12570/185 (market)
- iv. LR. Nos. 12570/186 (religious institutions)
- v. LR. Nos. 12570/187(primary schools)
- vi. LR. Nos. 12570/188 (service station)
- vii. LR. Nos. 12570/189 (nursery school)

According to the petition, the then Municipal Council Clerk acting on the instructions of the said residents wrote to the then Commissioner of Lands on October 18, 2005 to seek advice on how the properties could be transferred to the Municipal Council for public utilities. There has been no response to the letter.

The Petition claims that the parcels of land are idle making them susceptible to land grabbing. It is also claimed that some people referred to as “private developers” constructed a fence around the parcels but it was brought down by members of the public. In October 2, 2018, the National Land Commission’s Coordinator in Nakuru County wrote to invite the Commission to pay a site visit to the subject parcels but the Commission did not pursue the matter.

It is claimed that the failure by both the Commission and the Ministry of Lands and Physical Planning to deal with the issue has heightened tension between the residents and the “private developers” laying claim to the parcels.

It is in view of the above that the petitioners seek redress from the Parliamentary Committee on Lands to intervene and investigate ownership status of the properties to safeguard them.

### 3.2. Response

Honourable Chair, I wish to respond as follows-

According to our records, the parcels in question are private land committed as shown in the schedule marked **Annexure 4**.

Copies of the official search are also attached marked **Annexure 5a, b, c, d, e, f & g**.

#### 4. PETITION NO. 40 OF 2019 BY HONOURABLE ALFRED AGOI MASADIA, MP ON IRREGULAR TRANSFER AND SUBDIVISION OF LAND BELONGING TO MR. THOMAS ANZEZE MUSILA

##### 4.1. Petition

The petition has been presented by Honourable Alfred Agoi Masadia, Member of Parliament for Sabatia Constituency on behalf of the family of Mr. Thomas Anzenze Musila.

From the petition, the subject property **KAKAMEGA/VIYALO/1** measuring approximately 2.8 acres was originally registered in the name of the late Mzee Hezekia Musila Chelanga. It is stated that the original title got lost and a report was made to Kitale Police Station under OB No. 43/26/8/96. The deceased is said to have transferred the property to his son, Thomas Anzenze Musila on March 19, 1998 and that an affidavit was sworn by the deceased to confirm the sale and loss of the title.

The petition states that an official search obtained from the Kakamega Lands Registry by Thomas Anzenze Musila on August 30, 2005 revealed that the property was transferred to his brother, Samson Musila using the lost title and that subsequent subdivisions had been registered (i.e **N/MARAGOLI/VIYALO/1661** registered in the name of Ephraim Andefa Ngereso and **N/MARAGOLI/VIYALO/1662** registered in the name of Beatrice Night Opiyo).

The family claims that there an existing court order requiring them to vacate the property. They claim that they have tried to resolve the matter through the relevant agencies to no avail. They have thus invited this Committee to make an inquiry into the matter and to request the Cabinet Secretary, Lands and Physical Planning to provide information on the property.

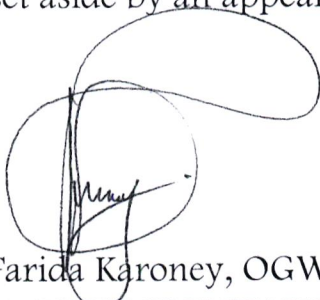
#### 4.2. Response

Honourable Chair, I wish to respond as follows~

According to records available at Vihiga Lands Registry, the parcel of land **KAKAMEGA/VIYALO/1** measuring approximately 2.8 acres was originally registered in the name of the late Mzee Hezekia Musila Chelanga. It was subsequently subdivided into two (2) portions to create parcels numbers 1654 and 1655 for the benefit of the Thomas Anzenze Musila and Samson Musila Chelanga respectively.

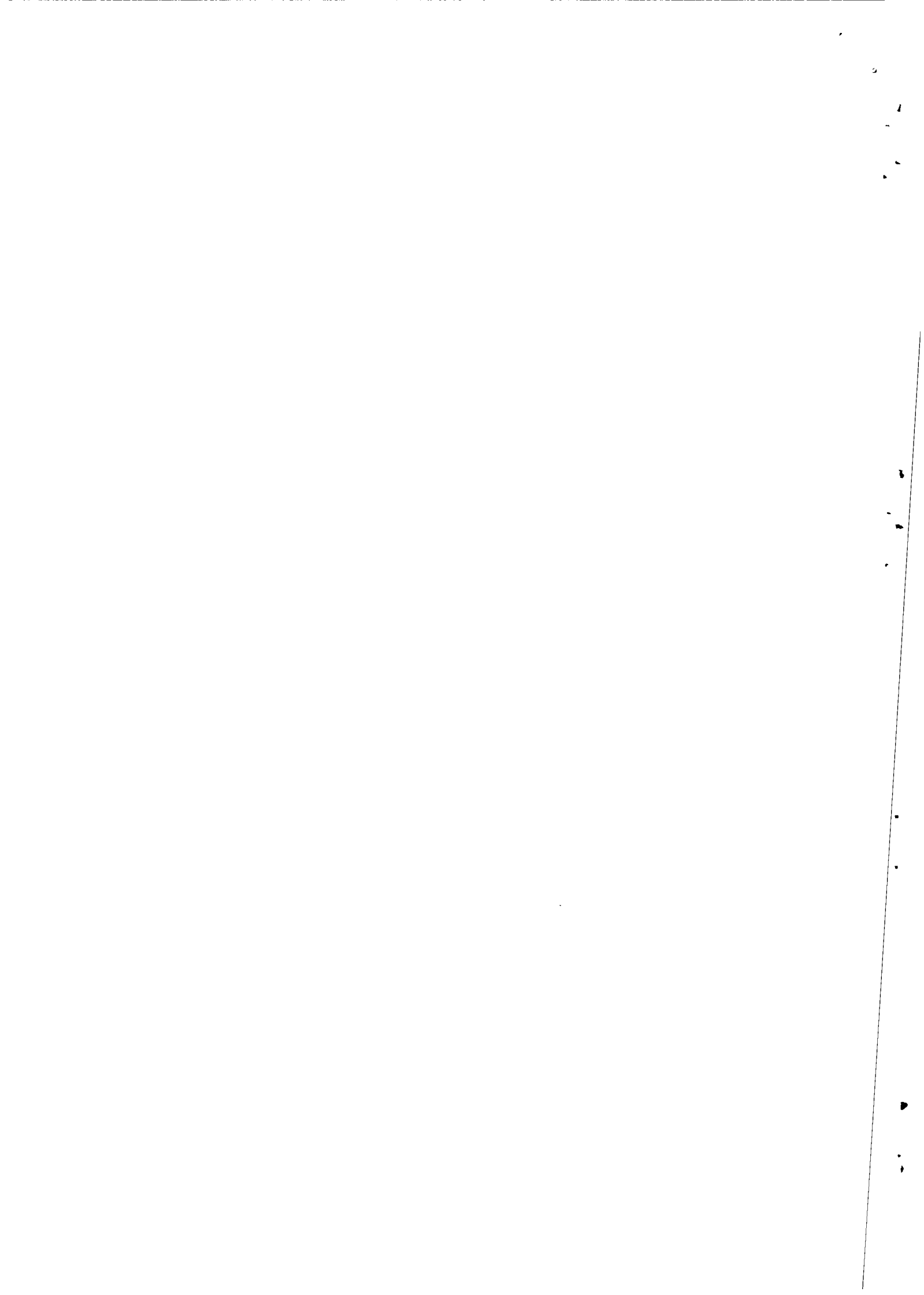
Parcel number 1654 is still intact while parcel number 1655 was further subdivided by Samson Musila Chelanga to create parcel numbers 1660-1663. Parcel number 1660 was further subdivided to create parcel numbers 1714 and 1715. However, we have noted from records that these parcels are subject to court litigation. Copies of the green cards are attached marked **annexures 6a, b, c, d and e** indicating ownership.

The matter has already been adjudicated by a court of law. The orders can only be set aside by an appeal to the court.



Farida Karoney, OGW  
**CABINET SECRETARY**

August 6, 2019



'Annexure 3f'

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 2<sup>ND</sup> AUGUST 2019

PLOT NUMBER: 222/II/MN  
TITLE NUMBER: CR. 1068  
AREA: 32.0 ACRES  
TENURE: FREEHOLD  
REGISTERED OWNER: MOHAMEDALI SULEIMAN ESSAJI  
ENCUMBRANCE: CAVEAT UNDER SECTION 65(i)(f)

  
REGISTRAR OF TITLES



Annexure 3e)

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 1<sup>ST</sup> AUGUST 2019

PLOT NUMBER: 767/II/MN  
TITLE NUMBER: CR. 8592  
AREA: 3.10 ACRES  
TENURE: FREEHOLD  
REGISTERED OWNER: TAITA TAVETA TEACHERS INVESTMENT LTD  
NCUMBRANCE: PROVISIONAL CERTIFICATE OF TITLE ISSUED VIDE GAZETTE  
NOTICE NO. 8366 OF 14.12.2001.

  
REGISTRAR OF TITLES



*Annexure 3d*

**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 2<sup>ND</sup> AUGUST 2019**

<b>PLOT NUMBER:</b>	765/II/MN & 766/II/MN
<b>TITLE NUMBER:</b>	CR. 8593
<b>AREA:</b>	10.0 ACRES & 3.10 ACRES
<b>TENURE:</b>	FREEHOLD
<b>REGISTERED OWNER:</b>	<b>TAITA TAVETA TEACHERS INVESTMENT LTD</b>
<b>ENCUMBRANCE:</b>	PROVISIONAL CERTIFICATE OF TITLE ISSUED VIDE GAZETTE NOTICE NO. 8366 OF 14.12.2001

*[Signature]* 303  
**REGISTRAR OF TITLES**  
*[Initials]*



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Annexure 3c'

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 1<sup>ST</sup> AUGUST 2019

**PLOT NUMBER:** 771/II/MN  
**TITLE NUMBER:** CR. 8594  
**AREA:** 47.62 ACRES  
**TENURE:** FREEHOLD  
**REGISTERED OWNER:** TAITA TAVETA TEACHERS INVESTMENT LTD  
**NCUMBRANCE:** PROVISIONAL CERTIFICATE OF TITLE ISSUED VIDE GAZETTE NOTICE NO. 8366 OF 14.12.2001.

  
REGISTRAR OF TITLES



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*'Annexure 3b'*

**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 2<sup>ND</sup> AUGUST 2019**

<b>PLOT NUMBER:</b>	57/II/MN & 293/II/MN
<b>TITLE NUMBER:</b>	CR. 1994
<b>AREA:</b>	12.02 ACRES & 10 ACRES RESPECTIVELY
<b>TENURE:</b>	FREEHOLD
<b>REGISTERED OWNER:</b>	<b>TAITA TAVETA TEACHERS INVESTMENT LTD</b>
<b>ENCUMBRANCE:</b>	PROVISIONAL CERTIFICATE OF TITLE ISSUED VIDE GAZETTE NOTICE NO. 1861 OF 15 <sup>TH</sup> FEBRUARY 2013

  
**REGISTRAR OF TITLES**  
*S. K. Mwangi 303*



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**Annexure 3a**

**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 1<sup>ST</sup> AUGUST 2019**

**PLOT NUMBER:** 56/II/MN  
**TITLE NUMBER:** CR. 1073  
**AREA:** 4.98 ACRES  
**TENURE:** FREEHOLD  
**REGISTERED OWNER:** TAITA TAVETA TEACHERS INVESTMENT LTD  
**NCUMBRANCE:** PROVISIONAL CERTIFICATE OF TITLE ISSUED VIDE GAZETTE NOTICE NO. 8366 OF 14.12.2001.

  
**REGISTRAR OF TITLES**

