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THE SENATE

TWELFTH PARLIAMENT

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COMMITTEE	Lands	
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THE REPORT OF THE SENATE STANDING COMMITTEE ON LANDS,
ENVIRONMENT AND NATURAL RESOURCES

ON

THE PETITION CONCERNING THE ALLEGED EXCHANGE AND FINAL
TRANSFER OF TITLES FOR PARCELS OF LAND KNOWN AS LARI
NYAKINYUA SOLAI FARM (LOCATED IN SOLAI, NAKURU COUNTY)
AND RIYOBEI FARM LIMITED (LOCATED IN GILGIL, NAKURU
COUNTY)

JUNE, 2021

② Rt. Hon. Speaker
You may approve for tabling -
05/07/21

① DC-EG
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List of Abbreviations/ Synonyms

ADC	- Agricultural Development Corporation
CS	- Cabinet Secretary
EACC	- Ethics and Anti-Corruption Commission
MoLPP	- Ministry of Land & Physical Planning
NLC	- National Land Commission

PREFACE

Mr. Speaker sir,

The Standing Committee on Land, Environment and Natural Resources is established pursuant to Standing Order 218(3) of the Standing Orders of the Senate. As set out in the Second Schedule, the Committee is mandated to consider all matters relating to lands and settlement, housing, environment, forestry, wildlife, mining, water resource management and development.

Committee Membership

The Committee comprises of the following Members -

- | | | |
|------------------------------------|---|-------------------------|
| 1. Sen. Paul Mwangi Githiomi, MP | - | Chairperson |
| 2. Sen. Philip Mpaayei, MP | - | Vice-Chairperson |
| 3. Sen. George Khaniri, MGH, MP | | |
| 4. Sen. Gideon Moi, CBS, MP | | |
| 5. Sen. Njeru Ndwiga, EGH, MP | | |
| 6. Sen. (Dr.) Lelegwe Ltumbesi, MP | | |
| 7. Sen. Issa Juma Boy, MP | | |
| 8. Sen. (Arch.) Sylvia Kasanga, MP | | |
| 9. Sen. Johnes Mwaruma, MP | | |

At the Sitting of the Senate held on 14th March, 2019 the Honourable Speaker of the Senate, reported to the Senate that a Petition has been submitted through the Clerk, by Mr. Fredrick Kahia Thugi & 4 others concerning the alleged exchange and final transfer of Titles for parcels of land known as Lari Nyakinyua Solai Farm (located in Solai, Nakuru County) and Riyobei Farm Limited (located in Gilgil, Nakuru County).

The salient issues raised in the said Petition are as follows-

- (a) That the petitioners are members of a 5000 members group, which came together and in the year 1980, purchased an 8,000 hectare parcel of land in Solai, Nakuru County, which came to be known as Larry Nyakinyua Solai Farm;
- (b) That a different group by the name Fiobei Farm Limited had purchased an 80 acre parcel of land at Gilgil, also in Nakuru County;

- (c) Following negotiations the two groups resolved to exchange the said two parcels of land;
- (d) Subsequently, the members of the other group managed to occupy the Lari Nyakinyua Solai Farm with the National Lands Commission (NLC) granting approval in the year 2016 for survey and subdivision of the said parcel of land among the new beneficiaries; and,
- (e) That on the other hand, the petitioners have been unable to occupy the Fiobei Farm Limited at Gilgil, Nakuru County as it has been occupied by illegal squatters who have proceeded to develop the said property and barred the petitioners from accessing it.

The Petitioners, therefore, pray that the Senate investigates this matter with a view to ensuring that the Petitioners are facilitated to enter into and settle on their parcel of land.

Pursuant to standing order 232(1) and the Second Schedule to the Standing Orders of the Senate, the Petition was committed to the Standing Committee Lands, Environment and Natural Resources Committee.

Pursuant to Articles 37 and 119(1) of the Constitution, section 5(2) the Petition to Parliament (Procedure) Act and standing order 232 of the Senate Standing Orders, the Committee is mandated to consider the Petition and respond to the Petitioner within the prescribed period.

To enable a judicious disposal of the Petition, the Committee resolved to conduct an inquiry on the issues raised in the Petition. In this regard the Committee invited the Petitioner to a meeting of the Committee for the Petitioner to elaborate further on the issues raised in the Petition and to supply supporting evidence on the same.

The Committee proceeded to invite the Cabinet Secretary, Ministry of Lands and Physical Planning and the National Land Commission to give responses on the aforementioned Petition.

ACKNOWLEDGEMENT

The Committee thanks the Offices of the Speaker of the Senate and the Clerk of the Senate for the support extended to the Committee in the execution of its mandate. The Committee further extends its appreciation to the Petitioners, Ms. Farida Karoney, EGH, Cabinet Secretary, Ministry of Lands and Physical Planning and Mr. Gershom Otachi, Chairperson, National Land Commission, for their submissions and contribution to the resolution of this matter.

Mr. Speaker Sir,

It is now my pleasant duty and privilege, on behalf of the Committee, to present this Report of the Standing Committee on Lands, Environment and Natural Resources on the Petition concerning the alleged exchange and final transfer of Titles for parcels of land known as Lari Nyakinyua Solai Farm (located in Solai, Nakuru County) and Riyobei Farm Limited (located in Gilgil, Nakuru County).

Signed:  Date: 10/6/2021

SEN. MWANGI PAUL GITHIOMI, M.P.
CHAIRPERSON, SENATE STANDING COMMITTEE ON LAND,
ENVIRONMENT AND NATURAL RESOURCES

CHAPTER I

INTRODUCTION

1. At the Sitting of the Senate held on 14th March, 2019 the Honourable Speaker of the Senate, reported to the Senate that a Petition has been submitted through the Clerk, by Fredrick Kahia Thugi & four (4) others concerning the alleged exchange and final transfer of Titles for parcels of land known as Lari Nyakinyua Solai Farm (located in Solai, Nakuru County) and Riyobei Farm Limited (located in Gilgil, Nakuru County).
2. The salient issues raised in the said Petition are as follows-
 - (a) That the petitioners are members of a 5000 members group, which came together and in the year 1980, purchased an 8,000 hectare parcel of land in Solai, Nakuru County, which came to be known as Larry Nyakinyua Solai Farm;
 - (b) That a different group by the name Fiobei Farm Limited had purchased an 80 acre parcel of land at Gilgil, also in Nakuru County;
 - (c) Following negotiations the two groups resolved to exchange the said two parcels of land;
 - (d) Subsequently, the members of the other group managed to occupy the Lari Nyakinyua Solai Farm with the National Lands Commission (NLC) granting approval in the year 2016 for survey and subdivision of the said parcel of land among the new beneficiaries; and,
 - (e) That on the other hand, the petitioners have been unable to occupy the Fiobei Farm Limited at Gilgil, Nakuru County as it has been occupied by illegal squatters who have proceeded to develop the said property and barred the petitioners from accessing it.

The petitioners, therefore, pray that the Senate investigates this matter with a view to ensuring that the petitioners are facilitated to enter into and settle on their parcel of land.

3. Pursuant to Standing Order 232(1) of the Standing Orders of the Senate, the Petition was committed to the Land, Environment and Natural Resources Committee.

LEGAL BASIS FOR PETITIONS

4. Petitions to the Senate are governed by the Constitution, the Petition to Parliament (Procedure) Act, No. 22 of 2012 and the Senate Standing Orders.
5. Article 37 of the Constitution provides that *every person has the right, peaceably and unarmed, to assemble, to demonstrate, to picket, and to present petitions to public authorities* while Article 119(1) of the Constitution provides that “*every person has a right to petition Parliament to consider any matter within its authority, including to enact, amend or repeal any legislation.*”
6. Section 5(2) of the Petition to Parliament (Procedure) Act, provides that *a petition that is tabled in Parliament under this Act shall be considered in accordance with the Standing Orders of the relevant House.* In this regard, standing order 232 of the Senate Standing Orders provides as follows-
 232. *Committal of Petitions*
 - (1) *Every Petition presented or reported pursuant to this Part, shall stand committed to the relevant Standing Committee.*
 - (2) *Whenever a Petition is committed to a Standing Committee, the Committee shall, in not more than sixty (60) calendar days from the time of reading the prayer, respond to the petitioner by way of a report addressed to the petitioner or petitioners and laid on the Table of the Senate and no debate on or in relation to the report shall be allowed, but the Speaker may, allow comments or observations in relation to the Petition for not more than thirty Minutes.*
7. Standing order 233 requires the Clerk to, within fifteen (15) days of tabling of the report on a petition under Standing Order 232 (Committal of Petitions), submit a copy of the report to the petitioner or petitioners.

CHAPTER 2

CONSIDERATION OF THE PETITION

Approach taken by the Committee

1. In considering the Petition, the Committee observed that it would be important to verify the facts alleged by the Petition. The Committee, therefore, resolved to conduct an inquiry on the issues raised in the Petition.
2. In this regard the Committee received the Petition from the Petitioner through the House and further met with the Petitioner at a meeting of the Committee held on 29th October, 2020.
3. Thereafter, the Committee invited the Cabinet Secretary, Ministry of Lands and Physical Planning and the Chairperson of the National Land Commission (NLC), who virtually appeared before the Committee on Wednesday, 24th February 2021.

A. Petitioners Submissions

The Committee invited the Petitioners all through its meetings as it met with the Stakeholders and the Committee noted that the Petitioners were in agreement with the proposals that were brought forward by both the Ministry of Lands and Physical Planning as well as by the National Land Commission.

B. Responses by the Cabinet Secretary, Ministry of Lands and Physical Planning

Vide a letter Ref: SEN/DCS/LENR/2/2020/(19) dated 26th May, 2020, the Committee invited the Cabinet Secretary, Ministry of Lands and Physical Planning to respond to the Petition in its entirety. Based on the concerns raised below the Ministry provided the responses indicated:

Mr. Fredrick Kahia Thugi, Joseph Kamau Ngugi, Veronica Wanjiru Chege, Peter

Muchume Gachii and James Ngugi being members of Nyakinyua Solai Farm Limited have presented the petition dated February 2019. The petitioners claim that their group purchased 8000 acres of land in Solai, Nakuru County in 1980 that is now known as Lari Nyakinyua Solai Farm. A second group by the name Ruyobei Farm Limited also purchased 8000 acres of land in Gilgil, Nakuru.

The petitioners claim that the two groups entered into a deed of exchange agreement signed on April 24, 2003 in a process spearheaded by the late, retired president, Daniel arap Moi. A second agreement on the same was signed on the same date before the then Gilgil District Officer. According to the petitioners, the parties signed a third agreement on August 11, 2003 to authorize the groups to enter and subdivide their respective new parcels. Despite the agreements signed by the parties, transfer of title over the properties has not been effected to date.

The petitioners state that a meeting between the two groups and the National Land Commission was convened on October 26, 2016 at the Solai Farm. The purpose of the meeting was for the Commission to obtain confirmation of members of Nyakinyua Solai Farm Limited that they had authorised Ruyobei Farm Limited to proceed to subdivide the Lari Nyakinyua Solai Farm. This was confirmed at the meeting paving way for the subdivision. The Commission promised to convene a similar meeting at the Gilgil Ruyobei Farm. The meeting is yet to be set up.

The petitioners claim that their members have been prevented from accessing Ruyobei Farm by illegal occupants who have settled on the land. They claim that efforts to have the matter addressed by the National Land Commission have been futile. They have therefore presented the petition to request Senate to intervene and resolve the matter.

Response

The response is as follows -

The subject parcels of land are –

a) Ruyobei Farm (Approximately 8019 Acres)

- i) Land Reference No. 20229/1 measuring approximately 8019 Acres is situated in Gilgil, Nakuru County and is registered in the name of Solai Ruyobei Farm Limited. The parcel was until December 8, 1995 owned by Lands Limited who transferred it to Solai Ruyobei Farm Limited for Kshs. 24,000,000. (*Annexe 1*)

b) Nyakinyua Farm (Approximately 7978 Acres)

- i) Land Reference No. 8435 measuring approximately 2211 Acres is situated in Solai, Nakuru County and registered in the name of Lari Nyakinyua (Solai Farm) Limited. The parcel was until February 15, 1980 owned by Kenya Motor Holdings Limited who transferred it together with Land Reference No. 2680 and 7364 to Lari Nyakinyua (Solai Farm) Limited for Kshs.6,000,000 (*Annexe 2*).
- ii) Land Reference No. 2680 measuring approximately 4910 Acres is situated in Solai, Nakuru County and registered in the name of Lari Nyakinyua (Solai Farm) Limited. The parcel was until February 15, 1980 owned by Kenya Motor Holdings Limited who transferred it together with Land Reference No. 8435 and 7364 to Lari Nyakinyua (Solai Farm) Limited for Kshs.6,000,000 (*Annexe 3*).
- iii) Land Reference No.7364 measuring approximately 857 Acres is situated in Solai, Nakuru County and registered in the name of Lari Nyakinyua (Solai Farm) Limited. The parcel was until February 15, 1980 owned by Kenya Motor Holdings Limited who transferred it together with Land Reference No. 2680 and 8435 to Lari Nyakinyua (Solai Farm) Limited for Kshs.6,000,000 (*Annexe 4*).

The parcels have been subject of litigation in various court cases as shown in *Annexe 5*.

We are aware that the National Land Commission has been involved in resolution of the dispute. We therefore invite the Committee to engage the Commission to provide more information on the case.

C. Responses by the National Land Commission

The dispute between the two land buying companies dates back to the mid-seventies when Lari Nyakinyua first bought 8000 acres of land in Solai.

The following is the profile of the two land buying companies:

LARI NYAKINYUA FARMERS COMPANY LTD

This was women land buying company from Lari, Kiambu County popularly known as Nyakinyua. The company bought 8000 acres of land in Solai, Rongai Sub-County in the early seventies.

The women group Lari Nyakinyua while organizing to settle their members at the 8000 acre farm, members of the local community moved in and occupied the land forcefully to date denying the buyers an opportunity to settle.

At the advent of multi-party politics in Kenya it was agreed by the leaders to compensate the Lari Nyakinyua women with an alternative parcel equal to their original land but in a different Sub-County, now Gilgil Oljorai ADC Farm.

RUYOBEI FARMERS COMPANY LIMITED

This is a registered land buying company formed by a community from Solai in Rongai Sub-County, Nakuru County with the intention to buy land for its members.

A majority of their members moved into the land bought by Lari Nyakinyua in Solai in 1992 when a decision was made to compensate members of Lari Nyakinyua, following a series of meetings held by leaders from Nakuru and Lari, Kiambu. This led to the signing of the titles exchange agreement between the two land buying companies to bring to an end several years of long-standing conflict between the two.

AGREEMENT

On 24th April, 2003, the directors of the two companies signed an agreement to exchange Title deeds to end the many years of conflict. This was not possible due to internal

conflicts between the directors of the two land buying companies among themselves fighting for leadership and other interests. Lari Nyakinyua Land buying company had two factions and Solai Ruyobei too, had the same. Both disputes ended in court.

The directors who signed were;

Lari Nyakinyua

- a. John Nganga
- b. Samuel Macharia
- c. Hannah Muturi

Ruyobei

- a. Morogo Chebet
- b. Olari Chebet
- c. Richard Bunditich
- d. Musa Toroitich
- e. Daniel Ario

The Governor, Nakuru County in a letter REF: NO. NCG/S/LND/VOL. II/09 dated 25th November, 2014 requested National Land Commission to expedite the matter of the two farms since it was becoming a security threat. On 9th December 2014, National Land Commission wrote a letter to the Governor from the perspective of the Commission, the exchange never materialized at that time due to the following reasons;

- Lari Nyakinyua still holds the title for Solai Farm which was invaded by Ruyobei members.
- Ruyobei Farmers Limited still holds a Title for Oljorai and are in court with Oljorai squatters and a faction of directors.
- Oljorai farm is in court being sued by Solai farmers Co. LTD.

Subsequently, the High Court in Nakuru ELC COURT Civil Case No. 87 of 2007, whose parties are Ndugua Ole Osano Vs two others (a) Lands Limited (b) Solai Ruyobei Farm Limited ruled in favor of Solai Ruyobei Farmers Co. Ltd towards the end of 2019.

The 8000 acres of Oljorai Farm is currently occupied by over 10,000 squatters for close to 30 years now. This is the same farm the High court ruled in favor of Solai Ruyobei Farmers Co. Ltd which was supposed to be exchanged to Lari Nyakinyua.

In early 2020, the parties reported back to the Commission that, following the Court decision, they were willing to proceed with the exchange with the assistance of the provincial administration. They were to report back on the progress and the Commission awaits the report.

CHAPTER 5

COMMITTEE OBSERVATIONS

In accordance with the Prayers of the Petitioner the Committee observes as follows:

1. THAT Lari Nyakinyua Land Buying Company did not get full possession from Solai Ruyobei Farmers Limited as they were not able to occupy the land while Solai Ruyobei Farmers Limited was able to occupy the land from Nyakinyua Land Buying Company.
2. THAT there are squatters under the name of Ole Osono Group living in the Solai Ruyobei Farmers limited land who have claimed that they are the rightful owners of the land.
3. THAT the High Court case in Nakuru Environment and Land Court, Court Civil Case No. 87 of 2007 ruled in favour of the Solai Ruyobei Farmers Limited as the rightful owners of the Land in question.
4. THAT Lari Nyakinyua still holds the title for Solai Farm which was invaded by Ruyobei members and Ruyobei Farmers Limited still holds a Title for Oljorai.

CHAPTER 6

COMMITTEE RECOMMENDATIONS

The Committee having investigated the matter in accordance with its mandate under the standing order 223 of the Senate Standing Orders recommends as follows-

- 1. That the Ole Osono Group living in the Solai Ruyobei Farmers limited having been established not to be the legitimate owner of the land by the Court, vacates the land to allow occupation by Nyakinyua Land Buying Company who are the legitimate owners of the land.**
- 2. That the Ministry of Lands and Physical Planning; the Ministry of Interior Coordination and National coordination; and the National Lands Commission facilitates the Nyakinyua Land Buying Company to occupy the Solai Ruyobei Farmers limited land as they have been found to be the rightful owners of the land.**
- 3. That the Ministry of Lands and the National Lands Commission work with the Ole Osono Group living in the Solai Ruyobei Farmers limited land to find a different land to relocate them.**
- 4. That the Ministry of Lands and Physical Planning facilitates the transfer of Title deeds between the Solai Ruyobei Farmers limited land and the Nyakinyua Land Buying Company.**
- 5. That the Solai Ruyobei Farmers Limited give back the land exchanged with Lari Nyakinyua, should all other interventions fail.**

APPENDICES

ANNEX I: MINUTES OF THE MEETINGS

MINUTES OF THE 33RD SITTING OF THE SENATE STANDING COMMITTEE ON LAND, ENVIRONMENT AND NATURAL RESOURCES HELD ON THURSDAY, 10TH JUNE, 2021 AT SAROVA WHITESANDS HOTEL, MOMBASA AT 2.00 PM.

MEMBERS

1. Sen. Mwangi Paul Githiomi, MP
2. Sen. Philip Mpaayei, MP
3. Sen. Mwaruma Johnes, MP
4. Sen. Ndwiga Peter Njeru, EGH, MP
5. Sen. Boy Issa Juma, MP

PRESENT

- Chairperson
- Vice Chairperson
- Member
- Member
- Member

ABSENT WITH APOLOGY

1. Sen. George Khaniri, MGH, MP
2. Sen. Gideon Moi, CBS, MP
3. Sen. (Dr.) Lelegwe Ltumbesi, MP
4. Sen. Sylvia Kasanga, MP

- Member
- Member
- Member
- Member

IN ATTENDANCE

1. Ms. Veronicah Kibati
2. Mr. Victor Bett
3. Mr. Crispus Njogu
4. Mr. Yussuf Shimoy
5. Ms. Mitchell Otoro
6. Ms. Lucianne Limo
7. Ms. Sakina Halako
8. Mr. John Pere
9. Mr. James Kimiti
10. Mr. Naftali Ondiba
11. Mr. Benard Oteyo

SECRETARIAT

- Principal Clerk Assistant
- Clerk Assistant
- Clerk Assistant
- Clerk Assistant
- Legal Counsel
- Media Relations Officer
- Personal Secretary
- Sergeant-At-Arms
- Audio Recording
- Finance Officer
- Office Assistant

MINUTE SEN/SCLNLR/186/2021: PRELIMINARIES

The meeting was called to order at 2.30 pm by the Vice Chairperson followed by a word of prayer.

MINUTE SEN/SCLNLR/187/2021: ADOPTION OF AGENDA

The agenda of the meeting was adopted after being proposed by Sen. Ndwiga Peter Njeru, EGH, MP and seconded by Sen. Boy Issa Juma, MP as follows –

1. Preliminaries
2. Adoption of the agenda;
3. Confirmation of Minutes;
4. **Adoption of the following Petition Reports;**
 - (a) Draft Report of the Committee on the Petition by the Residents of Tinderet Sub-County in Nandi County on the operations of Karebe Gold Mining Limited.

- (b) Draft Report of the Committee on the Petition regarding the Illegal encroachment of community land by the Kenya Army in Ngaremara, Isiolo County.
 - (c) Draft Report of the Committee on the Petition concerning the alleged exchange and final transfer of Titles for parcels of land known as Lari Nyakinyua Solai Farm (located in Solai, Nakuru County) and Riyobei Farm Limited (located in Gilgil, Nakuru County).
- 5. Any other Business;
 - 6. Date of the next meeting;
 - 7. Adjournment.

MINUTE SEN/SCLNR/188/2021: CONFIRMATION OF MINUTES OF PREVIOUS SITTINGS

The Committee differed the confirmation of Minutes.

MINUTE SEN/SCLNR/189/2021: ADOPTION OF THE FOLLOWING PETITION REPORTS;

- (a) **Draft Report of the Committee on the Petition by the Residents of Tinderet Sub-County in Nandi County on the operations of Karebe Gold Mining Limited.**

The Committee having investigated the matter in accordance with its mandate under the standing order 223 of the Senate Standing Orders, hereby **adopted its report** with the following recommendations in accordance with the Prayers of the Petitioner—

The Committee therefore recommends as follows:

- 1. **THAT before renewal of the mining license to Karebe Gold Mining Limited whether on the disputed land or any other land, the Ministry of Petroleum and Mining should ensure that the company has fully addressed previous concerns of its employees and local community including compensations to those whose lives and properties were affected;**
- 2. **THAT Karebe Gold Mining Limited demonstrates commitment to Corporate Social Responsibility to benefit the local community; and**
- 3. **THAT the Ministry to promptly finalize the relevant regulations of the Mining Act, 2016 so as to ensure the mining activities by the Firm benefits the local community.**

The Report of the Committee was therefore adopted after having been proposed and seconded by Sen. Johnes Mwaruma, MP and Sen. Philip Mpaayei, MP respectively.

- (b) **Draft Report of the Committee on the Petition regarding the Illegal encroachment of community land by the Kenya Army in Ngaremara, Isiolo County.**

The Committee having investigated the matter in accordance with its mandate under the standing order 223 of the Senate Standing Orders, hereby **adopted its report** with the following recommendations in accordance with the Prayers of the Petitioner—

The National Lands Commission (NLC) in liaison with the Ministry of Lands and Physical Planning (MoLPP) should confirm the list of all the claims made to the respective District Commissioners at Isiolo between 15th November, 1977 and 15th December, 1977 and if no compensations were done, then the process of Compensating the affected persons should begin.

The Report of the Committee was therefore adopted after having been proposed and seconded by Sen. Boy Issa Juma, MP and Sen. Johnes Mwaruma, MP respectively.

(c) Draft Report of the Committee on the Petition regarding the Illegal encroachment of community land by the Kenya Army in Ngaremara, Isiolo County.

The Committee having investigated the matter in accordance with its mandate under the standing order 223 of the Senate Standing Orders, hereby **adopted its report** with the following recommendations —

1. That the Ole Osono Group living in the Solai Ruyobei Farmers limited having been established not to be the legitimate owner of the land by the Court, vacates the land to allow occupation by Nyakinyua Land Buying Company who are the legitimate owners of the land.
2. That the Ministry of Lands and Physical Planning; the Ministry of Interior Coordination and National coordination; and the National Lands Commission facilitates the Nyakinyua Land Buying Company to occupy the Solai Ruyobei Farmers limited land as they have been found to be the rightful owners of the land.
3. That the Ministry of Lands and the National Lands Commission work with the Ole Osono Group living in the Solai Ruyobei Farmers limited land to find a different land to relocate them.
4. That the Ministry of Lands and Physical Planning facilitates the transfer of Title deeds between the Solai Ruyobei Farmers limited land and the Nyakinyua Land Buying Company.
5. That the Solai Ruyobei Farmers Limited give back the land exchanged with Lari Nyakinyua, should all other interventions fail.

The Report of the Committee was therefore adopted after having been proposed and seconded by Sen. Boy Issa Juma, MP and Sen. Johnes Mwaruma, MP respectively.

MINUTE SEN/SCLNR/190/2021: ANY OTHER BUSINESS;

There was no other business discussed.

MINUTE SEN/SCLNR/191/2021: DATE OF NEXT MEETING;

The meeting was adjourned at 1.00 pm and the next meeting was scheduled for 11th June, 2021.

Signed:..........

Date:.....**23/6 /2021**.....

SEN. MWANGI PAUL GITHIOMI, MP
CHAIRPERSON
STANDING COMMITTEE ON LAND, ENVIRONMENT AND NATURAL
RESOURCES

ANNEX II: SUBMISSIONS BY KEY STAKEHOLDERS

(Attached separately)

MINUTES OF THE 6TH SITTING OF THE SENATE STANDING COMMITTEE ON LAND, ENVIRONMENT AND NATURAL RESOURCES HELD ON WEDNESDAY, 24TH FEBRUARY, 2021 VIA ZOOM ONLINE PLATFORM AT 11.00 AM.

MEMBERS

1. Sen. Mwangi Paul Githiomi, MP
2. Sen. Philip Mpaayei, MP
3. Sen. Ndwiga Peter Njeru, EGH, MP
4. Sen. (Dr.) Lelegwe Ltumbesi, MP
5. Sen. Sylvia Kasanga, MP
6. Sen. Mwaruma Johnes, MP
7. Sen. Boy Issa Juma, MP

PRESENT

- Chairperson
- Vice Chairperson
- Member
- Member
- Member
- Member
- Member

ABSENT WITH APOLOGY

1. Sen. Gideon Moi, CBS, MP - Member
2. Sen. George Khaniri, MGH, MP - Member

IN ATTENDANCE

A. SENATORS

1. Sen. Mohamed Faki, MP - Senator, Mombasa County

B. STAKEHOLDERS

a) NATIONAL LAND COMMISSION (NLC)

1. Mr. Gerishom Otachi - Chairperson, NLC
2. Prof. James Tuitoek - Commissioner, NLC
3. Mr. Reginald Okumu - Commissioner, NLC
4. Ms. Esther Murugi - Commissioner, NLC

b) MINISTRY OF LANDS AND PHYSICAL PLANNING (MoLPP)

1. Dr. Nicholas Muraguri, CBS - PS, MoLPP
2. Mr. Chacha Maroa - Lands Registrar
3. Mr. Kamau Joram - Lands Administrator
4. Mr. James Kamoni - Lands Administrator
5. Ms. Rael Chesang - Lands Administrator
6. Ms. Caroline Menin - Legal Officer
7. Mr. Sego Manyariki - Land Registrar, Taita Taveta

C. PETITIONERS

1. Mr. Nyange - Advocate, Msambweni Petitioners
2. Mr. Brian Njumwa - Petitioner

D. SECRETARIAT

1. Mr. Victor Bett - Clerk Assistant
2. Ms. Clare Kidombo - Research Officer
3. Mr. Mitchell Otoro - Legal Counsel
4. Mr. James Kimiti - Audio Officer

MINUTE SEN/SCLNENR/28/2021: PRELIMINARIES

The meeting was called to order at 11.11 am by the Chairperson followed by a word of prayer.

MINUTE SEN/SCLNENR/29/2021: ADOPTION OF AGENDA

The agenda of the meeting was adopted after being proposed by Sen. Philip Mpaayei, MP and seconded by Sen. Ndwiga Peter Njeru, EGH, MP as follows –

1. Preliminaries - *Prayer*
2. Confirmation of Minutes of Previous Sittings;
3. Matters Arising;
4. **Meeting with the CS Ministry of Lands and Physical Planning and the Chairperson National Land Commission on Petitions and Statements as follows:**
 - i. Petition concerning the alleged exchange and final transfer of Titles for parcels of land known as Lari Nyakinyua Solai Farm (located in Solai, Nakuru County) and Riyobei Farm Limited (located in Gilgil, Nakuru County);
 - ii. Petition submitted by the Rendille and Samburu Community Representatives concerning the alleged acquisition of Karare land in Marsabit County, by the Kenya Defence Forces;
 - iii. Petition submitted by the Wajomvu Community, Mombasa County, concerning the alleged historical land injustices involving Plot No. 162/V/M.N.CR 1070, in Mombasa County;
 - iv. Petition submitted by the Residents of Mkamenyi Village in Voi sub-county of Taita Taveta County, The alleged encroachment of land belonging to Mkamenyi residents by Voi Point Limited in Taita Taveta County;
 - v. Petition submitted by the Residents of Msambweni Village in Voi sub-county of Taita Taveta County, concerning the alleged impending evictions of Msambweni residents by a private company;
 - vi. Statement requested by Sen. Anuar Loitiptip, MP, on 24th September, 2020, regarding the alleged displacement of squatters from Hidabwo area in Lamu County; and
 - vii. Statement requested by Sen. Anuar Loitiptip, MP, on 24th September, 2020, regarding the alleged encroachment of Lake Kenyatta riparian land in Lamu County.
5. Any other Business;
6. Date of the next meeting;
7. Adjournment.

MINUTE SEN/SCLNENR/30/2021: CONFIRMATION OF MINUTES OF PREVIOUS SITTINGS

The confirmation of Minutes was deferred to the next housekeeping meeting.

MINUTE SEN/SCLNENR/31/2021: MEETING WITH THE CS MINISTRY OF LANDS AND PHYSICAL PLANNING AND THE CHAIRPERSON NATIONAL LAND COMMISSION ON PETITIONS AND STATEMENTS

- i. **Petition concerning the alleged exchange and final transfer of Titles for parcels of land known as Lari Nyakinyua Solai Farm(located in Solai, Nakuru County) and Riyobei Farm Limited(located in Gilgil, Nakuru County);**

Response by the Ministry of Lands and Physical Planning

Fredrick Kahia Thugi, Joseph Kamau Ngugi, Veronica Wanjiru Chege, Peter Muchume Gachii and James Ngugi being members of Nyakinyua Solai Farm Limited have presented the petition dated February 2019. The petitioners claim that their group purchased 8000 hectares of land in Solai, Nakuru County in 1980 that is now known as Lari Nyakinyua Solai Farm. A second group by the name Ruyobei Farm Limited also purchased 8000 hectares of land in Gilgil, Nakuru.

The petitioners claim that the two groups entered into a deed of exchange agreement signed on April 24, 2003 in a process spearheaded by the late retired president Daniel arap Moi. A second agreement on the same was signed on the same date before the then Gilgil District officer. According to the petitioners, the parties signed a third agreement on August 11, 2003 to authorize the groups to enter and subdivide their respective new parcels. Despite the agreements signed by the parties, transfer of title over the properties has not been effected to date.

The petitioners state that a meeting between the two groups and the National Land Commission was convened on October 26, 2016 at the Solai Farm. The purpose of the meeting was for the Commission to obtain confirmation of members of Nyakinyua Solai Farm Limited that they had authorised Ruyobei Farm Limited to proceed to subdivide the Lari Nyakinyua Solai Farm. This was confirmed at the meeting paving way for the subdivision. The Commission promised to convene a similar meeting at the Gilgil Ruyobei Farm. The meeting is yet to be set up.

The petitioners claim that their members have been prevented from accessing Ruyobei Farm by illegal occupants who have settled on the land. They claim that efforts to have the matter addressed by the National Land Commission have been futile. They have therefore presented the petition to request Senate to intervene and resolve the matter.

Response

Honourable Chair, I wish to respond as follows-

The subject parcels of land are –

a) Ruyobei Farm (Approximately 8019 Acres)

- i) Land Reference No. 20229/1 measuring approximately 8019 Acres is situated in Gilgil, Nakuru County and is registered in the name of Solai Ruyobei Farm Limited. The parcel was until December 8, 1995 owned by Lands Limited who transferred it to Solai Ruyobei Farm Limited for Kshs. 24,000,000. (Annexure1)

b) Nyakinyua Farm (Approximately 7978 Acres)

- ii) Land Reference No. 8435 measuring approximately 2211 Acres is situated in Solai, Nakuru County and registered in the name of Lari Nyakinyua (Solai Farm) Limited. The parcel was until February 15, 1980 owned by Kenya Motor Holdings Limited who transferred it together with Land Reference No. 2680

and 7364 to Lari Nyakinyua (Solai Farm) Limited for Kshs.6,000,000.
(Annexure 2)

iii) Land Reference No. 2680 measuring approximately 4910 Acres is situated in Solai, Nakuru County and registered in the name of Lari Nyakinyua (Solai Farm) Limited. The parcel was until February 15, 1980 owned by Kenya Motor Holdings Limited who transferred it together with Land Reference No. 8435 and 7364 to Lari Nyakinyua (Solai Farm) Limited for Kshs.6,000,000.
(Annexure 3)

iv) Land Reference No.7364 measuring approximately 857 Acres is situated in Solai, Nakuru County and registered in the name of Lari Nyakinyua (Solai Farm) Limited. The parcel was until February 15, 1980 owned by Kenya Motor Holdings Limited who transferred it together with Land Reference No. 2680 and 8435 to Lari Nyakinyua (Solai Farm) Limited for Kshs.6,000,000.
(Annexure 4)

The parcels have been subject of litigation in various court cases as shown in Annexure 5.

We are aware that the National Land Commission has been involved in resolution of the dispute. We therefore invite the Committee to engage the Commission to provide more information on the case.

Response by the National Land Commission

The dispute between the two land buying companies dates back to the mid-seventies when Lari Nyakinyua first bought 8000 acres of land in Solai.

The following is the profile of the two land buying companies:

LARI NYAKINYUA FARMERS COMPANY LTD

This was women land buying company from Lari, Kiambu County popularly known as NYAKINYUA. The company bought 8000 acres of land in (Solai) Rongai Sub – County in the early seventies.

The women group Lari Nyakinyua while organizing to settle their members at the 8000 acre farm, members of the local community moved in and occupied the land forcefully to date denying the buyers an opportunity to settle.

At the advent of multi – politics in Kenya it was agreed by the leaders to compensate the Lari NYAKINYUA women with an alternative parcel equal to their original land but in a different Sub – County, now Gilgil **OLJORAI ADC FARM**.

RUYOBEI FARMERS COMPANY LIMITED

This is a registered land buying company formed by a community from Solai in Rongai Sub – County Nakuru County with the intention to buy land for its members.

A majority of their members moved into the land bought by LARI NYAKINYUA in Solai in 1992 when a decision was made to compensate members of LARI NYAKINYUA, following a series of meetings held by leaders from Nakuru and Lari, Kiambu. This led to the signing of the titles exchange agreement between the two land buying companies to bring to an end several years of long standing conflict between the two.

AGREEMENT

On 24th April 2003, the directors of the two companies signed an agreement to exchange Title deeds to end the many years of conflict. This was not possible due to internal conflicts between the directors of the two land buying companies among themselves fighting for leadership and other interests. Lari Nyakinyua Land buying company had two factions and Solai Ruyobei too had the same and both dispute ended in court.

The directors who signed were;

Lari nyakinyua

- a. John Nganga
- b. Samuel Macharia
- c. Hannah Muturi

Ruyobei

- a. Morogo Chebet
- b. Olari Chebet
- c. Richard Bunditich
- d. Musa Toroitich
- e. Daniel ario

The Governor Nakuru County in a letter REF: NO. NCG/S/LND/VOL. II/09 dated 25th November, 2014 requested National Land Commission to expedite the matter of the two farms since it was becoming a security threat. On 9th December 2014, National Land Commission wrote a letter to the Governor from the perspective of the Commission, the exchange never materialized at that time due to the following reasons;

- Lari Nyakinyua still holds the title for Solai Farm which was invaded by Ruyobei members.
- Ruyobei Farmers Limited still holds a Title for Oljorai and are in court with Oljorai squatters and a faction of directors.
- Oljorai farm is in court being sued by Solai farmers Co. LTD.

Subsequently, the High Court in Nakuru ELC COURT Civil Case No. 87 of 2007, whose parties are **Nduguia Ole Osano** Vs two others (a) **Lands Limited** (b) **Solai Ruyobei Farm Limited** ruled in favor of SOLAI RUYOBEI FARMERS CO. LTD towards the end of 2019.

The 8000 acres of OLJORAI FARM is currently occupied by over 10,000 squatters for close to 30 years now. This is the same farm the High court ruled in favor of SOLAI RUYOBEI FARMERS CO. LTD which was supposed to be exchanged to LARI NYAKINYUA.

In early 2020 the parties reported back to the Commission that following the Court decision, they were willing to proceed with the exchange with the assistance of the provincial administration. They were to report back on the progress and the Commission awaits the report.

ii. **Petition submitted by the Rendille and Samburu Community Representatives concerning the alleged acquisition of Karare land in Marsabit County, by the Kenya Defence Forces;**

Response by the Ministry of Lands and Physical Planning

The petition dated April 29, 2020 concerning acquisition of Karare land by the Kenya Defence Forces has been presented by the Rendille Professional Association on behalf of residents of Rendille and Samburu communities residing in Kaware Ward, Marsabit County. The petitioners claim that the Rendille and Samburu communities in Marsabit County object to the compulsory acquisition of 2,500 acres of land in Kaware by the Kenya Defence Forces (KDF). They claim that the KDF expressed interest on the land in 2019. The petitioners' objection to the compulsory acquisition is based on the following-

- i) The land is the communities' only fertile land and the only viable grazing area
- ii) Karare ward being a water catchment area for the pastoral communities of Karare, Songa, Loglogo, Kamboye, Laisamis, Kargi and Korre communities plays a central role in the viability of pastoralism. A total of 98, 000 people and approximately 450,000 livestock depend on the ecosystem for their livelihoods
- iii) The land is a sacred place for most cultural and religious ceremonies such as circumcision
- iv) It is a major and only source of red ochre nalkaria hills which is sacred to the community
- v) The land is a pathway for collection of Silaley gum used in circumcision and religious ceremonies
- vi) It is also a source of Ibaa/sticks for use in Rendille/Samburu circumcision ceremonies
- vii) It is a source of sagaram to feed livestock in a highly pastoral community
- viii) The excision of the 2,500 acres of land some of which is protected forests and which is the only dependable dry season grazing area will lead to overuse of rangelands, environmental degradation, human-wildlife conflict and human- human conflict.

The petitioners claim that several meetings have been held between the communities' elders, County Commissioner and the KDF in which the communities proposed alternative land in Kubi Kalo for acquisition but the same was declined by the KDF. They are aggrieved that the process of compulsory acquisition is ongoing despite their protests.

The communities are apprehensive that that they could lose their land and their rights under the Constitution due to their minority status and weak representation in government. They aver that they have already lost 150,000 acres to the Lake Turkana Wind Power project, which was also compulsorily acquired despite their objection.

The petitioners therefore filed the petition to request the Senate to-

- a) visit Karare community of Marsabit County to establish the facts of the case as soon as possible

- b) make appropriate recommendations to the Cabinet Secretary Ministry of Interior and Co-ordination of National Government based on the findings
- c) give opportunity for the petitioners to further present the memorandum orally to the Senate

Response

Honourable Chair, I wish to respond as follows-

The KDF Strategic Defence Plan of 2018-2027 projected the expansion of the Kenya Army and redeployment of Formations to various parts of the Country with a sizeable force earmarked for deployment in Marsabit County. In pursuance to that strategic defence plan, the Ministry of Defence started the process of acquisition of land in Marsabit County with an intention to have military footprint in the northern region to deter/prevent constant incursion by the Ethiopian National Defence Forces and also support the Strategic Defence Plan in order to facilitate KDF achieve its mandate as provided for in Article 241(3) of the Constitution of Kenya.

In early 2012, the Ministry of Defence began formal engagements with the County Council of Marsabit for allocation of land in the County. This resulted in the allocation of 2,500 hectares of land in Kubi Kalo to Ministry of Defence on January 8, 2013. However, with the establishment of the County Government of Marsabit under the new constitutional dispensation, the allocation was rescinded and the Ministry of Defence was advised to restart the process of acquisition.

On January 10, 2019, the process was re- started with consultative meetings between Ministry of Defence and County Government of Marsabit led by the Chairman, Committee on Military Land & H.E Governor of Marsabit with all elected leaders including MPs, MCAs and CECMS. The leaders from Marsabit County agreed to allocate 5,000 hectares in Karare for the construction of Ministry of Defence camp and 10,000 hectares in Haiya for training.

The meeting further directed that a joint technical committee be formed to identify the suitable locations for deployment and training area. The joint technical committee met and worked as per the mandate given during the meeting. A detailed joint reconnaissance conducted between January 2-4, 2019 and May 29 to June 1, 2019 identified the actual locations. Following the engagements, the Ministry of Defence was formally allocated 5,000 hectares & 10,000 hectares of land in Karare and Haiya areas of the County respectively.

On January 16, 2020, the Ministry of Defence and County Government of Marsabit resolved to subject the land allocations to a public participation process as advised by the National Land Commission. Subsequently, the public participation and validation exercise for the land allocations was conducted from January 21-31, 2020 in Marsabit County. The exercise considered critical factors such as human settlements, grazing areas, water catchment areas and conservation of biodiversity and among others in choosing the ideal location for the KDF Camp.

The public participation exercise was carried out successfully by the Joint team comprising Ministry of Defence, Kenya Wildlife Service, County Government of Marsabit, county leadership including Members of Parliament, Members of the County Assembly and members of the local community across the areas expected to host the Ministry of Defence facilities. The local community participated in the exercise and assisted representatives from the Ministry of Defence to identify the suitable locations.

During the process of public participation the locals requested the allocation of Karare land to Ministry of Defence be reviewed downwards from 5,000 hectares to 2,500 hectares. The land is currently in the process of being planned, surveyed and titled in favor of Ministry of Defence. The Ministry is already in occupation of the two parcels of land allocated to them by the County Government of Marsabit.

There is a Court case filed by the Rendille Professionals Association and local elders on behalf of the Community regarding the allocations of the land parcels by the County Government of Marsabit.

Honourable Chair,

We invite the Committee to engage Ministry of Defence and the County Government of Marsabit for more information on the matter.

Response by the National Land Commission

The National Land Commission submitted as follows:

Background

The Commission wishes to bring to the attention of this esteemed Committee that there is an active Court matter at the Meru Environment and Land Court - Constitutional Petition No 4 of 2020, filed **by the Rendille Professionals Association and local elders on behalf of the Community regarding the allocations of the land parcels by the County Government of Marsabit** challenging the constitutionality of the process applied by the Department of Defense with regard to their interest in the subject land.

However the Commission wishes to briefly outline process the Ministry of Defence followed to acquire the land

1. The Ministry of Defence made a decision to establish a military barracks in Marsabit for security reasons and on 16th March 2012 made a formal request to be allocated land in Karare, Marsabit County. On 8th June 2015, the County Council of Marsabit formally allocated 2,500 Ha in Kubi Kalo. The processing of ownership of the land was overtaken by events following the coming in place of devolved governments in 2013.
2. On 18th June 2019, Ministry of Defence made a formal request to the County Government for allocation for land in Marsabit.
3. On 22nd July 2019, the County Government of Marsabit formally allocated land in Karare (5,000 Ha); Haiya (10,000 Ha) and Odda military camp (242 Ha). On 22nd August 2019 the department of defense requested the National Land Commission for allotment letters for the parcels of land. The Commission informed Department of Defence in a letter dated 4th November 2019, that it could not issue allotment letters because the land was community land. **It turns out that this may not have been the correct position.**

On January 16th, 2020, MOD & CGM resolved to subject the land allocations to a Public Participation process as advised by the National Land Commission. Subsequently Public Participation and Validation exercise for the land allocations was conducted from 21 to 31 January 2020 in Marsabit County. The exercise considered critical factors such as human settlements, grazing areas, water catchment areas and

conservation of biodiversity and among others in choosing the ideal location for the KDF Camp.

The Public Participation exercise was carried out successfully by the Joint MOD,KWS,CGM team(Comprising of all stakeholders),County Leadership,MPs, MCAs and members of the local community across the areas expected to host MOD facilities. The local community participated in the exercise and assisted representatives from the MOD to identify the suitable locations.

The petitioners are contesting the process followed in the allocation of Community Land at Karare ward.

The coordinates of the 5,000 Ha parcel of land allocated in Karare by the County Government of Marsabit is:-

STN	Eastings	Northings
A	376583	248844
B	374070	248821
C	370311	251031
D	366218	250703
E	366957	244713
F	373812	244527
G	373800	245810
H	376328	245840

When the above coordinates were plotted on the map it fell within the Marsabit National Reserve (Annex 1).

Conclusion

The contested parcel of land in question is part of the Marsabit National Reserve sitting next to the Marsabit National Park and not Community Land as alleged by the petitioners.

iii. **Petition submitted by the Wajomvu Community, Mombasa County, concerning the alleged historical land injustices involving Plot No. 162/V/M.N.CR 1070, in Mombasa County;**

Response by the Ministry of Lands and Physical Planning

Honourable Chair,

Salim Mwidadi, Mohamed Kombo, Kassim Mwikaa and Mwinyiusi Mwidadi petitioned the Senate on behalf of Wajomvu Community from Jomvu Kuu Village, Jomvu Kuu Ward in Jomvu Sub County presented the petition dated July 2, 2020 regarding ownership of Plot No. 162/V/M.N. CR. 1070 situated in Jomvu Kuu.

The petitioners claim that they are among the 12 Swahili tribes to settle in Mombasa approximately 800 years ago. They claim that on or about 1846, Dr. Kraph arrived on the East African Coast and settled in Rabai. That in 1877 through the benevolence of a jomvu elder by the name Mwidani, Dr. Kraph was given land to establish a church in the predominantly muslim community. According to the petitioners, the community donated a small area where the Methodist church was built. However, when land adjudication was undertaken in 1923, the church was allocated 150 acres of their land.

The petitioners claim that the community has occupied the land as their ancestral land over the years and has been utilising the same for farming, fishing and residential purposes. They complain that the Methodist church embarked on a subdivision and sale of the land to third parties. They are apprehensive that they will be displaced and have no alternative land. According to the petitioners, their case is an historical injustice that the colonial government committed on the community. They submitted a memorandum to the National Land Commission on the issue three (3) years ago but there has been no response from the Commission. The petitioners therefore request the Senate to intervene with a view to undertake an inquiry into the historical injustice claim.

Response

Honourable Chair, I wish to respond as follows-

According to records held by the Ministry, Plot No.162/V/M. N. CR 1070 was registered on October 27, 1923 in the name of the United Methodist Church Mission. The certificate of ownership No. 7540 was registered under title No. CR.6348 for the area measuring 151 acres. The registered proprietor later changed their name to Methodist Church Missions Kenya trustees registered in 1958 and later to Methodist Church in Kenya Trustees Registered.

On June 14, 1973, the Methodist Church in Kenya Trustees Registered transferred a portion of land to Municipal Council of Mombasa. The said subdivision MN/V/505 measuring 15.28 acres was registered on July 11, 1973 and assigned title No. CR 14323. The remainder thereof measuring 135.72 acres is held by the Methodist Church in Kenya Trustees Registered. A copy of the official search is marked **Annexure 6.**

Honourable Chair, the case presented by the petition is an historical injustice claim. The National Land Commission is seized of the matter recorded as Historical Case No. NLC/HLI/565/2019. We invite the Committee to engage the Commission for appropriate redress.

Response by the National Land Commission

Hon Chair, The Commission respond as follows:

This matter is listed as a historical no.NLC/HLI/565/2019 that has been prioritized for investigations, hearing and determination.

The Chairman of NLC together with the County Co-ordinator joined the Senate team on Friday 19th February 24, 2021 on a visit to the ground and obtained first – hand information on the matter.

(The Committee noted the response but resolved that the matter be canvassed when the Petitioners are present)

- iv. **Petition submitted by the Residents of Mkamenyi Village in Voi sub-county of Taita Taveta County, The alleged encroachment of land belonging to Mkamenyi residents by Voi Point Limited in Taita Taveta County;**

Response by the Ministry of Lands and Physical Planning

Honourable Chair,

The petition is dated August 7, 2020 and has been presented by Joseph M. Njuguna, Francis Mwasho, Juma Mwamburi, Saumu K. Mwamburi, Hassan Kiboko, Gladys Juma and Julius Mwasenzi on behalf of residents of Mkamenyi village, Voi sub-county in Taita Taveta County.

From the petition, Mkamenyi village borders Voi Sisal Estate, which was initially 'gifted' to a retired British soldier by the name Lezen in 1920 by the colonial government, for a period of 99 years. The petition states that the land was surrendered to the government in 1980 and was reallocated to Voi Sisal Estate Limited in 2012. It was transferred to Voi Point Limited in 2019.

The petitioners claim that between 1900 and 1930, the management of the sisal estate requested Mkamenyi elders to allow them to use part of their land located close to the river to install a water pump, farm food for their farmworkers and conduct agricultural research. By 1960s, the residents needed their land back to accommodate the growing population. However, according to the petitioners, the sisal estate refused to hand over the land and instead colluded with the police to extend the boundaries into the residents' homes and put the land under sisal plantation.

The petitioners state that they have engaged this Committee together with the Ministry of Lands and Physical Planning and the county leadership with a view to get back the land. On October 29, 2019, the management of Voi Point Limited invited their representatives to a meeting where they were informed that the company would surrender 35 acres to settle their 28 families. The proposal was however not amenable to the residents since they occupied 150 acres.

The residents are aggrieved that Voi Point Limited proceeded to survey the land without their involvement or the county government and processed a group title for the residents. The company invited the residents to a meeting on August 26, 2020 to issue the title document but they declined. It is claimed that the group title had names of persons who do not live in Mkamenyi. That, only six families residents of Mkamenyi are listed on the title. The petitioners state that efforts to resolve the issues with relevant authorities have been futile. They therefore request the Senate to-

- i) investigate the case
- ii) recommend that the Ministry of Lands and Physical Planning initiate an all inclusive, open and transparent process of giving the residents of Mkamenyi adequate land.

Response

Honourable Chair, I wish to respond as follows-

According to our records, the land in question measures approximately 1953 hectares and is situated within Voi town in Taita Taveta County. A chronology of ownership of the parcel is as follows-

- i. The subject land was originally LR No. 4637 registered as Grant No. C.R. 8814. It was granted to the British East Africa Corporation Limited in 1923 for a term of 99 years from January 1, 1923 to January 1, 2022. The grant was initially issued for agricultural purpose only but the user was later extended to include a petroleum service station.
- ii. The Grant was transferred to Voi Sisal Estates Limited on August 6, 1947 and on March 25, 2011 it was surrendered to the Government to pave way for its extension of the term. (A copy of the surrendered Grant C.R. 8814 is annexed herewith marked **Annexure 7**).

- iii. The Grant was extended for a further term of 99 years commencing January 1, 1993 at an annual rent of Kshs.353.795 (revisable). The parcel was registered as Grant No. C.R. 51725, LR No. 28683 measuring approximately 1953 Hectares. The land was granted to be utilized for agricultural purposes and residence for the grantee. (A copy of the Grant No. C.R. 51725 is annexed marked **Annexure 8**).
- iv. On February 23, 2012 the land was transferred to Voi Plantations Limited for USD.1,855,670 and charged to Diamond Trust Bank of Kenya Limited for Kshs.300,000,000 and USD.5,000,000. On December 29, 2017 a further charge to Diamond Trust Bank of Kenya Limited for Kshs.150,000,000 was registered.
- v. On December 29, 2017 a second further charge for Kshs.1,079,737,000 and a third further charge for Kshs.1,189,511,500 was registered in favour of Diamond Trust Bank of Kenya Limited. A fourth further charge for Kshs.4,218,875,000 was registered on December 29, 2017.
- vi. On October 1, 2014 the National Land Commission awarded Voi Plantations Limited Kshs.359,531,100 in respect of the land acquired for the development of the Mombasa-Nairobi Standard Gauge Railway. The area of land acquired measured approximately 14.9621 Hectares. (A copy of the Award is marked **Annexure 9**).
- vii. On February 13, 2019, all the charges were discharged and the land transferred to Voi Point Limited for Kshs.4,000,000,000. A charge to Diamond Trust Bank of Kenya Limited for Kshs.4,000,000,000 and a further charge to the same bank for Kshs.800,000,000 were registered on the same date. A copy of the official search is marked **Annexure 10**.

Honourable Chair,

- viii. On February 6, 2020, the County Government of Taita Taveta approved the subdivision of the land into 28 portions of various sizes for agricultural use. A copy of the notification of approval (**Annexure 11**) and certificate of subdivision (**Annexure 12**) are annexed herewith. The subdivision was approved on the condition that the company was to surrender Plot No. 25 (L.R. No. 28683/27) measuring approximately 13.68 Hectares for Mkamenyi Squatter Settlement as per the copy of the provisional approval marked **Annexure 13**. Voi Point Limited accepted the conditions of the provisional approval as shown in the copy of the acceptance letter marked **Annexure 14**.
- ix. On February 27, 2020 new Certificates of Title were issued for L.R. Nos. 28683/4 to 28683/31 the resultant subdivisions of L.R. No. 28683.
- x. The Charge in favour of Diamond Trust Bank of Kenya Limited was registered against all the resultant subplots of L.R. No. 28683 apart from L.R. No. 28683/27 that the bank issued a discharge.
- xi. On June 25, 2020, the County Government of Taita Taveta approved the subdivision and change of user of L.R. No. 28683/9 into 52 subplots (A copy of the notification of approval (**Annexure 15**)). The subdivision was conditional upon surrender of 10% of the total acreage for public utility and use. The

subdivision was also approved by the Voi Land Control Board as shown in **Annexure 16**.

Honourable Chair,

L.R. No. 28683/27 measuring approximately 35 acres is the portion that Voi Point Limited reserved for the settlement of the squatters. According to our records the plot is still r

egistered under Voi Point Limited. Given that this land is private land, we advise that the squatters to engage Voi Point Limited on their grievances

Response by the National Land Commission

The above mentioned parcel measuring approximately 1953 hectares is situated within Voi town in the county of TAITA TAVETA. This parcel was allocate to VOI SISAL ESTATES through a grant No C.R 51725 registered at the Mombasa land registry. For a term of 99 years, effective 1.1.1993. This allocation was as a result of surrender registered in the Governments Land Titles Registry at Mombasa as C.R No. 8814/37.

The land mentioned above is Land registered under **(CAP 281) Registration of Titles Act (repealed)**. And is therefore under the custody of **Mombasa Lands Registry**. The parcel was later transferred to VOI PLANTATIONS LIMITED, who charged the parcel to Diamond Trust Bank Kenya Limited For KSH. 3,000,000,000/= and USA \$ 5,000,000/=. Voi sisal estate later transferred the above parcel to Voi point limited at a consideration of Kenya shillings 1,002,0000,000/= (one billion and two million shillings)., and charged to DIAMOND TRUST BANK KENYA LIMITED for Ksh. 4,800,000,000/=

The county Government of Taita Taveta, has objected to the Transfer and Subdivision of the parcel, on allegations that they are aware that the lease earlier granted had expired, and that certain individuals had managed to renew the lease without seeking their approval. Allegations which have since been proved as untrue by the Land Registrar Mombasa.

Voi point limited has subdivided part of the parcel into various portions, **LR NO. 28683/27** measuring approximately 20.23 Hectares which was transferred to Mkamenyi society of Voi point with the intention to settle squatters residing within the parcel in an area known as Mkamenyi. All the above mentioned transactions were lodged at the Mombasa Land Registry.

It seems Mkamenyi squatters are claiming a larger share of land (i.e 35 acres given against 150 acres claimed) hence the dispute.

The company engaged the services of a private surveyor since this is a private matter . The Commission's mandate in this matter is limited as the property in issue is private land. The Commission is , however, ready to assist or lead in an ADR mechanism that may be considered with a view to resolving the dispute.

- v. **Petition submitted by the Residents of Msambweni Village in Voi sub-county of Taita Taveta County, concerning the alleged impending evictions of Msambweni residents by a private company;**

Response by the Ministry of Lands and Physical Planning

Honourable Chair,

The petition dated September 10, 2020 was presented by residents of Msambweni village, Voi sub-county in Taita Taveta County. They claim to be living in fear of eviction by a private developer (Sparkle Properties Limited) from a parcel of land registered as No.1956/506, C.R No. 23979 measuring 54.26 hectares where they claim to have resided since 1938.

According to the petitioners, their elders accepted a request by Bata Shoe Company to put up a factory on the subject land in 1978 on the premise that the factory would create employment for the community. A 99-year lease running from January 1, 1979 was granted on conditions, inter alia, that the land was to be used for a factory and that the company would not subdivide, sell, transfer or sublet the land.

Bata Shoe Company did not develop the land as agreed and in 2013 transferred the land to Sparkle Properties Limited for construction of a shopping mall in disregard of the conditions of the lease. The petitioners claim to have resisted the development, which prompted Sparkle Properties Limited to file a case court (ELC No. 265 of 2013) seeking to evict them. The court rendered its judgement on the case on February 24, 2020 allowing the eviction order sought by Sparkle Properties Limited. The court also ordered the residents of Msambweni to pay damages for trespass amounting to Kshs.1,050,000.

The petitioners are apprehensive that 3,500 people will be rendered homeless if the court orders are executed. They claim that efforts to resolve the matter with relevant authorities have not been successful and have thus engaged the Senate to intervene.

Response

Honourable Chair, I wish to respond as follows-

The subject parcel of land is situated within Voi Township and borders Ndara A adjudication section and Kaloleni Majengo Squatter Upgrading Scheme. The parcel is registered at the Mombasa Land Registry under the Registered Titles Act, Cap. 281 (*repealed*) as L.R No. 1956/506 C.R. No 23979 on Survey plan No. 107124 measuring approximately 54.26 hectares.

This parcel was allocated to Bata Shoe Company Limited who intended to establish a shoe factory on the land, and was issued with title deed on April 30, 1993. Bata Shoe Company later sold the parcel to Sparkle Properties Limited at a consideration of Kshs.12,000,000. The transfer was lodged on March 21, 2011 and a new title issued to Sparkle Properties Limited as the proprietor (**Annexure 17**).

The proprietor upon receiving title to the land discovered that squatters had moved in and constructed residential houses, they also prevented the owner from taking possession or accessing the property. This prompted the company to move to the Environment and Land Court at Mombasa, Civil Case No.265 of 2013 (Sparkle Properties Limited -vs- Johana Ngai & 8 Others)

On January 27, 2020 the court rendered Judgment on the case as follows-

- a) Permanent injunction restraining the defendants whether acting by themselves; their employees, agents and/or servants and/or through any other manner whatsoever interfering with the suit property to unit L.R 1956/506.
- b) Mandatory injunction compelling the defendants to demolish and or pull down structures erected on the suit property and to give vacant possession to the plaintiff.

- c) That there be a permanent injunction restraining the defendants and/or their agents to allow them to occupy or construct the unoccupied space and proceed with construction forthwith
- d) General damages for trespass awarded at Ksh.150,000 payable by each defendant to the plaintiff giving a total sum of Kshs.1,050,000 with interest from the date of filing suit until payment is made in full.
- e) Costs of the suit awarded to the plaintiff.

The issues raised in the instant petition were adequately canvassed in the suit. **(Annexure 18)**

Response by the National Land Commission

Hon Chair, The Commission wishes to respond as follows:

The disputed parcel is situated within Voi Township and borders Ndara A Adjudication Section and Kaloleni Majengo Squatter Upgrading Scheme. The parcel is registered at the Mombasa Land Registry Under Cap 281(Registered Titles Act) now repealed as L.R No. 1956/506 C.R. No 23979 on Survey plan No. 107124 measuring approximately 54.26 Ha.

This parcel was allocated to BATA SHOE COMPANY LIMITED who intended to construct a shoe factory, and was issued with title deed on 30th April 1993. BATA SHOE COMPANY later sold the parcel to SPARKLE PROPERTIES LIMITED at a consideration of Kshs.12,000,000. The transfer was lodged on 21st March 2011 and a new title issued to sparkle properties limited as the proprietor.

The proprietor upon receiving title to the land discovered that squatters had moved in and constructed residential houses, they also prevented the owner from taking possession or accessing the property. This prompted her to move to the Environment and Land Court at Mombasa through Civil Case No.265 of 2013.

Sparkle properties Limited
VS

1. Johana Ngai
2. Fatuma Mwamburi
3. Suleiman Kiboi Mwanyambo
4. Hamisi Kalela
5. Alois Mwambi
6. Asha Mwake
7. Fatuma Kodi
8. Bata Shoe Co.Limited
9. The Attorney General

On 27th January, 2020 the Hon Judge A.Omollo delivered his ruling by entering Judgment for the plaintiff against the 1-7th defendants jointly and severally for:

- a) Permanent injunction restraining the defendants whether acting by themselves; their employees, agents and/or servants and/or through any other manner whatsoever interfering with the suit property to unit L.R 1956/506.

- b) Mandatory injunction compelling the defendants to demolish and or pull down structures erected on the suit property and to give vacant possession to the plaintiff.
- c) That there be a permanent injunction restraining the defendants and/or their agents to allow them to occupy or construct the unoccupied space and proceed with construction forthwith.
- d) General damages for trespass awarded at Ksh.150,000 payable by each defendant to the plaintiff giving a total sum of Kshs 1,050,000 with interest from the date of filing suit until payment is made in full.
- e) Costs of the suit awarded to the plaintiff.

OPINION

It is the opinion of the Commission that, the issues raised by the petitioners are matters which were fully ventilated Civil Case No.265 of 2013.

The possible action the residents can take is to file an appeal against the judgment and seek further redress on the matter.

Any possible redress must be considered against the Court Decision.

vi. **Statement requested by Sen. Anwar Loitiptip, MP, on 24th September, 2020, regarding the alleged displacement of squatters from Hidabwo area in Lamu County; and**

Response by the Ministry of Lands and Physical Planning

Honourable Chair, I wish to respond as follows-

The Hon. Sen. Anwar Loitiptip, MP has requested the Cabinet Secretary to-

- i. Explain the circumstances surrounding the ownership of the parcel of land in Hidabu Area, Lamu County, and state the genuine owners of the said parcel of land
- ii. State who is behind the demarcation of the said piece of land and evicting persons who have occupied and settled on the said piece of land since 1998
- iii. State whether Lamu County Government authorized the allegedly illegal demarcation of the piece of land
- iv. Explain measures the Ministry of Lands and the National Land Commission have put in place to protect persons who have enjoyed quiet possession of the said piece of land for a period exceeding 12 years and ensure they are not going to be rendered squatters by rogue land grabbers allowed to own the land through adverse possession.

Response

Honourable Chair, I wish to respond as follows-

In response to questions (i), (ii), (iii) and (iv), I wish to respond as follows:

Hidabu area is an informal squatter settlement within Lamu Island specifically within registration section Lamu/Block II. The area comprises of several Government reserved land and registered private land parcels. Some of the squatters in the settlement have permanent buildings and others semi-permanent structures built over

time. The attached plan marked **annexure 19** give an impression of the status and layout of the area.

The County Government of Lamu engaged a private survey firm, Spatial Milestone (K) Ltd, to survey the squatted area. The project is ongoing and at planning stage, so far capturing over 300 squatters.

Ownership

	Plot No.	Size (Ha)	Ownership	Ground Occupant
1	Lamu/Block II/126	2.97	Government of Kenya (Annexure 20)	<ul style="list-style-type: none"> • County Commissioner's residence • LAWASCO, KPLC sub-station, KBC mast, Radio Rahma mast. • Lower part settled by over 30 squatters.
2	Lamu/Block II/127	4.86	Government of Kenya (Annexure 21)	<ul style="list-style-type: none"> • Public Works and Housing offices • Probation office • Churches (5 No) • Lower part settled by over 120 squatters
3	Lamu/Block II/128	5.06	Government of Kenya (Annexure 22)	<ul style="list-style-type: none"> • King Fahad Hospital (Public). • Lower part has over 60 squatters.
4	Lamu/Block II/129	6.14	Government of Kenya (Annexure 23)	<ul style="list-style-type: none"> • King Fahad Hospital; Mosque (1 No) • Lower part settled by 50 families (squatters)
5	Lamu/Block II/345 Lamu Block II/348 Lamu/Block II/350	0.10 0.10 0.10	Miliki Ltd (Annexure 24)	<p>Have on-going investigation by DCI Lamu between the owner and squatters.</p> <ul style="list-style-type: none"> • Parcel 345 has a well dug by area MCA. • Plot 348 has 2 permanent houses by squatters, while 350 has some recently erected posts.

The government agencies such as the hospital, housing and Interior occupying the reserved plots assert that they require the land for future public purposes.

Response by the National Land Commission

The area in question is the riparian land along Lake Kenyatta within Lake Kenyatta I Settlement Scheme established in 1974. Lake Kenyatta Beach Management Unit (LKBMU) was registered in 2008 to manage fishing operations in the area and has been operating since then. The lake is a vital source of water and fish, biodiversity habitat and eco-tourism attraction. The fisheries department was one of the functions

whose governance was devolved from the National government and placed to the county government by the Constitution, 2010. LKBMU is therefore currently under the County Government of Lamu.

There have been disputes between the LKBMU and the local community regarding encroachment of the riparian land falling in the zone covering Plots Nos.1609, 1610, 2570, 2568, 5722 and the high-water mark. The zone in contention is swampy and partly covered with thick natural vegetation.

The dispute is mainly attributed to the fact that the entire external boundary of the riparian is not physically marked nor surveyed. The Lake Kenyatta catchment area is not registered or gazetted.

Honourable Chair, we propose-

- i. Mapping out the catchment/lake boundaries by the relevant ministries
- ii. Gazettement of this ecologically sensitive area
- iii. Multi sectoral Protection and management of the catchment area by the relevant MDAs and County government of Lamu

vii. **Statement requested by Sen. Anwar Loitiptip, MP, on 24th September, 2020, regarding the alleged encroachment of Lake Kenyatta riparian land in Lamu County.**

Response by the Ministry of Lands and Physical Planning

Honourable Chair,

The Hon. Sen. Anwar Loitiptip, MP has requested the Cabinet Secretary to-

- i) State whether Lamu County followed due process in licensing Lake Kenyatta Beach Management Unit which has been given the responsibility of managing areas of the beach reserved for hippopotamus to graze as well as recreational areas for fishermen and public
- ii) Explain whether Lamu County authorized demarcation of the aid area and subsequently allocated the beach area to Lake Kenyatta Beach Management Unit
- iii) State whether the title deeds for the land in question which are in the hands of Lake Kenyatta Beach Management Unit are genuine, and if so, did NLC conduct due diligence before issuance of the same
- iv) Explain what measures the Ministry of Lands is putting in place to ensure that areas around water bodies used as grazing area for wildlife are protected

Honourable Chair, I wish to respond as follows:

A response to the Statement requested by the Hon. Senator was forwarded vide a report dated January 5, 2021. A copy of the report is marked **Annexure 25**.

Honourable Chair, I submit.

Response by the National Land Commission

Hidabu is an informal squatter settlement within Lamu Island specifically within registration section Lamu/Block II. The area comprises of several government reserved land and registered private parcels.

The County government of Lamu engaged a private survey firm, Spatial Milestone (K) Ltd, to survey the squatted area. The project is ongoing and at planning stage, so far capturing over 300 squatters. Some of the squatters in the settlement have permanent buildings and others semi-permanent structures built over diverse dates.

The table below, give an impression of the current status of the affected plots.

	Plot No.	Size (Ha)	Ownership	Ground Occupant
1	Lamu/Block II/126	2.97	Government of Kenya	<ul style="list-style-type: none">• County Commissioner's residence• LAWASCO, KPLC sub-station, KBC mast, Radio Rahma mast.• Lower part settled by over 30 squatters.
2	Lamu/Block II/127	4.86	Government of Kenya	<ul style="list-style-type: none">• Public Works and Housing offices• Probation office• Churches (5 No)• Lower part settled by over 120 squatters
3	Lamu/Block II/128	5.06	Government of Kenya	<ul style="list-style-type: none">• King Fa had Hospital (Public).• Lower part has over 60 squatters.
4	Lamu/Block II/129	6.14	Government of Kenya	<ul style="list-style-type: none">• King Fa had Hospital; Mosque (1 No)• Lower part settled by 50 families(squatters)
5	Lamu/Block II/345 Lamu Block II/348 Lamu/Block II/350	0.10 0.10 0.10	Kilim Ltd	Have on-going investigation by DCI Lamu between the owner and squatters. <ul style="list-style-type: none">• Parcel 345 has a well dug by area MCA.• Plot 348 has 2 permanent houses by squatters, while 350 has some recently erected posts.

The government agencies such as the hospital, housing and Interior occupying the reserved plots assert that they require the land for future public purposes.

Proposal

- Stakeholder consultative meeting involving area leadership, county government and relevant national government departments to review and provide solution.
- Those on private land to negotiate with the land owners.

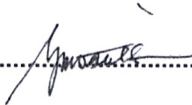
Honourable Chair; the above are the answers to the various issues raised, which we respectfully submit.

MINUTE SEN/SCLNDR/32/2021: ANY OTHER BUSINESS

There was no other business discussed.

MINUTE SEN/SCLNDR/33/2021: DATE OF NEXT MEETING

The meeting was adjourned at 1.11 pm and the date of the next meeting was to be called on notice.

Signed:..........

Date:..... **31/3/2021**.....

SEN. MWANGI PAUL GITHIOMI, MP
CHAIRPERSON
STANDING COMMITTEE ON LAND, ENVIRONMENT AND NATURAL
RESOURCES

MINUTES OF THE 48TH SITTING OF THE SENATE STANDING COMMITTEE ON LAND, ENVIRONMENT AND NATURAL RESOURCES HELD ON THURSDAY, 29TH OCTOBER, 2020 VIA ZOOM ONLINE PLATFORM AT 11.00 AM.

MEMBERS

1. Sen. Mwangi Paul Githiomi, MP
2. Sen. George Khaniri, MGH, MP
3. Sen. Sylvia Kasanga, MP
4. Sen. Mwaruma Johnes, MP

PRESENT

- **Chairperson**
- Member
- Member
- Member

ABSENT WITH APOLOGY

1. Sen. Philip Mpaayei, MP
2. Sen. Ndwiga Peter Njeru, EGH, MP
3. Sen. Gideon Moi, CBS, MP
4. Sen. (Dr.) Lelegwe Ltumbesi, MP
5. Sen. Boy Issa Juma, MP

- **Vice Chairperson**
- Member
- Member
- Member
- Member

IN ATTENDANCE

A. SENATORS

- Sen. Mutula Kilonzo Jnr., MP - Senator, Makueni County

B. PETITIONERS - PETITION CONCERNING THE ADVERSE EFFECTS OF ROCK BLASTING FOR THE CONSTRUCTION OF THWAKE DAM, MAKUENI COUNTY

1. Hon. Eng. Joseph Muema, - Chairperson, Sectoral Committee on Environment and Climate Change
2. Mr. Julius Nzau – Committee Clerk Assistant , County Assembly of Makueni

C. PETITIONERS - PETITION CONCERNING THE ALLEGED EXCHANGE AND FINAL TRANSFER OF TITLES FOR PARCELS OF LAND KNOWN AS LARI NYAKINYUA SOLAI FARM(LOCATED IN SOLAI, NAKURU COUNTY) AND RIYOBEL FARM LIMITED(LOCATED IN GILGIL, NAKURU COUNTY

1. Mr. Simon Kandie - Solai Farm Resident
2. Ms. Veronica W. Chege - Petitioner
3. Mr. James Ngugi - Petitioner
4. Mr. Joseph K. Ngugi - Petitioner

D. SECRETARIAT

1. Mr. Victor Bett - Clerk Assistant
2. Ms. Clare Kidombo - Researcher
3. Mr. John Ngang'a - Audio Recording

MINUTE SEN/SCLN/260/2020: PRELIMINARIES

The meeting was called to order at 11.30 am by the Chairperson followed by a word of prayer.

MINUTE SEN/SCLNR/261/2020: ADOPTION OF AGENDA

The agenda of the meeting was adopted after being proposed by Sen. Mwaruma Johnes, MP and seconded by Sen. George Khaniri, MGH, MP as follows –

1. Preliminaries
2. Adoption of the agenda;
3. Confirmation of Minutes;
4. Meeting with Petitioners on the **Petition concerning the adverse effects of rock blasting for the construction of Thwake Dam, Makueni County;**
5. Meeting with Petitioners on the **Petition concerning the alleged exchange and final transfer of Titles for parcels of land known as Lari Nyakinyua Solai Farm(located in Solai, Nakuru County) and Riyobei Farm Limited(located in Gilgil, Nakuru County;**
6. Any other Business;
7. Date of the next meeting;
8. Adjournment.

MINUTE SEN/SCLNR/262/2020: CONFIRMATION OF MINUTES OF PREVIOUS SITTINGS

The Committee differed the confirmation of Minutes to the next meeting.

MINUTE SEN/SCLNR/263/2020: MEETING WITH PETITIONERS ON THE PETITION CONCERNING THE ADVERSE EFFECTS OF ROCK BLASTING FOR THE CONSTRUCTION OF THWAKE DAM, MAKUENI COUNTY

The Petitioners informed the Committee that they have done a lot including tabling a report at the County Assembly but nothing much was done to deal with their impasse.

They urged the Committee to intervene based on their prayers as contained in their Petition to ensure that the affected persons are well compensated.

The Committee proceeded to thank the Petitioners for having their confidence the Senate, and that the Committee shall ensure justice is served.

The Committee resolved to invite the:

- **Ministry of Environment and Forestry;**
- **NEMA; and**
- **Conduct a site visit.**

MINUTE SEN/SCLNR/264/2020: MEETING WITH PETITIONERS ON THE PETITION CONCERNING THE ALLEGED EXCHANGE AND FINAL TRANSFER OF TITLES FOR PARCELS OF LAND KNOWN AS LARI NYAKINYUA SOLAI FARM(LOCATED IN SOLAI, NAKURU COUNTY) AND RIYOBEI FARM LIMITED(LOCATED IN GILGIL, NAKURU COUNTY

The Petitioners informed the Committee that they have been trying to switch their parcels of land after a common understanding of switching Lari Nyakinyua Solai Farm and Riyobei Farm in Gilgil. Their challenge all through has been to obtain the titles, and what had slowed the process in the past was a court case that ended in the year 2019 owing to a claim by other persons who had allegedly settled in the same piece of land. They informed the Committee that since the court ruled in their favor they would require the Committees intervention to fasten the process of titling.

The Parcel of land scheduled for the switching is 8,000acres on both sides, affecting 1,200persons from the Lari Nyakinyua Solai Farm and 5,400persons from Riyobei Farm in Gilgil.

The Committee resolved to invite the:


- **Ministry of Lands and Physical Planning**
- **National Land Commission**

MINUTE SEN/SCLNR/265/2020: ANY OTHER BUSINESS;

- 1) There Committee agreed to the proposal of re-attempting the Adoption of Petition Reports retreat for tabling as from **5th – 9th November, 2020** in Mombasa County;
- 2) There Committee agreed to the proposed site visit to Langata, Nairobi County on the morning of **Thursday, 5th November, 2020 as from 9.00 am** to ascertain facts on the Ground regarding the alleged eviction of residents residing in Sunvalley Phases I, II and III, Royal Park Estate, KMA Estate, Shallom Estate, Forest View Estate and other affected residents of Langata Constituency following the Statement requested by Sen. Johnson Sakaja; and
- 3) Sen. Johnes Mwaruma requested for the Minutes of the sitting held on 9th September, 2020 regarding the Petition by Residents of Taita Taveta County, Mwatate Sub County, Mwakitau Location on the Mwakitau land ownership dispute between Mwakitau Residents and Isanga Iwishi Group Ranch and on the Statement he requested on 21st July on the status of Voi Point Limited, LR No. 28683.

MINUTE SEN/SCLNR/266/2020: DATE OF NEXT MEETING;

The meeting was adjourned at 12.40 pm and the date of the next meeting was scheduled for Tuesday, 3rd November, 2020 at 11.00 am via zoom online platform.

Signed: **For:** 

Date: **19/11/2020**

SEN. MWANGI PAUL GITHIOMI, MP

CHAIRPERSON

**STANDING COMMITTEE ON LAND, ENVIRONMENT AND NATURAL
RESOURCES**

**PETITIONERS
SUBMISSIONS**

STAMP ORDINANCE (Cap. 51)
Sections 23 and 24.

By virtue of Section 4 of the
Ordinance this instrument is not
chargeable with stamp duty.

Collector of Stamp Duties

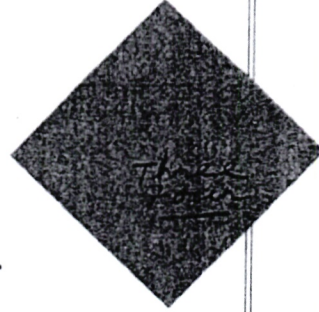
26th April 1942

121517 / 217

924



(1) a



TITLE NO. I.R. 5/57.....

REGISTRATION DISTRICT: INLAND.

ANNUAL RENT: SHS: 171/40 (Revisable as herein provided).

TERM: 999 YEARS FROM 1.7.1938 to 1.7.2937.

DEVELOPMENT TO BE EFFECTED BY 1.7.1941 Sh.8,228/-
of which Sh.6,000/- shall be permanent improvements.

DEVELOPMENT TO BE EFFECTED BY 1.7.1943 Sh.12,342/-
of which Sh.9,000/- shall be permanent improvements.

KNOW ALL MEN BY THESE PRESENTS that in consideration of the sum of Shillings Two thousand five hundred and seventyone by way of Stand Premium as to Shillings Two hundred and fiftyseven and cents ten -- already paid (the receipt whereof is hereby acknowledged) and as to the balance of Shillings Two thousand three hundred and thirteen -- and cents ninety to be paid by nine equal annual instalments of --- Shillings Two hundred and fiftyseven and cents ten on the First day of January in each year the first of such payments to be made on the First day of January One thousand nine hundred and thirtynine the GOVERNOR AND COMMANDER-IN-CHIEF OF THE COLONY OF KENYA on behalf of HIS MOST GRACIOUS MAJESTY KING GEORGE THE SIXTH under and by virtue of the powers vested in him hereby GRANTS unto SOLAI SISAL LIMITED a Company with Limited Liability having its registered office at --- Njoro in the Colony of Kenya (hereinafter referred to as "the

Handwritten notes in the left margin, including "26th April 1942" and "924".

12/18/22

Grantee" which expression shall where the context so admits include its successors and assigns) ALL THAT piece of land situate adjoining Lake Solai (West) in the Nakuru District of the said Colony ----- containing by measurement Eight hundred and fiftyseven acres more or less that is to say Land Reference Number 7364 (Orig.No.1168/1) of Meridional District North A. 37 8 which said piece of land with the dimensions abuttals and boundaries thereof is delineated on the ---- plan drawn on these presents and more particularly on Land Survey -- Plan Number 36794 deposited in the Survey Records Office at Nairobi TO HOLD for the term of Nine hundred and ninety nine years from the First day of July One thousand nine hundred and thirty eight subject to the payment therefor for the said term the respective rents ---- following payable in advance on the First day of January in every -- year and so in proportion for any less period than one year namely:-

- (a) From the First day of July One thousand nine hundred and ---- thirty eight until the thirty first day of December One thousand nine hundred and forty five an annual rent of Shillings One ---- hundred and seventy one and cents forty.
- (b) From the First day of January One thousand nine hundred and --- fortysix until the thirty first day of December One thousand nine hundred and seventy five an annual rent calculated at the rate of one per centum on the unimproved value of the land hereby -- granted in the year One thousand nine hundred and forty five.
- (c) From the First day of January One thousand nine hundred and -- seventysix until the Thirty first day of December Two thousand and five an annual rent calculated at the rate of two per centum on the unimproved value of the land hereby granted in the year One thousand nine hundred and seventy five.
- (d) For every subsequent period of Thirty years thereafter to expire on the Thirty first day of December in every thirtieth year ---- following until the expiration or sooner determination of the --

10/5/57/23

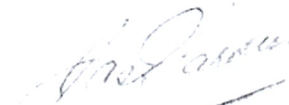
term hereby granted an annual rent calculated at the rate of three per centum on the unimproved value of the land hereby granted in the year preceding the first year of each succeeding period of thirty years.

This Grant is subject to the provisions and conditions contained in the Crown Lands Ordinance (Chapter 140 of the Revised Edition of the Laws of Kenya) (excepting Part Eleven thereof) and the Registration of Titles Ordinance (Chapter 142 of the Revised Edition of the Laws of Kenya) and also to the following Special Conditions :-

SPECIAL CONDITIONS:

1. The Grantee shall not assign sublet or otherwise part with the possession of the said land or any part thereof during the first five years of the term without the previous consent in writing of the Governor and subject to such conditions as he may prescribe.
2. The Grantee shall cause the said land to be personally occupied by an European Manager or use it in conjunction with its adjoining land for an aggregate period of three years during the first five years of the term and shall furnish evidence of such personal occupation or user to the Commissioner of Lands and Settlement during the month of January in every year until the completion of the period aforesaid such evidence to be supported by affidavit and a certificate by a Magistrate.

IN WITNESS WHEREOF I GEORGE)
 JAMES ROBBINS the Acting --)
 Commissioner of Lands have)
 by Order of the Governor --)
 hereunto set my hand and seal)
 this *fourth* day of *April*)
 One thousand nine hundred and)
 forty in the presence of :-)

REGISTRAR OF TITLES.

12/17/24

REGISTERED at the Registry of Titles at Nairobi.

This Twenty-sixth day of April, 1940.

Time. 9.00 a.m.

No. I.R. 5157/1

Presentation No. 984.

Stamp Duty ... Shs. 64/-
Registration Fees ... Shs. 20/-
Shs. 84/-

E. L. L. L.
REGISTRAR OF TITLES.

COMPARED WITH ORIGINAL
REGISTRAR

2
(I.R. 1095)

THE FOLLOWING INSTRUMENT HAS BEEN REGISTERED AGAINST THIS TITLE
Transfer to Ely Susal Estate Limited
(with other lands)

Presentation No. 4376 Date of Registration 31. 7. 51

A. H. Penny
Registrar of Titles

3
(I.R. 1095)

THE FOLLOWING INSTRUMENT HAS BEEN REGISTERED AGAINST THIS TITLE
Memo of Charge with Balgely and
Company Limited.
(with other lands)

Presentation No. 4377 Date of Registration 31. 7. 51

A. H. Penny
Registrar of Titles

4
(I.R. 1095)

THE FOLLOWING INSTRUMENT HAS BEEN REGISTERED AGAINST THIS TITLE
Memo of Discharge of No. 3 above
(with other lands)

Presentation No. 4622 Date of Registration 14. 6. 55

J. S. L. L.
Registrar of Titles

5
(I.R. 1095)

THE FOLLOWING INSTRUMENT HAS BEEN REGISTERED AGAINST THIS TITLE
Memo of Charge with Barclays Bank
(J.C.O. with Other Lands)

Presentation No. 4623 Date of Registration 14. 6. 55

J. S. L. L.
Registrar of Titles

6
(I.R. 1095)

THE FOLLOWING INSTRUMENT HAS BEEN REGISTERED AGAINST THIS TITLE
Memo of Discharge of No. 5 above.
(with other lands)

Presentation No. 9035 Date of Registration 31. 10. 56

M. L.
Registrar of Titles

COLONY & PROTECTORATE OF KENYA.

DISTRICT OF NAKURU

Land Reference No 7364
(Orig. No 1168/R)

Locality Adjoining Lake Solai (West)

Subdivision No (Orig No
of Section No

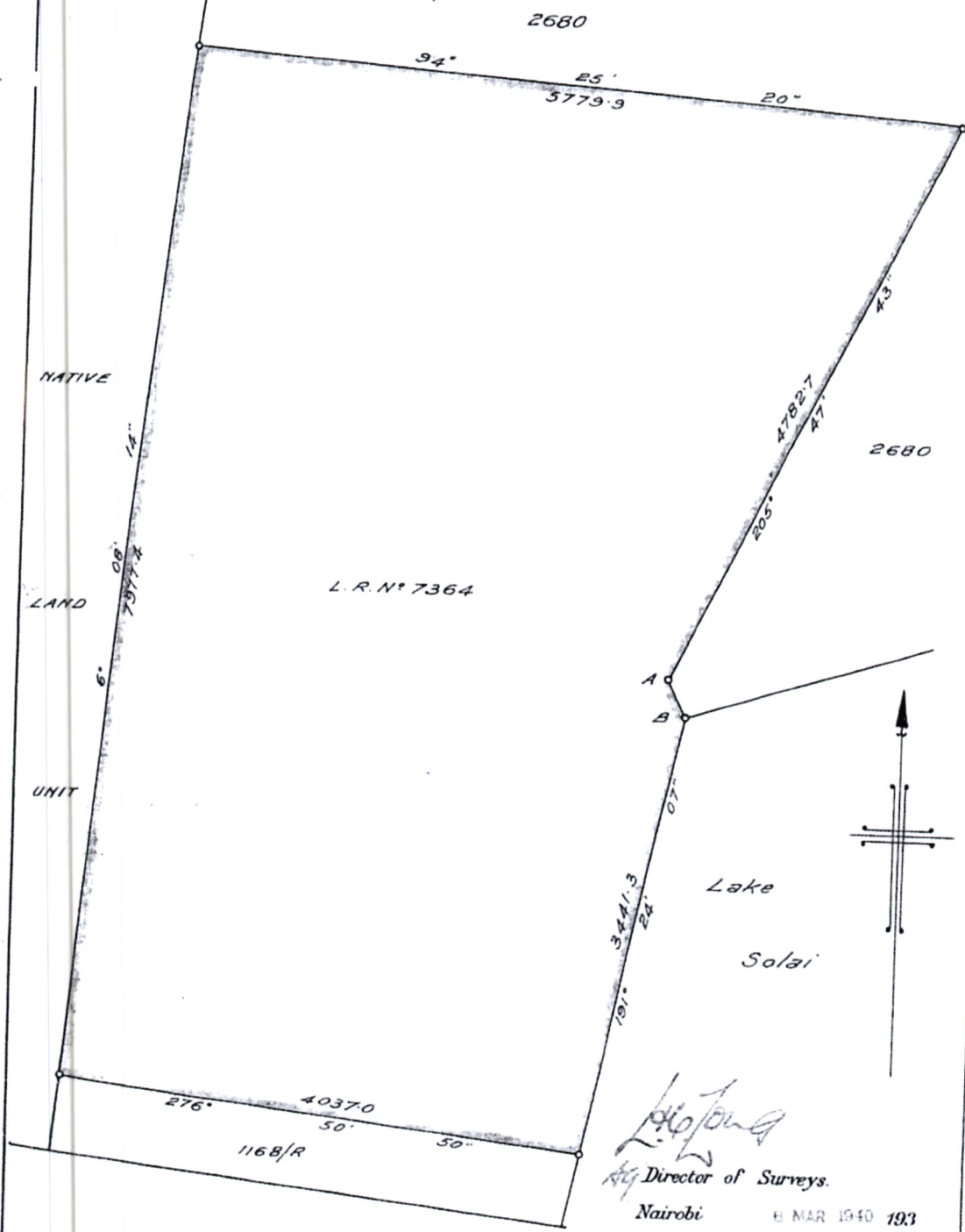
Meridional District North A. 37
S III. C.

Scale: 1 in. 10000 or 833.33 Feet to 1 Inch

Area = 857 Acres (Approx)

1168/R

A-B	Bearings			Distances Feet
	°	'	"	
A-B	151	50	20	326.4



Ho Long
Director of Surveys.
Nairobi 6 MAR 1940 193

Traced by P.F. Gies.
Compared by

Please quote this PLAN N° 36794

PLAN OF THE DISTRICT OF COLUMBIA

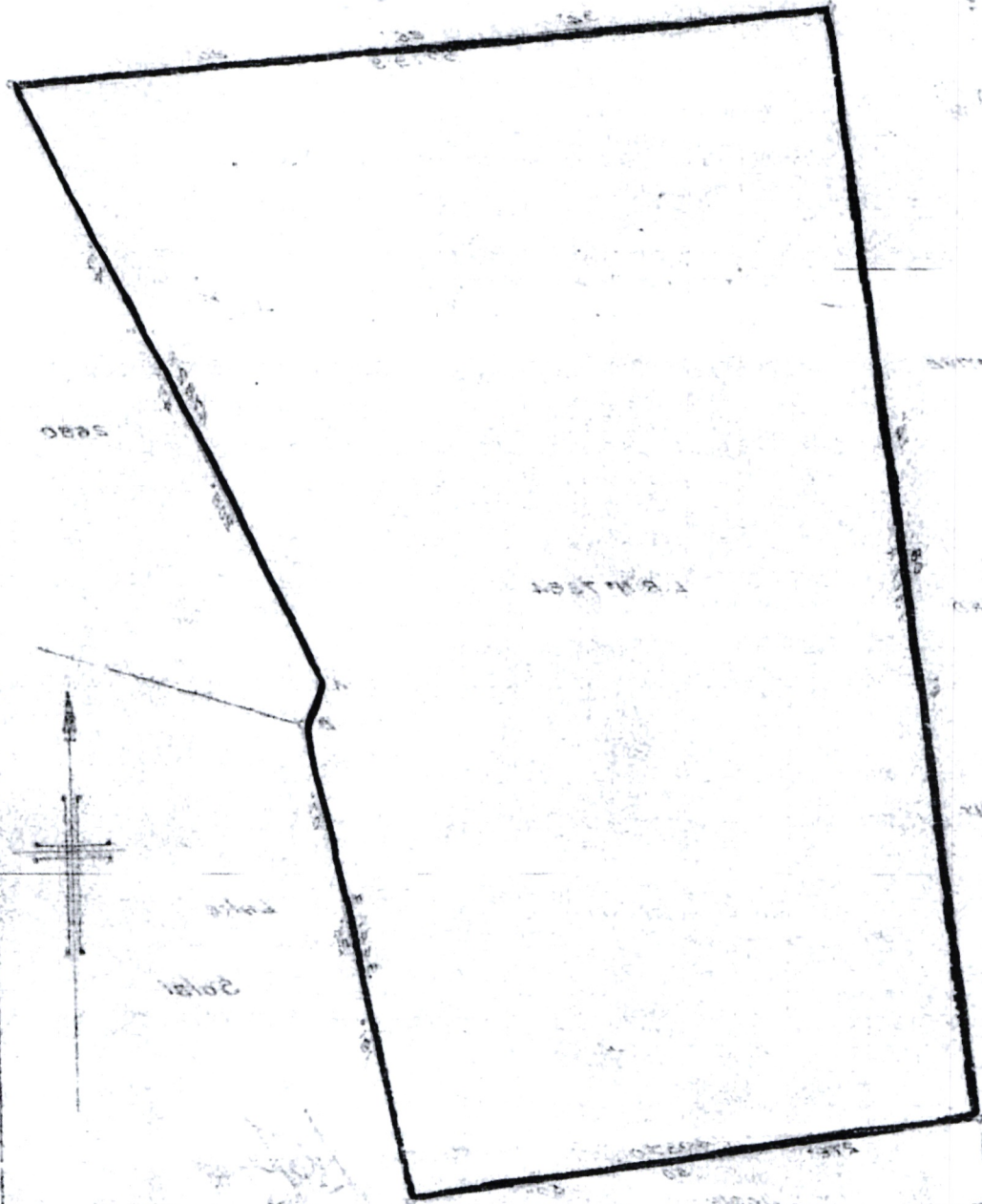
Section 1 of the District of Columbia

Section 1 of the District of Columbia

Section 1 of the District of Columbia

Section 1 of the District of Columbia

Section	Area	Volume
1	1.00	1.00
2	1.00	1.00
3	1.00	1.00
4	1.00	1.00



Section 1 of the District of Columbia

Section 1 of the District of Columbia

THE FOLLOWING INSTRUMENT HAS BEEN REGISTERED AGAINST THIS TITLE

Transfer to Byron Investment Company Limited
(with other lands)

Presentation No 9036 Date of Registration 31.10.56. Registrar of Titles

7.
(11095)

THE FOLLOWING INSTRUMENT HAS BEEN REGISTERED AGAINST THIS TITLE

Charge to the Mortgage Coy. of Costa Rica General
Mortgage Coy. Ltd.
(with other lands)

THE FOLLOWING INSTRUMENT HAS BEEN REGISTERED AGAINST THIS TITLE

Insurance Charge to the Mortgage Company of Costa Rica
& General Mortgage Company Ltd. Limited
(with other lands)
for the 680,000/-

Presentation No. 428 Date of Registration 24.1.61 Registrar of Titles

8
(11095)

999/Jan
(11095)

THE FOLLOWING INSTRUMENT HAS BEEN REGISTERED AGAINST THIS TITLE

DECLARATION by the Crown dated 11th August
declaring the annual rent payable for the 1st copy of the within-written
GRANT/CERTIFICATE OF TITLE to be Sh. 321/-
with effect from 1st January, 1961.

Presentation No. 515 Date of Registration 13/8/61 Registrar of Titles

10

175
126

THE FOLLOWING INSTRUMENT HAS BEEN REGISTERED AGAINST THIS TITLE

Discharge of No 849 above
(with other lands)

Presentation No. 175 Date of Registration 5/4/63 Registrar of Titles

11
(11095)

THE FOLLOWING INSTRUMENT HAS BEEN REGISTERED AGAINST THIS TITLE

Charge to Colburn & Latham & Co Limited
(with other lands)

Presentation No. 476 Date of Registration 5/4/63 Registrar of Titles

12
(11095)

231

222

4/64

12/ES/1940

THE FOLLOWING INSTRUMENT HAS BEEN REGISTERED AGAINST THIS TITLE
Discharge of charge No. 12 above.
(with other lands).

Wickell
Registration No. 231 Date of Registration 8.4.64
THE FOLLOWING INSTRUMENT HAS BEEN REGISTERED AGAINST THIS TITLE
Transfer to Solai dual estate limited
for Shs. 1769950/-
(with other lands).

Wickell
Registration No. 232 Date of Registration 8.4.64

DATED this 26th day of April 1940.

HIS MOST GRACIOUS MAJESTY
KING GEORGE THE SIXTH

TO

SOLAI SISAL LIMITED.

GRANT.

L.R.NO. 7364.
LOCALITY. ADJOINING LAKE SOLAI
(WEST).
DISTRICT. NAKURU.

THE FOLLOWING INSTRUMENT HAS BEEN REGISTERED AGAINST THIS TITLE
Change to Ralli Brothers Kenya Limited.
(with other lands).

Wickell
Registration No. 803 Date of Registration 27-4-64
THE FOLLOWING INSTRUMENT HAS BEEN REGISTERED AGAINST THIS TITLE
Certificate of charge of name changing
the name of Ralli Brothers (Kenya)
Limited to Motor Mart (Holdings) Limited

Registration No. 463 Date of Registration 12-8-77

REGISTRY OF TITLES,
KENYA.

13

(R 1095)

44

(R 1095)

R/R
05/12

803
1/16/64

15

(R 1095)

12/25/40
12/25/40
12/25/40

16

463

465

466

12/ES/1940

Certificate of change of name changing
the name of Matok Matt (Holdings) Limited
to Kenya Matok Holdings Limited

464

12-8-77

Discharge of No 15 above

[Handwritten signature]

465

12-8-77

Charge to Kenya Commercial Bank
Limited
For shs 5,000,000/-

466

12-8-77

Discharge of charge No 19
above.
481 15/2/1980

[Handwritten signature]

Transfer to Lari Nyakinyua
(Sela Farm) Limited
For Kshs 6,000,000/-
482 15/2/1980

[Handwritten signature]

Charge to Habib Bank A.G.
Zurich
For Kshs 4,000,000/-
483 15/2/1980

[Handwritten signature]

Discharge of no 22 above

813

18-6-92

[Handwritten signature]

whereof copies of (to be true copy)

of the [unclear]

① [unclear] 0001C

Copying [unclear] 201C

Date 5 Feb 2018

5 Feb 2018

[Handwritten signature]

REGISTRAR
C. K. Nyakundi *298

REGISTRAR GENERAL

1 (B) (6)

10/11/12

DEPARTMENT OF LANDS
DOCUMENT SCANNED

Registered Area 20/1
21650/1
201670/1

15 NOV 2012

COLONY OF KENYA
REGISTRY OF TITLES.

(Inland District).

Title No. I. R. 10,952.

Annual Rent Shs. 254/60. (Revisable as herein provided).

Term 999 years from 1.6.1924 to 1.6.2923.

Development to be effected by 31.5.1927 Shs. 23392/-
of which Shs. 6000/- shall be permanent improvements.

Development to be effected by 31.5.1929 Shs. 35838/-
of which Shs. 9000/- shall be permanent improvements.

Know All Men by these presents that in consideration

of the sum of Shillings Eighty-two thousand
by way of Stand Premium as to Shillings Eight thousand
two hundred already paid (the receipt whereof is hereby
acknowledged) and as to the balance of Shillings Seventy-three thousand eight
hundred to be paid by nine equal annual instalments
of Shillings Eight thousand two hundred
on the First day of January in each year the first of such payments to be made on
the first day of January One thousand nine hundred and twenty five I ROBERT
THORNE CORYNDON Knight Commander of the Most Distinguished Order
of Saint Michael and Saint George the Governor of the Colony of Kenya on behalf
of His Majesty King George the Fifth do hereby under and by virtue of the powers

23/2

vested in me GRANT unto RALPH LAMETON STOBART of Ruiru in the said Colony
Settler -----

RAC

(hereinafter referred to as the Grantee which expression shall where the context
so admits include his executors administrators and assigns)

ALL THAT piece of land situate adjoining Lake Solai ----- in the
Makuru ----- District of the Extra Provincial -----
Province of the said Colony containing by measurement Four thousand nine --
hundred and ten ----- acres more or less that is to say Land

Office Number 2680 ----- of Meridional District North A 37
S. III. c. 5 --

which said piece of land with the dimensions abuttals and boundaries
thereof is delineated on the plan drawn on these presents and more particularly
on Land Survey Plan Number 6479 deposited in the Land Surveys Office

at Nairobi excepting and reserving out of the Grant hereby made an area
of One hundred and thirty-seven acres more or less in respect of Road
Reserves making a total area of Four thousand seven hundred and seventy-

three acres more or less the subject of this Grant -----

TO HOLD for the term of Nine hundred and ninety nine years from the -----
First ----- day of June .. One thousand nine

hundred and twenty-four ----- subject to the payment therefor for the said
term the respective rents following payable in advance on the First day of January
in every year and so in proportion for any less period than one year namely:--

- (a) From the First day of June One thousand
nine hundred and twenty-four ----- until the Thirty first
day of December One thousand nine hundred and forty five an
annual rent of Shillings Nine hundred and fifty-four cents sixty.
- (b) From the First day of January One thousand nine hundred and forty six
until the Thirty first day of December One thousand nine hundred and
seventy five an annual rent calculated at the rate of one per centum on the
unimproved value of the land hereby granted in the year One thousand nine
hundred and forty five.

- (c) From the first day of January One thousand nine hundred and seventy six
until the Thirty first day of December Two thousand and five an annual
rent calculated at the rate of two per centum on the unimproved value of
the land hereby granted in the year One thousand nine hundred

1P-100015

COLONY & PROTECTORATE OF KENYA.

PROVINCE *Extra Provincial* ✓
DISTRICT *NAKURU* ✓

Locality: *Adjoining Lake Solai* ✓

Scale: 1 in. 62,500 or 5208.33 Feet to 1 Inch.

Land Office Reference No 2680 ✓

Re-Subdivision No -

of Subdivision No -

of Section No -

of Portion No -

of Meridional District North A 37 5 ✓
S. III. C.

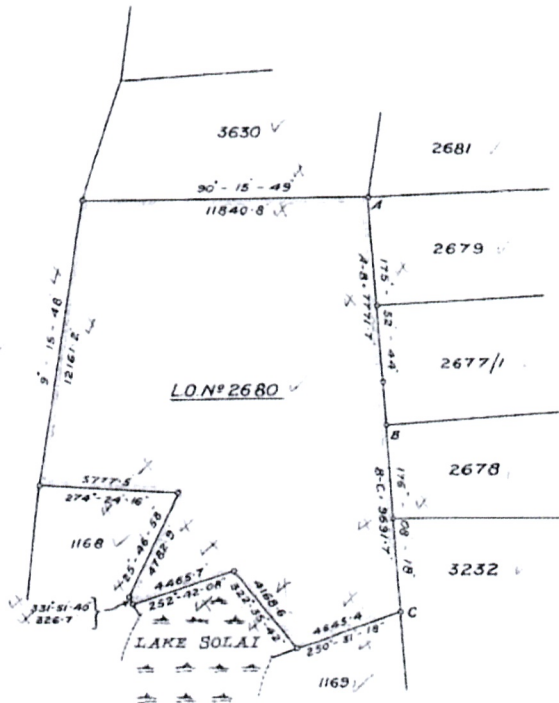
Total Area - 4910.0 Acres (Approx) ✓

Road Reserves - 137.0

Net Area - 4773.0 Acres

Bearings		Distances	
o	"	Feet	

Native
Reserve



[Signature]
 Director of Land Surveys
 Nairobi

1924

Traced by *[Signature]*
Checked by *[Signature]*

Please quote this PLAN No 6479.

COLONY & PROTECTORATE OF KENYA.

PROVINCE Extra Provincial
 DISTRICT MURUMU
 Land in extent of 2500 Acres
 Total Area 4500 Acres (Provincial)
 Proportions 1810
 1000 Acres 4500 Acres

PROVINCE Extra Provincial
 DISTRICT MURUMU
 Land in extent of 2500 Acres
 Total Area 4500 Acres (Provincial)
 Proportions 1810
 1000 Acres 4500 Acres

Area	Proportions
1000 Acres	1810
1000 Acres	1810
1000 Acres	1810
1000 Acres	1810



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12/10/25/4

and seventy five.

(d) For every subsequent period of Thirty years thereafter to expire on the Thirty first day of December in every thirtieth year following until the expiration or sooner determination of the term hereby granted an annual rent calculated at the rate of three per centum on the unimproved value of the land hereby granted in the year preceding the first year of each succeeding period of thirty years.

This Grant is subject to the provisions and conditions contained in the Crown Lands Ordinance One thousand nine hundred and fifteen (excepting Part Eleven thereof) and to the Registration of Titles Ordinance One thousand nine hundred and nineteen.

SPECIAL CONDITIONS.

- NIL -

IN WITNESS WHEREOF I the said Governor have hereunto set my hand and the seal of the Colony at Nairobi this twelfth day of January One thousand nine hundred and twenty five in the presence of :-

R. G. Gordon

E. Robbins
Asst. Registrar of Titles

Registered at the Registry of Titles at Nairobi,

this twelfth day of Jan 1925. Time 4 p. m.

No. T.A. 1095/1

Presentation No. 1095/1

[Signature]

REGISTRAR OF TITLES.

COMPARED WITH ORIGINAL
Robbins
A. Registrar

2

Caveat
24/10/58

I hereby certify that the sum of Shillings Fifty-five thousand two hundred and seventy-two and cents only has been paid in full satisfaction of the Stand Premium reserved in the within written grant.

3

R. 6/5

Dated this Twenty-third day of March five thousand nine hundred and thirty-eight

LAND TITLES REGISTRY — COLONY OF KENYA

INLAND DISTRICT, NAIROBI — REGISTERED No. I. R. *1035/3*

Presented *23/3/58*

Time *9:35 a.m.*

[Signature]
REGISTRAR OF TITLES

Stamp Duty — *Shs. -*
Registration Fees *Shs. 6/-*
Shs. 6/-

Province Extra Provincial.
District. Nekuru
Township.

File-L.O. No. 2680.

GRANT

HIS MOST GRACIOUS
MAJESTY KING GEORGE
THE FIFTH
TO
RALPH LAMBERTON STOBART.

Dated the _____ day of _____ 19 _____

Registry of Titles,
Kenya.

4

withdrawal of caveat

THE FOLLOWING INSTRUMENT HAS BEEN REGISTERED AGAINST THIS TITLE:

Transfer to Salai Sisal Ltd.

5

Presented No. *448* Date of Registration *22/4/58* *[Signature]*
REGISTRAR OF TITLES

THE FOLLOWING INSTRUMENT HAS BEEN REGISTERED AGAINST THIS TITLE:

Charge to Land & Agricultural Bank of Kenya

6

Presented No. *1312* Date of Registration *19/5/58* *[Signature]*
REGISTRAR OF TITLES

THE FOLLOWING INSTRUMENT HAS BEEN REGISTERED AGAINST THIS TITLE:

Discharge of charge No. 6 above

7

Presented No. *706* Date of Registration *15/2/58* *[Signature]*
Registrar of Titles

THE FOLLOWING INSTRUMENT HAS BEEN REGISTERED AGAINST THIS TITLE:

Transfer to Silly Sisal Estate Limited (with other lands)

8

Presented No. *23/58* Date of Registration *2/1/58* *[Signature]*
Registrar of Titles

9

1241109510
THE FOLLOWING INSTRUMENT HAS BEEN REGISTERED AGAINST THIS TITLE
Memo of charge with Dalgety and
Company Limited
(with other lands)

Presentation No. 4377 Date of Registration 31 7 57 Registrar of Titles

10

Memo. of Discharge of No. 9 above
with other lands

Presentation No. 4622 Date of Registration 14 6 58 Registrar of Titles

11

Memo of charge with Barclays Bank
L.C.O. (with other lands)

Presentation No. 4623 Date of Registration 14 6 58 Registrar of Titles

12

THE FOLLOWING INSTRUMENT HAS BEEN REGISTERED AGAINST THIS TITLE
Memo of Discharge of No. 11 above
(with other lands)

Presentation No. 9035 Date of Registration 31 10 56 Registrar of Titles

13

THE FOLLOWING INSTRUMENT HAS BEEN REGISTERED AGAINST THIS TITLE
Transfer to Byron Investment Company Limited
(with other lands)

Presentation No. 9036 Date of Registration 31 10 56 Registrar of Titles

14

THE FOLLOWING INSTRUMENT HAS BEEN REGISTERED AGAINST THIS TITLE
Transfer to Byron Investment Company Limited
(with other lands)

15

THE FOLLOWING INSTRUMENT HAS BEEN REGISTERED AGAINST THIS TITLE
Joint Charge to the Mortgage & Finance Company of
Costa Rica & General Mortgage Company
of Costa Rica (with other lands)
for Rs. 680,000/-

Presentation No. 1128 Date of Registration 24-1-61 Registrar of Titles

THE FOLLOWING INSTRUMENT HAS BEEN REGISTERED AGAINST THIS TITLE
DECLARATION by the Crown dated 11th August 1961
declaring the amount of the public capital of the with written
GRAND DIVIDEND 1796/2
with effect from 1st January, 1961
Presentation No. 511 Date of Registration 13/1/61 Registrar of Titles

11/05/77

17

Discharge of Nos 10 & 15 above
(with other lands)

Registration No. 175 Date of Registration 5/4/63 *Wesketh*

Change to Ashburnot Latham & Co. Limited
(with other lands)

18

Registration No. 176 Date of Registration 5/4/63 *Wesketh*

Discharge of charge No. 18 above
(with other lands)

25/1/64

19

Registration No. 231 Date of Registration 8.4.64 *Wesketh*

Transfer to Solai Sival Estate Limited
For Shs. 1769950/=

20

Registration No. 232 Date of Registration 8.4.64 *Wesketh*

Charge to Ralli Brothers (Kenya) Limited

628
1/1/64

21

Registration No. 803 Date of Registration 27-4-64 *Wesketh*

Certificate of change of name changing
the name of Ralli Brothers (Kenya) Limited
to Motor Mart (Holdings) Limited

1226
1226
09/7/77

22

Registration No. 463 Date of Registration 12-8-77 *Wesketh*

Certificate of change of name changing
the name of Motor Mart (Holdings) Limited
to Kenya Motor Holdings Limited

23

Registration No. 464 Date of Registration 12-8-77 *Wesketh*

Discharge of No. 21 above

24

465 Date of Registration 12-8-77

Charge to Kenya Commercial Bank
Limited
For Shs 5,000,000/-

466

12-8-77

Discharge of charge N^o 25
above
181 15/2/1980 *hndw*

Trompsen & Lowi Nyakinyua
(Solei Farm) Limited
For Shs 6,000,000/- *hndw*
182 15/2/1980

Charge to Habib Bank A.G. Zurich
For KShs 4,000,000/- *hndw*
183 15/2/1980

Discharge of no. 28 above

813

18-6-92

Ball

herby certify this to be a true copy

of the *BOOK*

① Copying *245*

Date *5th February 2018*

[Signature]

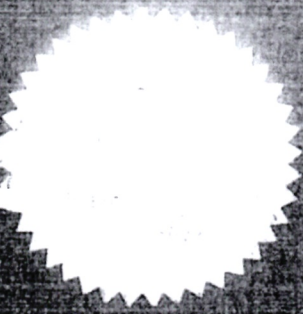
C. K. Nyakundi *298

REGISTRAR OF TITLES

③ | ①



6427



COLONY AND PROTECTORATE OF KENYA
THE REGISTRATION OF TITLES ORDINANCE
(CHAPTER 160)

GRANT: NUMBER I.R. 10920
ANNUAL RENT: SHS: 437/20 (revisable)
TERM: 969 years from 1.3.1949

S. b. n. 1/10/54
2/16

115
11
1163

KNOW ALL MEN BY THESE PRESENTS that in pursuance of a Surrender registered as Number I.R.1251/5 and in consideration of the sum of Shillings fourteen thousand five hundred and fifty by way of Stand Premium as to Shillings eight thousand seven hundred and thirty paid on or before the execution hereof and as to the balance of Shillings five thousand eight hundred and twenty to be paid by four equal annual instalments of Shillings one thousand four hundred and fifty-five on the first day of January in each year the first of such instalments to be paid on the first day of January One thousand nine hundred and fifty-five the GOVERNOR AND COMMANDER-IN-CHIEF OF THE COLONY AND PROTECTORATE OF KENYA on behalf of HER MOST GRACIOUS MAJESTY QUEEN ELIZABETH THE SECOND under and by virtue of the powers vested in him hereby GRANTS unto RONALD THOMAS STANYFORTH of Post Office Lake Solai in the said Colony (hereinafter called "the Grantee") ALL that piece of land situate North-West of Thomson's Falls Township in the Nakuru District of the said Colony containing by measurement two thousand two hundred and eleven acres (less road reserve of twenty-five acres) or thereabouts that is to say Land Reference Number 8435 which said piece of land with the dimensions abuttals and boundaries thereof is delineated on the plan annexed hereto and more particularly on Land Survey Plan Number 54855 deposited in the Survey Records Office at Nairobi TO HOLD for the term of nine hundred and sixty-nine years from the first day of March One thousand nine hundred and forty-nine SUBJECT to (a) the payment in advance on the first day of January in each year of the rents hereinafter prescribed (namely) :-

- (i) from the first day of March One thousand nine hundred and forty-nine until the thirty-first day of December One thousand nine hundred and sixty an annual rent of Shillings four hundred and thirty-seven and Cents twenty (revisable);
- (ii) from the first day of January One thousand nine hundred and sixty-one until the thirty-first day of December One thousand nine hundred and seventy-five an annual rent calculated at the rate of one per centum on the unimproved value of the land in the year One thousand nine hundred and sixty;
- (iii) from the first day of January One thousand nine hundred and seventy-six until the thirty-first day of December Two

FOR THIS PHOTOGRAPHIC REDUCTION THE SCALE IS

COLONY & PROTECTORATE OF KENYA

DISTRICT OF NAKURU

Locality N.W. of Thomsons Falls Township

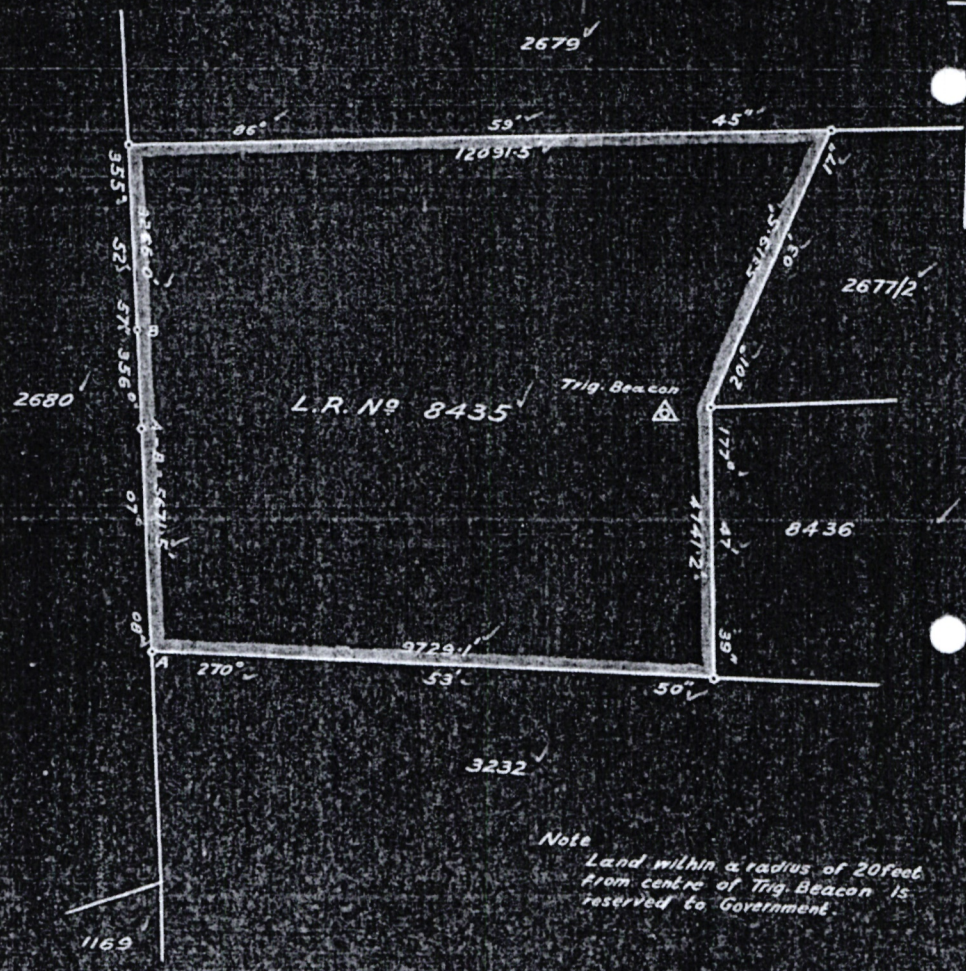
Meridional District North A. 37 6
S. III. C. 1

Land Reference No. 8435
(Orig. No. _____)

Subdivision No. _____ (Orig. No. _____)
of Section No. _____

Scale: 1 in. 25000 or 2083.33 Feet to 1 Inch Total Area = 2211 Acres (Approx.)
Road Reserve = 25 " " "
Nett Area = 2186 " " "

Bearings	Distances Feet



Note
Land within a radius of 20 feet
from centre of Trig. Beacon is
reserved to Government.

(Sgt.) D. KENNEDY

for Director of Surveys

Nairobi APR 8 1954

Traced by A. Smith
Compared by J.L.

Please quote this PLAN No. 54853

thousand and five an annual rent calculated at the rate of two per centum on the unimproved value of the land in the year One thousand nine hundred and seventy-five;

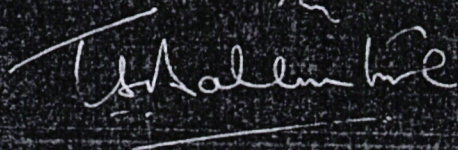
(iv) for every subsequent period of thirty years an annual rent calculated at the rate of three per centum on the unimproved value of the land in the last year of the preceding period of thirty years;

(b) the provisions of the Crown Lands Ordinance (Chapter 155) and (c) the following Special Conditions (namely) :-

SPECIAL CONDITIONS

1. The land shall be used for agricultural purposes only.
2. The value of the developments required by Section 38 of the said Crown Lands Ordinance to be effected on the land within the first three years and the first five years respectively of the term shall be Shillings thirteen thousand five hundred and forty-four (Shs:13,544/-) and Shillings twenty thousand three hundred and sixteen (Shs:20,316/-) of which sums Shillings six thousand (Shs:6,000/-) and Shillings nine thousand (Shs:9,000/-) shall be in respect of permanent improvements.

IN WITNESS WHEREOF I,
JOHN STEVENTON BALLENTINE,
C.B., C.I.E., the Acting
Commissioner of Lands have
by Order of the Governor
hereunto set my hand this
Sixteenth day
of *October* One thousand
nine hundred and fifty-four
in the presence of :-



A. J. Skorn
REGISTRAR OF TITLES

LAND TITLES REGISTRY - COLONY OF KENYA

LAND DISTRICT, NAIROBI - REGISTERED NO. L.R. 10920/1

Presented 18/10/54

Time 2-18 pm

Registrar of Titles

10920/1
[Signature]

566

I HEREBY CERTIFY that the within written Stand Premium has been paid in full.

NAIROBI this 26th day of July, 1955.

[Signature]
REGISTRAR OF TITLES.

LAND TITLES REGISTRY - COLONY OF KENYA

INLAND DISTRICT, NAIROBI - REGISTERED NO. L.R. 10920/2

Presented 26/7/55

Time 2:35 pm

Registrar of Titles

[Signature]
Registrar of Titles

THE FOLLOWING INSTRUMENT HAS BEEN REGISTERED AGAINST THIS TITLE

3 Transfer to Elly Sisal Estate Limited

Presentation No. 2681

Date of Registration 26/7/55

Registrar of Titles

[Signature]
Registrar of Titles

THE FOLLOWING INSTRUMENT HAS BEEN REGISTERED AGAINST THIS TITLE

4 Charge to Ronald Thomas Stamford

Presentation No. 5682

Date of Registration 26/7/55

Registrar of Titles

[Signature]
Registrar of Titles

THE FOLLOWING INSTRUMENT HAS BEEN REGISTERED AGAINST THIS TITLE

5 DECLARATION by the Crown dated 11th August 1961

declaring the annual rent payable for the land comprised in the within-written GRANT/CONVEYANCE OF TITLE to be Sh. 669/-

with effect from 1st January, 1961.

Presentation No. 516

Date of Registration 15/8/61

Registrar of Titles

[Signature]
Registrar of Titles

THE FOLLOWING INSTRUMENT HAS BEEN REGISTERED AGAINST THIS TITLE

6 Discharge of 4 above

Presentation No. 658

Date of Registration 23.3.62

Registrar of Titles

[Signature]
Registrar of Titles

LAND TITLES REGISTRY - COLONY OF KENYA

LAND DISTRICT: NAIROBI - REGISTERED NO. L.R. 10920/1

Presented 18/10/54

Date 2-18/54

Registrar of Titles

10920/1
L. A. A. O.

566

I HEREBY CERTIFY that the within written Stand Premium has been paid in full.

NAIROBI this 26th day of July, 1955.

[Signature]
REGISTRAR OF TITLES.

LAND TITLES REGISTRY - COLONY OF KENYA

INLAND DISTRICT, NAIROBI - REGISTERED NO. L.R. 10920/2

Presented 26/7/55

Date 2/35/55

Registrar of Titles

[Signature]
Registrar of Titles

THE FOLLOWING INSTRUMENT HAS BEEN REGISTERED AGAINST THIS TITLE

Transfer to Elly Sisal Estate Limited

Presentation No. 2681 Date of Registration 26/7/55

Registrar of Titles

[Signature]
Registrar of Titles

THE FOLLOWING INSTRUMENT HAS BEEN REGISTERED AGAINST THIS TITLE

Charge to Ronald Thomas Slanyforth

Presentation No. 5682 Date of Registration 26/7/55

Registrar of Titles

[Signature]
Registrar of Titles

THE FOLLOWING INSTRUMENT HAS BEEN REGISTERED AGAINST THIS TITLE

DECLARATION by the Crown dated 11th August 1961

declaring the annual rent payable for the land comprised in the within-written GRANT/STIPENDIUM OF TITLE to be Sh. 669/-

with effect from 1st January, 1961.

Presentation No. 516 Date of Registration 15/5/61

Registrar of Titles

[Signature]
Registrar of Titles

THE FOLLOWING INSTRUMENT HAS BEEN REGISTERED AGAINST THIS TITLE

Discharge of 1 to 4 above

Presentation No. 658 Date of Registration 23.3.62

Registrar of Titles

[Signature]
Registrar of Titles

3

4

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6

THE FOLLOWING INSTRUMENT HAS BEEN REGISTERED AGAINST THIS TITLE
Charge to Union Investment Company Limited

Instrument No. *E 59* Date of Registration *23.3.62*

W. W. W.
Registrar of Titles

176
4/6

THE FOLLOWING INSTRUMENT HAS BEEN REGISTERED AGAINST THIS TITLE
Charge to Arthurnot Latham & Co. Limited

Instrument No. *176* Date of Registration *5/4/63*

W. W. W.
Registrar of Titles

8
(IR1095)
231
19
(IR1095)

THE FOLLOWING INSTRUMENT HAS BEEN REGISTERED AGAINST THIS TITLE
Discharge of charge No. 8 above.
(with other lands).

W. W. W.
Registrar of Titles

Instrument No. *231* Date of Registration *8.4.64*

Registrar of Titles

10
(IR1095)

THE FOLLOWING INSTRUMENT HAS BEEN REGISTERED AGAINST THIS TITLE
Transfer to Solai Sisal Estate Limited
for Shs. 1769950/-
(with other lands).

W. W. W.
Registrar of Titles

Instrument No. *232* Date of Registration *8.4.64*

Registrar of Titles

628
44
803
(IR1095)
1162

THE FOLLOWING INSTRUMENT HAS BEEN REGISTERED AGAINST THIS TITLE
Charge to Ralli Brothers (Kenya) Limited
(with other lands).

W. W. W.
Registrar of Titles

Instrument No. *803* Date of Registration *27-7-67*

Registrar of Titles

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Certificate of change of name changing the name of Motor Mart (Holdings) Limited to Kenya Motor Holdings Limited

464

12-8-77

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Discharge of No. 11 above

465

12-8-77

15

Charge to Kenya Commercial Bank Limited

For shs. 5,000,000/-

466

12-8-77

481

482

483

210

Discharge of charge No 15 above. 481 15/2/1980

Transfer to Lari Nyakinyua (Solai Farm) Limited

for KShs 6,000,000/-

482

15/2/1980

Change to Habib Bank A.G. Zurich

For KShs 4,000,000/-

483

15/2/1980

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Discharge of no. 18 above

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18-6-92

Dele

I hereby certify this to be a true copy

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Copy to be submitted to

RAK

Date

5th FEBRUARY 20

Joseph

C. K. Nyakundi *298

MAJORITY OF MEMBERS

3(b)

DATED

DAY OF

2020

SOLAI RUYOBEI FARM LIMITED

AND

LARI NYAKINYUA [SOLAI FARM] LIMITED

DEED OF EXCHANGE

DRAWN BY:
S. M. CHEGE & COMPANY
ADVOCATES
GRAND VIEW PLAZA, 2ND FLOOR,
P.O. BOX 1586-00217
LIMURU.

DEED OF EXCHANGE

THIS DEED OF EXCHANGE IS MADE the 21st day of July Two Thousand and Twenty

BETWEEN

SOLAI RUYOBEI FARM LIMITED, through its representatives KIPKOECH CHEBET CHERUTIC, SIMON KIPCHUMBA KANDE and PHILIP SIRMA CHEPTUMO of Post Office Box Number 12199-20100 Nakuru in the Republic of Kenya of the one part;

AND

LARI NYAKINYUA [SOLAI FARM] LIMITED through its representatives FREDRIC KAHIA THUGI, JOSEPH KAMAU NGUGI and VERONICAH WANJIRU CHEGE of Post Office Box Number 145 Kimende in the Republic of Kenya of the other part.

WHEREAS:

- A. The SOLAI RUYOBEI FARM is registered owner of ALL THAT parcel of land known as TITLE NUMBER L.R. NO. 20229/1 [OLJORAI] situated in Gilgil within the Nakuru County of the Republic of Kenya measuring approximately eight nought nought nought (8000) of acres or thereabouts. AND
- B. The LARI NYAKINYUA [SOLAI FARM] LIMITED is registered owner of ALL THAT parcels of lands known as TITLE NUMBER L.R. NO. 7364, 2680 AND 2211[8435] situated in Solai within the Nakuru County of the Republic of Kenya totaling to approximately seven nine seven eight (7978) of acres or thereabouts. AND
- C. This Deed of Exchange is in pursuant to the Deed of exchange made and executed on 24th April, 2003.

NOW THIS DEED WITNESSETH:-

That in pursuant of the aforesaid agreement the said SOLAI RUYOBEI FARM LIMITED does hereby grant, covey, transfer, assign and assure unto and in favour of the said LARI NYAKINYUA [SOLAI FARM] LIMITED free from all encumbrances the said property to HAVE AND TO HOLD the same absolutely and forever AND WHEREAS the said LARI NYAKINYUA [SOLAI FARM] LIMITED does hereby grant, covey, transfer, assign and assure unto and in favour of the said SOLAI RUYOBEI FARM LIMITED free from all encumbrances the said property to HAVE AND TO HOLD the same absolutely and forever.

IT IS HEREBY AGREED AND DECLARED:-

That each party hereto has a good right, full power and absolute authority and indefinable Title to give, grant, transfer and convey the property exchange by the

deed AND that each party shall have right at all times hereafter peaceably and quietly hold, possess and enjoy the same without any claim, demand or interruption by the other and will at the request and cost of the other execute such act, deed or things as shall be reasonably be required by the other for further and more perfectly assuring to the other party hereby conveyed to him.

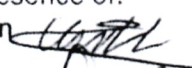
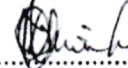

IT IS FURTHER HEREBY AGREED:-

That each party shall do all that is necessary to ensure the issuance of the Title document to the other AND possession shall pass to each of the parties on execution of this agreement.

IT IS FURTHER HEREBY AGREED:-


That the parties shall seek consent for the transfer at the Land Control Board in favour of the other and each party shall bear the cost of transfer of Title Deed in their favour for every Title deed exchanged and shall execute any other required document for transfer in favour of the other whenever they are required to do so.

IN TESTIMONY WHEREOF PARTIES HERETO have set and subscribed their respective hand the day and the year first herein above written.

SEALED with the Common Seal and]	
SIGNED by the said officials of]	
SOLAI RUYOBEI FARM LIMITED]	SEAL
of the]	
in the presence of:]	
Chairman]	
]	
Signature.....]	
Secretary]	
]	
Signature]	
Treasurer]	
]	
Signature]	

CERTIFICATE

I CERTIFY that the above named officials appeared before me on the 21st day of JULY 2020 and duly signed this Deed in my presence.

P. NJOKI KARANJA
ADVOCATE
P. O. Box 1586 00100
LIMURU 

SEALED with the Common Seal and
SIGNED by the said officials of
LARI NYAKINYUA [SOLAI FARM] LIMITED of the
in the presence of:
Chairman

SEAL

Signature.....
Secretary

Signature.....
Treasurer

Signature.....

I CERTIFY that the above named officials appeared before me on the 21st day of July 2020 and duly signed this Deed in my presence.

CERTIFICATE
P. NJOKI KARANJA
ADVOCATE
P. O. Box 1586 - 00217
ADVOCATERU

DRAWN BY:

S. M. CHEGE & COMPANY
ADVOCATES
GRAND VIEW PLAZA, 2ND FLOOR,
P.O. BOX 1586-00217
LIMURU.

5 (a)



NATIONAL LAND COMMISSION

Tel.0202718050
Email.info@nlc.or.ke
Website:www.nlc.or.ke

ARDHI HOUSE
1st NGONG AVENUE
P.O. Box 44417
NAIROBI

Ref: NLC/CHAIRMAN/VOL.XXII/87

20th June, 2018

Chairman Lari Nyakinywa
Land Buying Company
Nakuru

DISPUTE OVER LAND AT OL-JORAI, GILGIL, NAKURU COUNTY

Reference is made to the above land dispute that is well-known to you.

Kindly provide us with the original list and register of your members so as to take the matter forward.

You may submit these to our offices in Nakuru soonest.

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

Cc

NLC Coordinator

- Nakuru County

56



NATIONAL LAND COMMISSION

Tel.0202718050
Email:info@nlc.or.ke
Website:www.nlc.or.ke

ARDHI HOUSE
1st NGONG AVENUE
P.O. Box 44417
NAIROBI

Ref: NLC/CHAIRMAN/VOL.XXIII/45

29th November, 2018

Officials of Lari Nyakinywa (Solai Farm)
Limited, Nakuru
Nakuru

ISSUES ON DISPUTE OVER OLJORAI AND SOLAI FARMS

Reference is made to the many meetings and correspondences on the above dispute that is well-known to you.

Solai Ruyobei Farm Limited have already surveyed and subdivided the Solai farm belonging to you, but settled by them. Events have reached a point where compensation for your land is being discussed.

In order to fastrack the twin processes, kindly give consent to surrender your 3 titles to formalize the said subdivision, as per laws and procedures.

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

Cc

County Coordinator Nakuru -NLC

Solai Ruyobei Farm Ltd

CEC Lands,Nakuru

5(C)



Rec. 15/1/2019
[Signature]

NATIONAL LAND COMMISSION

Tel: 0202718050
Email: info@nlc.or.ke
Website: www.nlc.or.ke

ARDHI HOUSE
1st NGONG AVENUE
P.O. Box 44417
NAIROBI

Ref: NLC/CHAIRMAN/VOL.XXIV/30

14th January, 2019

The Directors
Solai Ruyobei Farm Limited
NAKURU

ISSUES ON DISPUTE OVER OLJORAI AND SOLAI FARMS
OUR CLIENT - LARI NYAKINYUA SOLAI FARM

Enclosed is the latest response on the issue we have been discussing over time. This now paves way for us to follow our agreed roadmap.

Please be informed. Activities are being planned in the shortest time to come.

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

Cc

County Commissioner - Nakuru County

NLC Coordinator - Nakuru County

Directors, Lari Nyakinyua, Solai Farm Ltd



HOWARD, NICK & KENNETH
ADVOCATES

Rec. 8/12/2018
[Signature]

680 HOTEL, 5TH FLOOR, SUITE 524
KENYATTA AVENUE
P.O. BOX 13371 - 00100 NRB

7(a)

Mobile: +254 724 457 609 / +254 720 223 322
EMAIL: info@onlegal.co.ke
WEBSITE: www.onlegal.co.ke



OUR REF : GENERAL FILE/2018
YOUR REF : TBA
DATE : 03rd December 2018

TO; PROF. MUHAMMAD A. SWAZURI, PhD, OGW
CHAIRMAN, NATIONAL LAND COMMISSION
ARDHI HOUSE, 1ST NGONG AVENUE
P.O BOX 44417 - 00100
NAIROBI - KENYA.

"By hand delivery"

RE: ISSUES ON DISPUTE OVER OLJORAI AND SOLAI FARMS
OUR CLIENT - LARI NYAKINYUA SOLAI FARM

We refer to the above referenced matter and your letter Ref: NLC/CHAIRMAN/VOL.XXIII/45 dated 29th November 2018.

Subsequent to the many meetings and correspondences on the issue, we have been instructed by the Directors of Lari Nyakinyua Solai Farm Ltd (our client) to respond to you and confirm that Lari Nyakinyua Solai Farm Ltd consents to surrender and transfer of their titles IR No.s 5157, 1095 and 10920 in respect of LR No. 7364, 2680 and 8435 respectively to Solai Ruyobei Farm Ltd on the following terms;

1. That a parallel surrender and transfer of IR No. 67258 in respect of LR No. 20229/1 registered in the name of Solai Ruyobei Farm Ltd be simultaneously done in favour of Lari Nyakinyua Solai Farm Ltd.
2. That titles IR No.s 5157, 1095 and 10920 once transferred and registered in the name of Solai Ruyobei Farm Ltd shall not be released to Solai Ruyobei Farm Ltd until the amount of Kenya Shillings Six Hundred and Twenty Nine Thousand Two Hundred acknowledged as owed by Solai Ruyobei Farm Ltd to Lari Nyakinyua Solai Farm Ltd is settled.
3. That the National Land Commission, acknowledging the need for compensation to Lari Nyakinyua Solai Farm Ltd for LR No. 20229/1, part of which is occupied by squatters, confirms to Lari Nyakinyua Solai Farm Ltd in writing, the terms of the compensation as well as undertake to fast track the compensation process.

The directors of Lari Nyakinyua Solai Farm Ltd regret that this matter has taken over forty years to settle and despite spirited interventions by the Government leading to the agreement executed on 24th April 2003, members of these two companies are still wallowing in dire poverty while their parcels of land lie unutilized. The court matters having been heard and determined, members of Lari Nyakinyua Solai Farm Ltd at a meeting of the general membership have ratified the above decision and pray that this long outstanding matter be brought to a close.

Your kind response will be immensely appreciated.

Yours faithfully,
Howard, Nick & Kenneth Advocates



Kenneth Kamau
kenkamau05@gmail.com
kenureth@omlegal.co.ke

Cc: Lari Nyakinyua Solai Farm Ltd
Solai Ruyobei Farm Ltd



Reply of Swazuri letter dated 28th Nov. 2018

HOWARD, NICK & KENNETH
ADVOCATES

Dec. 11th Jan 2019
[Signature]

680 HOTEL, 5TH FLOOR, SUITE 524
KENYATTA AVENUE
P.O. BOX 13371 - 00100 NRB

7(b)



Mobile: +254 724 457 609/ +254 720 223 322
EMAIL: info@onlegal.co.ke
WEBSITE: www.onlegal.co.ke

OUR REF : GENERAL FILE/2019
YOUR REF : TBA
DATE : 10th January 2019

TO: PROF. MUHAMMAD A. SWAZURI, PhD, OGW
CHAIRMAN, NATIONAL LAND COMMISSION
ARDHI HOUSE, 1ST NGONG AVENUE
P.O BOX 44417 - 00100
NAIROBI - KENYA.

"By hand delivery"

RE: ISSUES ON DISPUTE OVER OIJORAI AND SOLAI FARMS
OUR CLIENT - LARI NYAKINYUA SOLAI FARM

We refer to the above referenced matter and your letter Ref: NLC/CHAIRMAN/VOL.XXIV/23 dated 8th January 2019.

Kindly note that our earlier letter of even reference and dated 3rd December 2018 on the same subject was NOT imposing conditions to the course of action clearly agreed upon between the parties. We wish to reiterate, for the avoidance of doubt, that our letter was an unequivocal consent to the National Land Commission to complete the long outstanding process of swapping the ownership of the subject parcels of land as between Lari Nyakinyua Solai Farm Ltd and Solai Ruyobei Farm Ltd.

Resultantly, the terms we expressed in our letter were meant to facilitate and not to stifle the said process which we faithfully hope is ongoing, but more importantly, they were essentially meant to follow (not precede) the conclusion of the process by NLC of exchanging ownership of the subject parcels of land.

That said, kindly apprise us on the progress of the swapping of titles to enable the directors of Lari Nyakinyua Solai Farm Limited coordinate their activities especially with a view to organizing an annual general meeting which is long overdue.

Yours faithfully,
Howard, Nick & Kenneth Advocates

[Signature]
Kenneth Kamau
kenkamau05@gmail.com
kenneth@onlegal.co.ke

2



REPUBLIC OF KENYA

THE REGISTRATION OF TITLES ACT
(Chapter 281)

CERTIFICATE OF TITLE

TITLE NUMBER I.R. 67258

TERM: 955

YEARS FROM 1.1.1951

ANNUAL RENT SHILLINGS 405,625/-

(Revisable)

I HEREBY CERTIFY that LANDS LIMITED, a body corporate

25 OCT. 2012

of NAIROBI (Post Office Box number 47101)

in the Republic of Kenya ~~has been~~ ~~registered~~ ~~as~~ ~~Number~~ ~~I.R.~~
is/~~are~~ now registered ~~proprietor~~ as Lessee(s)

from the Government of the Republic of Kenya for the term of nine hundred fifty five (955)

years for the first day of January One thousand nine hundred

and fifty one of ALL that piece of land situate S.W. of Gilgil Township

in the Nakuru District containing by measurement three thousand two hundred

~~four hundred and twenty five (3245) -~~

~~hectares (hectares) or thereabouts and being Land Reference Number 20229/1~~

(Original Number

as delineated on Land Survey Plan Number 190058

annexed to ~~the~~ ~~title~~ ~~deed~~ ~~here~~ ~~to~~

SUBJECT however to the revisable annual rent of Shillings four hundred and five thousand six hundred and twenty five (Shs. 405,625/-) and to the Act Special Conditions Encumbrances and other matters specified in the Memorandum hereunder written.

IN WITNESS whereof I have hereunto set my hand and seal this 25th day of October One thousand nine hundred and ninety five.

[Signature]
Registrar of Titles

MEMORANDUM

- (1) The Government Lands Act (Chapter 280).
- (2) The Special Conditions contained in a Grant registered as Number I.R. 67241/1

GPK 3379-3m-4/95

THIS CERTIFICATE OF TITLE HAS BEEN ISSUED IN TERMS OF SECTION 70 OF THE REGISTRATION OF TITLES ACT (CAP. 281) AND IS IN PART SUBSTITUTION OF THE GRANT REGISTERED AS NO. I.R. 67241/1

AND TITLES REGISTERED UNDER THE REGISTRATION OF TITLES ACT

REGISTERED AS NO. I.R. 67258/1
25TH OCTOBER 1995

REPUBLIC OF KENYA
REGISTRATION OF TITLES ACT
CHAPTER 281

2

Transfer to Solai Ruyobei farm
limited
For Kshs. 24,000,000/-

569 Registration 8-12-95 *[Signature]*

178-1571 PR
11/12 order

3

THE FOLLOWING INSTRUMENT HAS BEEN REGISTERED AGAINST THE TITLE
Court order dated 24th October 2012 in the High
Court of Kenya at Nakuru Civil Case No. 379/2012
prohibiting any dealings with the within written
land

Presentation No. 1421 Date of Registration: 11.07.2013 *[Signature]*
Registrar

I hereby certify this to be a true copy
of the original

Stamp duty Sh. 500/-
Copying A/c. Sh. 30/-
Sh. 320/-

Date 24th July, 2013



REGISTRAR OF TITLES
[Signature]
Sinch *212

2

Transfer to Solai Ruyobei Farm Limited
For Ushs. 24,000,000/-

569 Registration 8-12-95 *[Signature]*

1578-1579 PR
11/12 21/12

3

THE FOLLOWING INSTRUMENT HAS BEEN REGISTERED AGAINST THE TITLE
Court order dated 24th October 2012 in the High
Court of Kenya at Nakuru Civil Case No. 379/2012
prohibiting any dealings with the within written
land

Presentation No. 1421 Date of Registration: 11.07.2013 *[Signature]*
Registered

I hereby certify this to be a true copy
of the original

Stamp duty Sh. 500/-
Copying A/c. Sh. 30/-
Sh. 530/-

Date 24th July 2013

[Signature]
REGISTRAR, NAKURU
Sinch *212



REPUBLIC OF KENYA

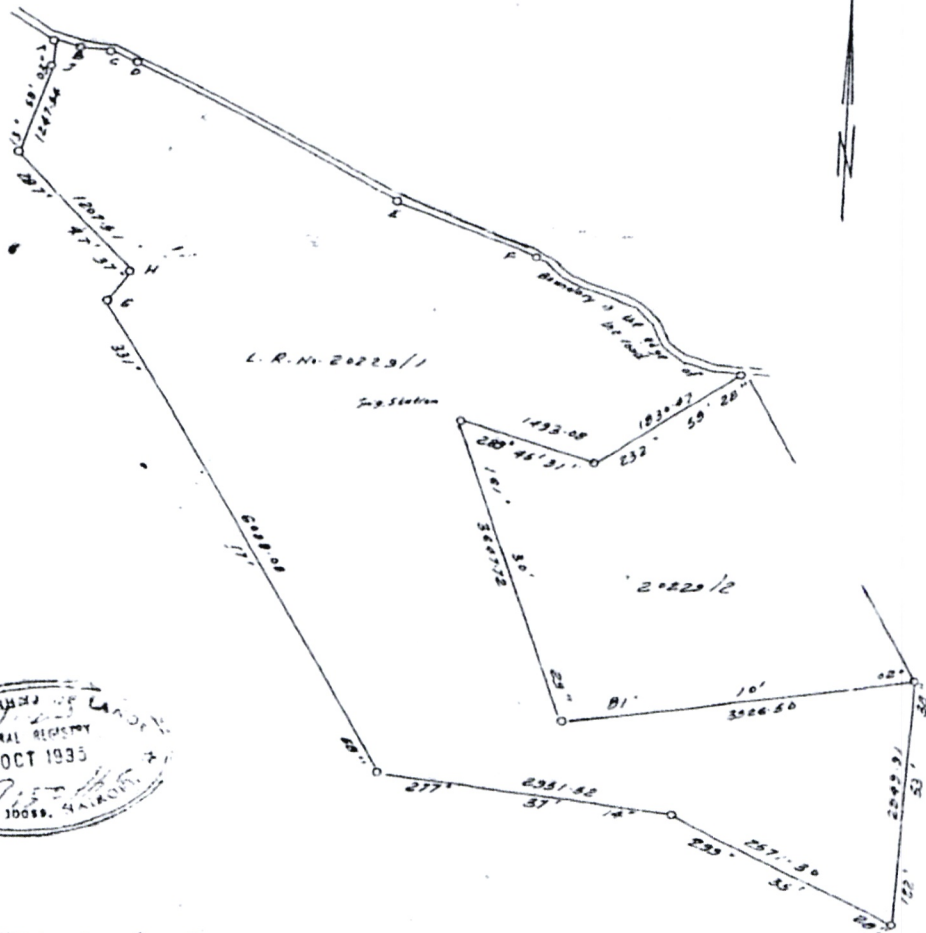
DISTRICT OF NAKURU
Locality S.W. of Githurai Township
Reference Map *Sheet A-37*
A-II-A

Land Reference No. 20229/1
(Orig No.

Sub division No. (Orig No.
of Section No

Area = 324.5 Ha. (Approx.)

	Bearings		Distances
	1	2	Metres
A-B	111	43	288.86
B-C	102	01	289.09
C-D	110	56	294.87
D-E	119	20	3100.13
E-F	114	53	1887.24
F-G	9	13	184.96
G-A	356	07	162.01



N.B. Land within a radius of 50m from the centre of the Sub Station is reserved to the government.

Traced by
Compared by

Scale 1 in 50,000

J. M. Mwangi
for Director of Surveys

Nairobi 27th SEP 1994

19 94

3(a)

REPUBLIC OF KENYA

DEED OF EXCHANGE

THIS DEED OF EXCHANGE is made this 24th day of April 2003 BETWEEN SOLAI RUYOBEI FARM LTD (through its representatives Charles Olare Chebet I.D. NO. 6593357, Richard K. Bundetich I.D. No. 3552036, both of P.O. BOX 12199-20100, Nakuru in the Republic of Kenya AND LARI NYAKINYUA (Solai Farm) Ltd through its representatives MACHARIA MANDABA I.d. No. and HANNAH MWIHAKI of I.D. NO 0711198 both of P.O. BOX 200 uplands in the aforesaid Republic.

WHEREAS SOLAI RUYOBEI Farm is the owner of parcel of land known as L.R. NO. 20229/1 (OLJORAI) by measurements 8000 acres or thereabouts AND WHEREAS LARI NYAKINYUA (SOLAI FARM) LTD is the owner of parcels of land known as L.R. NOS 7364, 2680 AND 2211(8435) totaling by measurements 7978 acres or thereabouts AND WHEREAS the parties hereto have agreed to mutually exchange and transfer ownership of the said properties as between themselves

NOW THIS DEED WITNESSETH:-

That in pursuance of the aforesaid agreement the said SOLAI RUYOBEI FARM LTD does hereby grant, convey, transfer, assign and assure unto and in favour of the said LARI NYAKINYUA (SOLAI FARM) LTD free from all encumbrances the said property TO HAVE AND TO HOLD the same absolutely and forever AND WHEREAS the said LARI NYAKINYUA (SOLAI FARM) LTD does hereby grant, convey, transfer, assign and assure unto and in favour of the said SOLAI RUYOBEI FARM LTD free from all encumbrances its aforesaid land TO HAVE AND TO HOLD the absolutely and forever.

IT IS HEREBY AGREED AND DECLARED:- that each party hereto has a good right, full power and absolute authority and indefiable Title to give, grant, transfer and convey the property exchange by the deed AND that each party shall have right at all times hereafter peaceably and quietly to hold, possess and enjoy the same without any claim, demand or interruption by the other and will at the request and cost of the other execute such act, deed or thing as shall be reasonably be required by the other for further and more perfectly assuring to the other party hereby conveyed to him.

RECEIVED FOR
DEPARTMENT OF LANDS
2003
Nakuru
COMMISSIONER FOR LANDS.


IT IS FURTHER HEREBY AGREED:- that each party shall do all that is necessary to ensure the issuance of the Title document to the other AND possession shall pass to each of the parties on execution of this agreement but SOLAI RUYOBEI FARM LTD shall pay Kenya Shillings One Million (Kshs 1,000,000/=) only to LARI NYAKINYUA (SOLAI FARM) LTD being the value of the structures and/or Developments in the farms.

IT IS FURTHER HEREBY AGREED:- That the parties shall seek consent for transfer at the Lands Control Board in favour of the other and each party shall bear the cost of transfer of Title Deeds in their favour for every Title deed exchanged and shall execute any other required document for transfer in favour of the other whenever they are required to do so.

IN TESTIMONY WHEREOF PARTIES HERETO:- have set and subscribed their respective hands this day and the year first herein above written.

SIGNED by the said:-
Charles Olare Chebet (Chairman)

Richard K. Bundotich (Secretary)
in the presence of:-

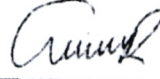
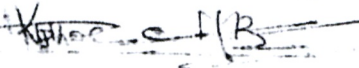



JULIUS J. OMBATI
ADVOCATE &
COMMISSIONER FOR OATHS
P.O. BOX 14703-20100, NAKURU

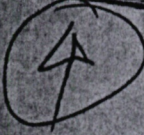
SIGNED by the said:-
Macharia Mandaba (Chairman)

HANNAH MWIHAKI (Secretary)
In the presence of:-


JULIUS J. OMBATI
ADVOCATE &
COMMISSIONER FOR OATHS
P.O. BOX 14703-20100, NAKURU

DRAWN BY:
B.W.MATHENGE & CO,
ADVOCATES,
GATE HOUSE BUILDING,
5TH FLR RM 512,
P.O. BOX 15269,
NAKURU.

 24/4/2003


 24/4/2003



No. C. 18934



date 10.7.2014
Nairobi
Registrar of Companies

CERTIFICATE OF INCORPORATION

I hereby Certify, that—

LARI NYAKINYUA (SOLAI FARM) LIMITED

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

Given under my hand at Nairobi this TWENTY SECOND day
of MARCH Two Thousand ONE THOUSAND NINE HUNDRED AND
SEVENTY NINE

By: _____
Registrar of Companies

Rec 24/11/2014 MA

6



VICE CHAIR'S OFFICE

Telegrams: "MINILANDS", Nairobi

Telephone: Nairobi 2718050

ARDHI HOUSE
NGONG ROAD
P.O. Box 44417
NAIROBI

Ref: **25258**

Date: **24th November, 2014**

The County Commissioner
NAKURU COUNTY

Dear Sir

RE: LARI NYAKINYUA AND SOLAI RUIYOBEL FARMS HANDOVER

The above matter refers.

The Commission is in the advanced stages in resolving the long standing land dispute between the Lari Nyakinyua Farmers and the Solai Riyobei Farm Ltd, concerning the land at Oljurai Division, Gilgil District, L.R. No. 20229/1.

It has however come to the attention of the Commission that unscrupulous persons, who are not members of Lari Nyakinyua, or persons currently residing on the land are entering the land and carrying out various activities on the land. These activities pose a serious security breach and are bound to cause clashes.

The purpose of this letter is to request you to assist the Commission in ensuring that these invasions and activities on the land cease forthwith.

Your assistance in this matter will be appreciated.

Yours faithfully

ABIGAE M BAGAYA MUKOLWE (MRS.)
VICECHAIR
NATIONAL LAND COMMISSION

The Governor
County Government of Nakuru
NAKURU

The Commissioner of Police
NAKURU COUNTY

The County Criminal Investigation Department
NAKURU COUNTY

Hon. Mathenge M.P.
NAKURU TOWN

Members of the County Assembly
NAKURU COUNTY

8

REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NAKURU
HCC NO. 87 OF 2007

PETER NDUGUNYA OLE SONO AND 2 OTHERS (Suing on their own behalf and on behalf of OL JORAI COMMUNITY MEMBERS) PLAINTIFF

-VERSUS-

LAND LIMITED 1ST DEFENDANT
SOLAI RUYOBEL FARM LIMITED 2ND DEFENDANT

As Consolidated with

ELC NO. 89 OF 2013 (OS) FORMERLY HCC NO. 379 OF 2012 (OS)

JOHN MERONI LESALUNGA 1ST PLAINTIFF

TIMEYO OLE RATIA 2ND PLAINTIFF

JANE SIMITA MUNKA 3RD PLAINTIFF

SIMEL OLE PARTUNKAS 4TH PLAINTIFF

JOHN LOKITILAERGAE 5TH PLAINTIFF

(Suing on their own behalf and on behalf of OL JORAI COMMUNITY MEMBERS)

-VERSUS-

SOLAI RUYOBEL FARM LIMITED DEFENDANT

DECREE

PLAINTIFFS IN HCC. 87 OF 2007- A CLAIM FOR:-

- (a) A declaration that LR NO. 20229/1 which was excised from LR NO. 9581 and which has now been subdivided into parcels of land known as Kiambogo/Kiambogo Block 3/13320 (Ol Jorai Farm) belongs to the Plaintiff herein and the Oljorai Community.
- (b) In alternative, a declaration that the title previously held by the 1st Defendant was determined by the operation of law and the 1st Defendant had no good title to pass to the 2nd Defendant and that the Plaintiff's have acquired title LR NO. 20229/1 by adverse possession.
- (c) An order cancelling the Certificate of title issued in respect of LR NO. 20229/1 in the 2nd Defendant's name and further that LR NO. 20229/1 be registered in the Plaintiff's name.
- (d) A permanent injunction to issue to restrain the 2nd Defendant either by itself, its agents and/or servants or otherwise howsoever from trespassing, surveying, selling, disposing, dealing and/or interfering with the Plaintiff's quiet possession of LR NO. 20229/1 which was excised from LR NO. 9581 which has now been subdivided into parcels of land known as Kiambogo/Kiambogo Block 3/13320 (Ol Jorai Farm) in any manner whatsoever.
- (e) Any other or further reliefs that this Court may deem fit and just.
- (f) Costs of the suit.

PLAINTIFFS IN ELC. 89 OF 2013 (OS) – A CLAIM FOR:-

- i. Adverse possession over LR NO. 20229/1 which is registered in the name of Solai Ruyobei Farm Limited.
- ii. Cost of the suit.

THESE two matters having been consolidated **AND** coming up for Hearing on various days and for Judgment on 27th November, 2019 before the Honourable Justice Munyao Sila

AND UPON hearing the Plaintiffs and the Defendants case in the consolidated matter in full.

AND UPON PERUSING AND READING SUBMISSIONS by Counsel for Plaintiffs and Defendants:-

IT IS HEREBY DECREED AND ORDERED:-

1. **THAT** the land parcel LR NO. 20229/1 has never been lawfully subdivided and remains intact and the title thereof still remains registered in the name of Solai Ruyobei Farm Limited.
2. **THAT** it is hereby declared that the titles Kiambogo/Kiambogo Block 3/1-3320 (Ol Jorai Company Limited) or (Ol Jorai Farm) are all fraudulent titles and null and void ab initio.
3. **THAT** any other title claimed to have been derived from the same ground occupied by the land parcel LR NO. 20229/1 is hereby declared a fraudulent title and null and void ab initio.
4. **THAT** Chief Land Registrar and the District Land Registrar Naivasha be and are hereby ordered to expunge from their records the titles Kiambogo/Kiambogo Block 3/1-3320 or any other title claimed purporting to have been derived from a subdivision of the land parcel LR No. 20229/1.
5. **THAT** the purported Registry Index Maps bearing the titles Kiambogo/Kiambogo Block 3 Ol Jorai Farm or Ol Jorai Company Limited, or any other such title claimed to have been derived from a subdivision of LR NO. 20229/1 or from amalgamation and later subdivision of LR NO. 10242 and LR NO. 9581 are hereby declared to be fraudulent and null and void ab initio.
6. **THAT** the Director of Surveys is hereby ordered to forthwith expunge the Registry Index Maps bearing the titles Kiambogo/Kiambogo Block 3 (Ol Jorai Company Limited) or (Ol Jorai Farm) or any other map or deed plan claiming to be a subdivision of the land parcel LR No. 20229/1 or claiming to be derived from an amalgamation and later subdivision of the Land Parcels LR No. 10242 and LR No. 9581.
7. **THAT** case of the Plaintiffs in the suit Nakuru HCC NO. 87 of 2007 is hereby dismissed with costs.
8. **THAT** the case of the Applicants' in the suit Nakuru ELC No. 89 of 2013 is hereby dismissed with costs.

...by declared that the rightful proprietor of the land parcel LR NO. Solai Ruyobei Farm Limited and the said Company is at liberty to apply for order of eviction and/or deal with the said land as it may wish.

GIVEN at NAKURU under my **HAND** and **SEAL** of this Court this 27th day of November, 2019

HON. MUNYAO SII A
JUDGE- ENVIRONMENT AND LAND COURT
NAKURU LAW COURTS

ISSUED at NAKURU this day of 2019


DEPUTY REGISTRAR
ENVIRONMENT AND LAND COURT
NAKURU LAW COURTS

LARI NYAKINYUA SOLAI FARM LTD
P.O BOX 145 – 00221
MATATHIA
TEL: 0721 931375

27TH Oct 2020

Your Ref: SEN/12/3/PETITIONS NO 7/2019

Mr. Daniel Chama
Principal Clerk Assistant

Dear Sir,

**REF: PETITION CONCERNING EXCHANGE AND FINAL TRANSFER OF
THE PARCELS OF THE LAND IN NAKURU COUNTY.**

We acknowledge receipt of your letter dated 26th Feb 2019 of which we thank you for.
Please find emailed documents for your verification.

1. 3 Copies of Title deeds No. 7364, 2680 and 2211 (8435) 8,000 Acres for Lari Nyakinyua Solai Ltd
2. 1 copy of Title deed L.R 20229/11 , 8000 Acre for Solai Ruyobei Farm
3. (a) Deed of exchanged of 24/4/2003 (Old)
(b) Deed of exchanged of 21th July 2020 (New)
4. Certificate of incorporation
5. Letters from Prof. Swazuri former chairman of Land commission
6. Letter from the former vice chair of land commission
7. Letters from company lawyer addressed to Prof. Swazuri
8. Court decree

We will be most grateful if this matter shall be attended to so that our members can settle in their land at Gilgil as Solai Ruyobei farm have already settled in our land at Solai.

Looking forward for the zoom online meeting on 29th October 2020 at 12:00 noon.

Kindly send us the link.

Yours Faithfully



Joseph Kamau Ngugi
Secretary

STAKEHOLDER'S SUBMISSIONS



NATIONAL LAND COMMISSION

**RESPONSE TO PETITIONS AND STATEMENTS REFERRED TO THE SENATE STANDING
COMMITTEE ON LAND ENVIRONMENT AND NATURAL RESOURCES**

REPORT BY:

**GERSHOM OTACHI BW'OMANWA
CHAIRMAN**

12th FEBRUARY, 2021

DRAFT REPORT

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1.PETITION BY RESIDENTS OF NGAREMARA IN ISIOLO COUNTY ON THE ALLEGED ILLEGAL ENCROACHMENT OF THEIR COMMUNITY LAND BY THE SCHOOL OF ARTILLEY(KENYA DEFENCE FORCES)

Honourable Chair,The Commission wishes to respond as follows:

The Gazette Notice No. 3210 dated October 31, 1977 reserved land for Kenya Defence Forces in Isiolo, Samburu and Turkana (the Gazette Notice is marked **Annexure 1**).

Vide a Letter of Allotment Ref. 189464/II dated July 12, 2018 , the National Land Commission allocated land measuring 3,764 Hectares to the Cabinet Secretary for National Treasury to hold in trust for Kenya Defence Forces School of Artillery.

Honorable Chair, Ngaremara adjudication section does not overlap with the land reserved for the Kenya Defence Forces and all parcels of land set aside for the Kenya Defence Forces has been surveyed.

2.STATEMENT REQUESTED BY SENATOR HALAKE ABSHIRO,MP ON 24TH SEPTEMBER,2019 ON THE EVICTION NOTICE SERVED ON RESIDENTS OF ISIOLO COUNTY BY THE STATE DEPARTMENT OF DEFENCE TO PAVE WAY FOR THE EXPANSION OF THE KENYA DEFENCE FORCES (KDF)TRAINING CAMP

Honorable Chair,the Commission responds as follows:

Reservation of the land for Kenya Defence Forces in Isiolo, Samburu and Turkana was done vide Gazette Notice No. 3210 dated October 31, 1977 (a copy of the Gazette Notice is marked **Annexure 1**).

The Kenya Defence Forces (KDF) School of Infantry in Isiolo currently occupies land registered as L.R. Number 27155 measuring approximately 10,665 Hectares.

Colonial government set apart land(Holding area and quarantine) for the department of livestock for the land that was designated as crown land.MoD identified the land in 1979/1980,took possession and established a camp.a letter of allotment was issued in 2000 and the land was surveyed in 2004 and title issued in 2006.

From the foregoing, it is clear that the reservation was done in 1977 and the question of compensation does not arise.

Honorable Chair,

The issue of the eviction notice issued by the Government in September last year is the subject of litigation before a Court of Law at Meru as case ELC 25 of 2019 where the applicant is Joseph Loruyaei and others -vs- CS Defence,CS Interior,CS Lands,County Commissioner Isiolo,County Government of Isiolo and the AG..

The Court issued conservatory Orders in October,2019 restricting the Respondent from evicting the Applicants pending interpartes hearing.

3.STATEMENT REQUESTED BY SENATOR FATUMA DULLO,MP ON 27TH NOVEMBER ,2019 CONCERNING THE NOTICE BY THE MINISTRY OF LANDS AND PHYSICAL PLANNING SEEKING TO OPEN UP LAND IN ISIOLO COUNTY FOR ADJUDICATION UNDER LEGAL NOTICE NO.150 OF AUGUST,2019

The petitioner has requested that in its statement, the Committee should;

- 1) State what informed the Ministry's decision in issuing the gazette notice which in effect will lead to the conversion of communal land into private land despite there being a number of contentious land related disputes in the County yet to be resolved.
- 2) Explain why the Ministry decided to exclude the Kenya Defense Force's School of Infantry and Combat Engineering from the adjudication process knowing very well that there is a court order in place stopping the Kenya Defense Force from carrying out any survey in the contentious area until the dispute is settled.
- 3) Explain why the Ministry of Lands and Physical Planning is attempting to convert land lying along the LAPSET corridor and Isiolo Resort into public land knowing very well that the said land has its rightful owners who are yet to be compensated.
- 4) Explain whether in issuing the legal notice the Ministry of Lands and Physical Planning sought and received approval from the County Government who are the legal custodians of unregistered community land.
- 5) Explain why the Ministry of Lands and Physical Planning failed to undertake public participation, engage with all leaders and other stakeholders before issuing the gazette notice knowing clearly that the communities' interests must be protected at all times; and
- 6) State whether the legal notice issued by the Ministry of Lands and Physical Planning was in accordance with the law and in adherence with the principles of openness, accountability and the confines of public participation.

Honourable Chair, National Land Commission wishes to respond as follows:

The Cabinet Secretary Ministry of Lands and Physical Planning declared parts of Isiolo County as adjudication areas vide Legal Notice No. 150 of September 3,2019. The areas with concentration of human settlement are to be registered under the Land Adjudication Act cap 284, while the grazing lands are to be registered under the Community Land Act ,2016.

This legal notice was however amended vide Legal Notice No. 1 of January 10, 2020. This was after the County Assembly Housing and Urban Development Committee held consultative meetings between November 8 and 16, 2019 and proposed the widening of the applicable area.

The amended notice occasioned increases in the items as shown in the table below;

NO	ITEM	LN No. 150 of September 3, 2019	LN No. 1 of January 10, 2020
1.	Adjudication Sections	4	36
2.	Township Blocks	9	16
3.	Certificate of Leases	7,500	17,050
4.	Projected Title Deeds	10,250	25,250

Source Ministry of Lands and Physical Planning

The gazettment of the County to be an Adjudication area is an issue that will best be addressed by the Ministry.

The reason for excluding land for Kenya Defence Forces is that the land for Kenya Defence Forces in Isiolo among other places was done vide Kenya Gazette Notice No. 3210 of 31 st October 1977. The Commissioner of Lands issued a letter of allotment to the Department of Defence for land parcel measuring 10,209 hectares for School of Infantry Cantonment. Consequently, title was issued to the Permanent Secretary to the Treasury as trustee of the Kenya Defence Forces. The Land Adjudication Act Cap 284 cannot be applied to a titled area.

The residents of the Burat wards did protest the allocation and have since filed a case in court. The case was filed by Joseph Lorunyei Kuwam and six others against the Cabinet Secretaries of Defense, Lands and Interior& Coordination of National Government, the Attorney General and others in Petition No. 25 of 2019 in the Environment and Land Court at Meru. This case is still live in court.

The LAPSETT corridor land was gazetted on October 21, 2016 vide the Kenya Gazette Notice Vol. CXVIII-No.129. The acquisition of land within the LAPSETT corridor, Isiolo Resort City and Isiolo International Airport is the mandate of the National Land Commission and the LAPSETT Corridor Development Authority. The acquisition of the corridor process will be conducted under the procedures of compulsory land acquisition and those affected will be compensated.

Honourable chair,

The gazettment of Isiolo as an adjudication area does not extinguish the rights of Isiolo residents to pursue compensation for land that has been gazetted for other uses within the County.

4. PETITION SUBMITTED BY THE RENDILLE AND SAMBURU COMMUNITY REPRESENTATIVES CONCERNING THE ALLEGED ACQUISITION OF KARARE AND MARSABIT COUNTY BY THE KENYA DEFENCE FORCES.

Hon chair,

The Commission wishes to respond to the petition as follows:

Background

The Commission wishes to bring to the attention of this esteemed Committee that there is an active Court matter at the Meru Environment and Land Court - Constitutional Petition No 4 of 2020, filed **by the Rendille Professionals Association and local elders on behalf of the Community regarding the allocations of the land parcels by the County Government of Marsabit** challenging the constitutionality of the process applied by the Department of Defense with regard to their interest in the subject land.

However the Commission wishes to briefly outline process the Ministry of Defence followed to acquire the land

1. The Ministry of Defence made a decision to establish a military barracks in Marsabit for security reasons and on 16th March 2012 made a formal request to be allocated land in Karare, Marsabit County. On 8th June 2015, the County Council of Marsabit formally allocated 2,500 Ha in Kubi Kalo. The processing of ownership of the land was overtaken by events following the coming in place of devolved governments in 2013.
2. On 18th June 2019, Ministry of Defence made a formal request to the County Government for allocation for land in Marsabit.
3. On 22nd July 2019, the County Government of Marsabit formally allocated land in Karare (5,000 Ha); Haiya (10,000 Ha) and Odda military camp (242 Ha). On 22nd August 2019 the department of defense requested the National Land Commission for allotment letters for the parcels of land. The Commission informed Department of Defence in a letter dated 4th November 2019, that it could not issue allotment letters because the land was community land. **It turns out that this may not have been the correct position.**

On January 16th, 2020, MOD & CGM resolved to subject the land allocations to a Public Participation process as advised by the National Land Commission. Subsequently Public Participation and Validation exercise for the land allocations was conducted from 21 to 31 January 2020 in Marsabit County. The exercise considered critical factors such as human settlements, grazing areas, water catchment areas and conservation of biodiversity and among others in choosing the ideal location for the KDF Camp.

The Public Participation exercise was carried out successfully by the Joint MOD, KWS, CGM team (Comprising of all stakeholders), County Leadership, MPs, MCAs and members of the local community across the areas expected to host MOD facilities. The local community participated

in the exercise and assisted representatives from the MOD to identify the suitable locations.

The petitioners are contesting the process followed in the allocation of Community Land at Karare ward.

The coordinates of the 5,000 Ha parcel of land allocated in Karare by the County Government of Marsabit is:-

STN	Eastings	Northings
A	376583	248844
B	374070	248821
C	370311	251031
D	366218	250703
E	366957	244713
F	373812	244527
G	373800	245810
H	376328	245840

When the above coordinates were plotted on the map it fell within the Marsabit National Reserve (Annex 1).

Conclusion

The contested parcel of land in question is part of the Marsabit National Reserve sitting next to the Marsabit National Park and not Community Land as alleged by the petitioners.

5.PETITION CONCERNING THE ALLEGED EXCHANGE AND FINAL TRANSFER OF TITLES FOR PARCELS OF LAND KNOWN AS LARI NYAKINYUA SOLAI FARM(LOCATED IN SOLAI,NAKURU COUNTY)AND RIYOBEI FARM LIMITED(LOCATED IN GILGIL,NAKURU COUNTY)

Prayer of the petitioner is

That Senate investigates the matter and comes up with appropriate recommendations to ensure that the exchange of title deeds process is expedited and land ownership and utilization rights and interests restored and safeguarded by eviction of illegal occupants

The commission wishes to respond as follows:

The dispute between the two land buying companies dates back to the mid-seventies when Lari Nyakinyua first bought 8000 acres of land in Solai.

The following is the profile of the two land buying companies:

LARI NYAKINYUA FARMERS COMPANY LTD

This was women land buying company from Lari, Kiambu County popularly known as NYAKINYUA. The company bought 8000 acres of land in (Solai) Rongai Sub – County in the early seventies.

The women group Lari Nyakinyua while organizing to settle their members at the 8000 acre farm, members of the local community moved in and occupied the land forcefully to date denying the buyers an opportunity to settle.

At the advent of multi – politics in Kenya it was agreed by the leaders to compensate the Lari NYAKINYUA women with an alternative parcel equal to their original land but in a different Sub – County, now Gilgil **OLJORAI ADC FARM**.

RUYOBEI FARMERS COMPANY LIMITED

This is a registered land buying company formed by a community from Solai in Rongai Sub – County Nakuru County with the intention to buy land for its members.

A majority of their members moved into the land bought by LARI NYAKINYUA in Solai in 1992 when a decision was made to compensate members of LARI NYAKINYUA, following a series of meetings held by leaders from Nakuru and Lari, Kiambu. This led to the signing of the titles exchange agreement between the two land buying companies to bring to an end several years of long standing conflict between the two.

AGREEMENT

On 24th April 2003, the directors of the two companies signed an agreement to exchange Title deeds to end the many years of conflict. This was not possible due to internal conflicts between the directors of the two land buying companies among themselves fighting for leadership and other interests. Lari Nyakinyua Land buying

company had two factions and Solai Ruyobei too had the same and both dispute ended in court.

The directors who signed were;

Lari nyakinyua

- a. John Nganga
- b. Samuel Macharia
- c. Hannah Muturi

Ruyobei

- a. Morogo Chebet
- b. Olari Chebet
- c. Richard Bunditich
- d. Musa Toroitich
- e. Daniel ario

The Governor Nakuru County in a letter REF: NO. NCG/S/LND/VOL. II/09 dated 25th November, 2014 requested National Land Commission to expedite the matter of the two farms since it was becoming a security threat. On 9th December 2014, National Land Commission wrote a letter to the Governor from the perspective of the Commission, the exchange never materialized at that time due to the following reasons;

- Lari Nyakinyua still holds the title for Solai Farm which was invaded by Ruyobei members.
- Ruyobei Farmers Limited still holds a Title for Oljorai and are in court with Oljorai squatters and a faction of directors.
- Oljorai farm is in court being sued by Solai farmers Co. LTD.

Subsequently, the High Court in Nakuru ELC COURT Civil Case No. 87 of 2007, whose parties are **Nduguia Ole Osano Vs two others (a) Lands Limited (b) Solai Ruyobei Farm Limited** ruled in favor of SOLAI RUYOBEI FARMERS CO. LTD towards the end of 2019.

The 8000 acres of OLJORAI FARM is currently occupied by over 10,000 squatters for close to 30 years now. This is the same farm the High court ruled in favor of SOLAI RUYOBEI FARMERS CO. LTD which was supposed to be exchanged to LARI NYAKINYUA.

In early 2020 the parties reported back to the Commission that following the Court Decision , they were willing to proceed with the exchange with the assistance of the

provincial administration. They were to report back on the progress and the Commission awaits the report.

6. PETITION SUBMITTED BY THE WAJOMVU COMMUNITY, MOMBASA COUNTY, CONCERNING THE ALLEGED HISTORICAL LAND INJUSTICES INVOLVING PLOT NO.162/V/M.NCR 1070 IN MOMBASA COUNTY

Hon Chair, The Commission respond as follows:

This matter is listed as a historical no.NLC/HLI/565/2019 that has been prioritized for investigations, hearing and determination.

The Chairman of NLC together with the County Co-ordinator joined the Senate team on Friday 19th February 24, 2021 on a visit to the ground and obtained first – hand information on the matter.

7. PETITION SUBMITTED BY RESIDENTS OF MKAMENYI VILLAGE IN VOI SUB COUNTY OF THE TAITA TAVETA COUNTY. THE ALLEGED ENCROACHMENT OF LAND BELONGING TO MKAMENYI RESIDENTS BY VOI POINT LIMITED IN TAITA TAVETA

The above mentioned parcel measuring approximately 1953 hectares is situated within Voi town in the county of TAITA TAVETA. This parcel was allocated to VOI SISAL ESTATES through a grant No C.R 51725 registered at the Mombasa land registry. For a term of 99 years, effective 1.1.1993. This allocation was as a result of surrender registered in the Governments Land Titles Registry at Mombasa as C.R No. 8814/37.

The land mentioned above is Land registered under **(CAP 281) Registration of Titles Act (repealed)**. And is therefore under the custody of **Mombasa Lands Registry**. The parcel was later transferred to VOI PLANTATIONS LIMITED, who charged the parcel to Diamond Trust Bank Kenya Limited For KSH. 3,000,000,000/= and USA \$ 5,000,000/=. Voi sisal estate later transferred the above parcel to Voi point limited at a consideration of Kenya shillings 1,002,000,000/= (one billion and two million shillings)., and charged to DIAMOND TRUST BANK KENYA LIMITED for Ksh. 4,800,000,000/=

The county Government of Taita Taveta, has objected to the Transfer and Subdivision of the parcel, on allegations that they are aware that the lease earlier granted had expired, and that certain individuals had managed to renew the lease without seeking their

approval. Allegations which have since been proved as untrue by the Land Registrar Mombasa.

Voi point limited has subdivided part of the parcel into various portions, LR NO. 28683/27 measuring approximately 20.23 Hectares which was transferred to Mkamenyi society of Voi point with the intention to settle squatters residing within the parcel in an area known as Mkamenyi. All the above mentioned transactions were lodged at the Mombasa Land Registry.

It seems Mkamenyi squatters are claiming a larger share of land (i.e 35 acres given against 150 acres claimed) hence the dispute.

The company engaged the services of a private surveyor since this is a private matter .

The Commission's mandate in this matter is limited as the property in issue is private land. The Commission is , however, ready to assist or lead in an ADR mechanism that may be considered with a view to resolving the dispute.

8.PETITION BY RESIDENTS OF MSAMBWENI VILLAGE IN VOI SUB COUNTY OF TAITA TAVETA COUNTY ON THE IMPENDING EVICTION BY A PRIVATE COMPANY.

Prayer of the petitioner is that Senate carries out investigation to establish the following

- a) How it was possible for the Commissioner of Lands to allow Bata Shoe Company to transfer its lease grant to Sparkle Properties Limited in total disregard of the terms and conditions of the grant which opposed the same.
- b) How it was possible for Bata Shoe Company to sell the land to Sparkle Properties Limited at Kshs.12million and yet it had not done any development on it.
- c) Recommend that appropriate action be taken against the Commissioner of Lands for colluding with Bata Shoe Company to transfer Msambweni residents land to Sparkle Properties Limited despite there being terms and conditions against the same.
- d) Recommend that the Ministry of Lands acquires the disputed land and settles the residents on it through compulsory acquisition
- e) Takes any other action it deems fit to ensure that the residents of Msambweni live in peace as before

Hon Chair,The Commission wishes to respond as follows:

The disputed parcel is situated within Voi Township and borders Ndara A Adjudication Section and Kaloleni Majengo Squatter Upgrading Scheme. The parcel is registered at the Mombasa Land Registry Under Cap 281(Registered Titles Act) now repealed as L.R No. 1956/506 C.R. No 23979 on Survey plan No. 107124 measuring approximately 54.26 Ha.

This parcel was allocated to BATA SHOE COMPANY LIMITED who intended to construct a shoe factory, and was issued with title deed on 30th April 1993. BATA SHOE COMPANY later sold the parcel to SPARKLE PROPERTIES LIMITED at a consideration of Kshs.12,000,000. The transfer was lodged on 21st March 2011 and a new title issued to sparkle properties limited as the proprietor.

The proprietor upon receiving title to the land discovered that squatters had moved in and constructed residential houses, they also prevented the owner from taking possession or accessing the property. This prompted her to move to the Environment and Land Court at Mombasa through Civil Case No.265 of 2013.

Sparkle properties Limited

VS

1. Johana Ngai
2. Fatuma Mwamburi
3. Suleiman Kiboi Mwanyambo
4. Hamisi Kalela
5. Alois Mwambi
6. Asha Mwake
7. Fatuma Kodi
8. Bata Shoe Co.Limited
9. The Attorney General

On 27th January, 2020 the Hon Judge A.Omollo delivered his ruling by entering Judgment for the plaintiff against the 1-7th defendants jointly and severally for:

- a) Permanent injunction restraining the defendants whether acting by themselves; their employees, agents and/or servants and/or through any other manner whatsoever interfering with the suit property to unit L.R 1956/506.
- b) Mandatory injunction compelling the defendants to demolish and or pull down structures erected on the suit property and to give vacant possession to the plaintiff.
- c) That there be a permanent injunction restraining the defendants and/or their agents to allow them to occupy or construct the unoccupied space and proceed with construction forthwith.

- d) General damages for trespass awarded at Ksh.150,000 payable by each defendant to the plaintiff giving a total sum of Kshs 1,050,000 with interest from the date of filing suit until payment is made in full.
- e) Costs of the suit awarded to the plaintiff.

OPINION

It is the opinion of the Commission that, the issues raised by the petitioners are matters which were fully ventilated Civil Case No.265 of 2013.

The possible action the residents can take is to file an appeal against the judgment and seek further redress on the matter.

Any possible redress must be considered against the Court Decision.

9.SEN. ANWAR LOITIP, MP, SENATOR, LAMU COUNTY ON ALLEGED ENCROACHMENT OF SEN. ANWAR LOITIP, MP, SENATOR, LAMU COUNTY ON ALLEGED ENCROACHMENT OF LAKE KENYATTA RIPARIAN LAND

- i) State whether Lamu County followed due process in licensing Lake Kenyatta Beach Management Unit which has been given the responsibility of managing areas of the beach reserved for hippopotamus to graze as well as recreational areas for fishermen and public
- ii) Explain whether Lamu County authorized demarcation of the aid area and subsequently allocated the beach area to Lake Kenyatta Beach Management Unit
- iii) State whether the title deeds for the land in question which are in the hands of Lake Kenyatta Beach Management Unit are genuine, and if so, did NLC conduct due diligence before issuance of the same
- iv) Explain what measures the Ministry of Lands is putting in place to ensure that areas around water bodies used as grazing area for wildlife are protected

Honourable Chair, the Commission wish to respond as follows:

The area in question is the riparian land along Lake Kenyatta within Lake Kenyatta I Settlement Scheme established in 1974. Lake Kenyatta Beach Management Unit (LKBMU) was registered in 2008 to manage fishing operations in the area and has been operating since then. The lake is a vital source of water and fish, biodiversity habitat and eco-tourism attraction. The fisheries department was one of the functions whose governance was devolved from the National government and placed to the county

government by the Constitution, 2010. LKBMU is therefore currently under the County Government of Lamu.

There have been disputes between the LKBMU and the local community regarding encroachment of the riparian land falling in the zone covering Plots Nos.1609, 1610, 2570, 2568, 5722 and the high-water mark. The zone in contention is swampy and partly covered with thick natural vegetation.

The dispute is mainly attributed to the fact that the entire external boundary of the riparian is not physically marked nor surveyed. The Lake Kenyatta catchment area is not registered or gazetted.

Honourable Chair, we propose-

- i. Mapping out the catchment/lake boundaries by the relevant ministries
- ii. Gazettement of this ecologically sensitive area
- iii. Multi sectoral Protection and management of the catchment area by the relevant MDAs and County government of Lamu

10.STATEMENT BY SEN.ANUAR LOITIPTIP,MP,ON 24TH SEPTEMBER 2020 REGARDING THE ALLEGED DISPLACEMENT OF SQUATTERS FROM HIDABWO AREA IN LAMU COUNTY

Displacement of squatters in Hidabu Area of Lamu island.

By the Senator for Lamu County, Hon. Anwar Loiptip.

- i. Explain the circumstances surrounding the ownership of the parcel of land in Hidabu Area, Lamu County, and state the genuine owners of the said parcel of land.
- ii. State who is behind the demarcation of the said piece of land and evicting persons who have occupied and settled on the said piece of land since 1998.
- iii. State whether Lamu County Government authorized the allegedly illegal demarcation of the piece of land.
- iv. Explain measures the Ministry of Lands and the National Land Commission have put in place to protect persons who have enjoyed quiet possession of the said piece of land for a period exceeding 12 years and ensure they are not going to be rendered squatters by rogue land grabbers allowed to own the land through adverse possession.

RESPONSE

Hidabu is an informal squatter settlement within Lamu Island specifically within registration section Lamu/Block II. The area comprises of several government reserved land and registered private parcels.

The County government of Lamu engaged a private survey firm, Spatial Milestone (K) Ltd, to survey the squatted area. The project is ongoing and at planning stage, so far capturing over 300 squatters. Some of the squatters in the settlement have permanent buildings and others semi-permanent structures built over diverse dates.

The table below, give an impression of the current status of the affected plots.

	Plot No.	Size (Ha)	Ownership	Ground Occupant
1	Lamu/Block II/126	2.97	Government of Kenya	<ul style="list-style-type: none">• County Commissioner's residence• LAWASCO, KPLC sub-station, KBC mast, Radio Rahma mast.• Lower part settled by over 30 squatters.
2	Lamu/Block II/127	4.86	Government of Kenya	<ul style="list-style-type: none">• Public Works and Housing offices• Probation office• Churches (5 No)• Lower part settled by over 120 squatters
3	Lamu/Block II/128	5.06	Government of Kenya	<ul style="list-style-type: none">• King Fa had Hospital (Public).• Lower part has over 60 squatters.
4	Lamu/Block II/129	6.14	Government of Kenya	<ul style="list-style-type: none">• King Fa had Hospital; Mosque (1 No)• Lower part settled by 50 families(squatters)
5	Lamu/Block II/345	0.10	Kilim Ltd	Have on-going investigation by DCI Lamu between the owner and squatters. <ul style="list-style-type: none">• Parcel 345 has a well dug by area MCA.• Plot 348 has 2 permanent houses by squatters, while 350 has some recently erected posts.
	Lamu Block II/348	0.10		
	Lamu/Block II/350	0.10		

The government agencies such as the hospital, housing and Interior occupying the reserved plots assert that they require the land for future public purposes.

Proposal

- i. Stakeholder consultative meeting involving area leadership, county government and relevant national government departments to review and provide solution.
- ii. Those on private land to negotiate with the land owners.

Honourable Chair; the above are the answers to the various issues raised, which we respectfully submit.

Dated at Nairobi this 23rd day of February 2021 .

A handwritten signature in black ink, appearing to read "Gershom Otachi Bw'omanwa".

**GERSHOM OTACHI BW'OMANWA
CHAIRMAN**



REPUBLIC OF KENYA
MINISTRY OF LANDS AND PHYSICAL PLANNING

RESPONSES TO THE SENATE STANDING COMMITTEE ON LAND,
ENVIRONMENT AND NATURAL RESOURCES

Honourable Chair,

Pursuant to a letter Ref. SEN/DCS/LENR/2/2021/(2) dated February 11, 2021, the Senate Standing Committee on Land, Environment and Natural Resources invited the Cabinet Secretary Ministry of Lands and Physical Planning to respond to -

1. Petition concerning the alleged exchange and final transfer of titles for parcels of land known as Lari Nyakinywa Solai Farm (located in Solai, Nakuru County) and Riyobei Farm Limited (located in Gilgil, Nakuru County).
2. Petition submitted by the Rendile and Samburu Communities representatives concerning the alleged acquisition of Karare land in Marsabit County, by the Kenya Defence Forces.
3. Petition submitted by the Wajomvu Community, Mombasa County, concerning the alleged historical injustices involving Plot No. 162/V/M.N. CR 1070, in Mombasa County.
4. Petition submitted by the residents of Mkamenyi Village in Voi sub-county of Taita Taveta County on the alleged encroachment of land belonging to Mkamenyi residents by Voi Point Limited in Taita Taveta County.
5. Petition submitted the residents of Msambweni Village in Voi sub-county of Taita Taveta County, concerning the alleged impending evictions of Msambweni residents by a private company.
6. Statement requested by Sen. Anwar Loitiptip, MP on September 24, 2020, regarding alleged displacement of squatters from Hidabwo area in Lamu County.
7. Statement requested by Sen. Anwar Loitiptip, MP (Lamu County) on alleged encroachment of Lake Kenyatta Riparian Land.

Response

Honourable Chair, I wish to respond as follows-

- i) **Petition concerning the alleged exchange and final transfer of titles for parcels of land known as Lari Nyakinyua Solai Farm (located in Solai, Nakuru County) and Riyobei Farm Limited (located in Gilgil, Nakuru County)**

Honourable Chair,

Fredrick Kahia Thugi, Joseph Kamau Ngugi, Veronica Wanjiru Chege, Peter Muchume Gachii and James Ngugi being members of Nyakinyua Solai Farm Limited have presented the petition dated February 2019. The petitioners claim that their group purchased 8000 hectares of land in Solai, Nakuru County in 1980 that is now known as Lari Nyakinyua Solai Farm. A second group by the name Ruyobei Farm Limited also purchased 8000 hectares of land in Gilgil, Nakuru.

The petitioners claim that the two groups entered into a deed of exchange agreement signed on April 24, 2003 in a process spearheaded by the late retired president Daniel arap Moi. A second agreement on the same was signed on the same date before the then Gilgil District officer. According to the petitioners, the parties signed a third agreement on August 11, 2003 to authorize the groups to enter and subdivide their respective new parcels. Despite the agreements signed by the parties, transfer of title over the properties has not been effected to date.

The petitioners state that a meeting between the two groups and the National Land Commission was convened on October 26, 2016 at the Solai Farm. The purpose of the meeting was for the Commission to obtain confirmation of members of Nyakinyua Solai Farm Limited that they had authorised Ruyobei Farm Limited to proceed to subdivide the Lari Nyakinyua Solai Farm. This was confirmed at the meeting paving way for the subdivision. The Commission promised to convene a similar meeting at the Gilgil Ruyobei Farm. The meeting is yet to be set up.

The petitioners claim that their members have been prevented from accessing Ruyobei Farm by illegal occupants who have settled on the land. They claim that efforts to have the matter addressed by the National Land Commission have been futile. They have therefore presented the petition to request Senate to intervene and resolve the matter.

Response

Honourable Chair, I wish to respond as follows-

The subject parcels of land are –

- a) **Ruyobei Farm (Approximately 8019 Acres)**
 - i) Land Reference No. 20229/1 measuring approximately 8019 Acres is situated in Gilgil, Nakuru County and is registered in the name of Solai Ruyobei Farm Limited. The parcel was until December 8, 1995 owned by Lands Limited who transferred it to Solai Ruyobei Farm Limited for Kshs. 24,000,000. (**Annexure 1**)
- b) **Nyakinyua Farm (Approximately 7978 Acres)**
 - ii) Land Reference No. 8435 measuring approximately 2211 Acres is situated in Solai, Nakuru County and registered in the name of Lari Nyakinyua (Solai Farm) Limited. The parcel was until February 15, 1980 owned by Kenya Motor Holdings Limited who transferred it together with Land Reference No. 2680 and 7364 to Lari Nyakinyua (Solai Farm) Limited for Kshs.6,000,000. (**Annexure 2**)
 - iii) Land Reference No. 2680 measuring approximately 4910 Acres is situated in Solai, Nakuru County and registered in the name of Lari Nyakinyua (Solai Farm) Limited. The parcel was until February 15, 1980 owned by Kenya Motor Holdings Limited who transferred it together with Land Reference No. 8435 and 7364 to Lari Nyakinyua (Solai Farm) Limited for Kshs.6,000,000. (**Annexure 3**)
 - iv) Land Reference No.7364 measuring approximately 857 Acres is situated in Solai, Nakuru County and registered in the name of Lari Nyakinyua (Solai Farm) Limited. The parcel was until February 15, 1980 owned by Kenya Motor Holdings Limited who transferred it together with Land Reference No. 2680 and 8435 to Lari Nyakinyua (Solai Farm) Limited for Kshs.6,000,000. (**Annexure 4**)

The parcels have been subject of litigation in various court cases as shown in **Annexure 5**.

We are aware that the National Land Commission has been involved in resolution of the dispute. We therefore invite the Committee to engage the Commission to provide more information on the case.

- ii) **Petition submitted by the Rendile and Samburu Communities representatives concerning the alleged acquisition of Karare land in Marsabit County, by the Kenya Defence Forces**

Honourable Chair,

The petition dated April 29, 2020 concerning acquisition of Karare land by the Kenya Defence Forces has been presented by the Rendille Professional Association on behalf of residents of Rendille and Samburu communities residing in Kaware Ward, Marsabit County. The petitioners claim that the Rendille and Samburu communities in Marsabit County object to the compulsory acquisition of 2,500 acres of land in Kaware by the Kenya Defence Forces (KDF). They claim that the KDF expressed interest on the land in 2019. The petitioners' objection to the compulsory acquisition is based on the following-

- i) The land is the communities' only fertile land and the only viable grazing area
- ii) Karare ward being a water catchment area for the pastoral communities of Karare, Songa, Loglogo, Kamboye, Laisamis, Kargi and Korre communities plays a central role in the viability of pastoralism. A total of 98,000 people and approximately 450,000 livestock depend on the ecosystem for their livelihoods
- iii) The land is a sacred place for most cultural and religious ceremonies such as circumcision
- iv) It is a major and only source of red ochre nalkaria hills which is sacred to the community
- v) The land is a pathway for collection of Silaley gum used in circumcision and religious ceremonies
- vi) It is also a source of Ibaa/sticks for use in Rendille/Samburu circumcision ceremonies
- vii) It is a source of sagaram to feed livestock in a highly pastoral community
- viii) The excision of the 2,500 acres of land some of which is protected forests and which is the only dependable dry season grazing area will lead to overuse of rangelands, environmental degradation, human-wildlife conflict and human- human conflict.

The petitioners claim that several meetings have been held between the communities' elders, County Commissioner and the KDF in which the communities proposed alternative land in Kubi Kalo for acquisition but the same was declined by the KDF. They are aggrieved that the process of compulsory acquisition is ongoing despite their protests.

The communities are apprehensive that that they could lose their land and their rights under the Constitution due to their minority status and weak representation in government. They aver that they have already lost 150,000 acres to the Lake Turkana Wind Power project, which was also compulsorily acquired despite their objection.

The petitioners therefore filed the petition to request the Senate to-

- a) visit Karare community of Marsabit County to establish the facts of the case as soon as possible
- b) make appropriate recommendations to the Cabinet Secretary Ministry of Interior and Co-ordination of National Government based on the findings
- c) give opportunity for the petitioners to further present the memorandum orally to the Senate

Response

Honourable Chair, I wish to respond as follows-

The KDF Strategic Defence Plan of 2018-2027 projected the expansion of the Kenya Army and redeployment of Formations to various parts of the Country with a sizeable force earmarked for deployment in Marsabit County. In pursuance to that strategic defence plan, the Ministry of Defence started the process of acquisition of land in Marsabit County with an intention to have military footprint in the northern region to deter/prevent constant incursion by the Ethiopian National Defence Forces and also support the Strategic Defence Plan in order to facilitate KDF achieve its mandate as provided for in Article 241(3) of the Constitution of Kenya.

In early 2012, the Ministry of Defence began formal engagements with the County Council of Marsabit for allocation of land in the County. This resulted in the allocation of 2,500 hectares of land in Kubi Kalo to Ministry of Defence on January 8, 2013. However, with the establishment of the County Government of Marsabit under the new constitutional dispensation, the allocation was rescinded and the Ministry of Defence was advised to restart the process of acquisition.

On January 10, 2019, the process was re- started with consultative meetings between Ministry of Defence and County Government of Marsabit led by the Chairman, Committee on Military Land & H.E Governor of Marsabit with all elected leaders including MPs, MCAs and CECMS. The leaders from Marsabit County agreed to allocate 5,000 hectares in Karare for the construction of Ministry of Defence camp and 10,000 hectares in Haiya for training.

The meeting further directed that a joint technical committee be formed to identify the suitable locations for deployment and training area. The joint technical committee met and worked as per the mandate given during the meeting. A detailed joint reconnaissance conducted between January 2-4, 2019 and May 29 to June 1, 2019 identified the actual locations. Following the engagements, the Ministry of Defence was formally allocated 5,000 hectares & 10,000 hectares of land in Karare and Haiya areas of the County respectively.

On January 16, 2020, the Ministry of Defence and County Government of Marsabit resolved to subject the land allocations to a public participation process as advised by the National Land Commission. Subsequently, the public participation and validation exercise for the land allocations was conducted from January 21-31, 2020 in Marsabit County. The exercise considered critical factors such as human settlements, grazing areas, water catchment areas and conservation of biodiversity and among others in choosing the ideal location for the KDF Camp.

The public participation exercise was carried out successfully by the Joint team comprising Ministry of Defence, Kenya Wildlife Service, County Government of Marsabit, county leadership including Members of Parliament, Members of the County Assembly and members of the local community across the areas expected to host the Ministry of Defence facilities. The local community participated in the exercise and assisted representatives from the Ministry of Defence to identify the suitable locations.

During the process of public participation the locals requested the allocation of Karare land to Ministry of Defence be reviewed downwards from 5,000 hectares to 2,500 hectares. The land is currently in the process of being planned, surveyed and titled in favor of Ministry of Defence. The Ministry is already in occupation of the two parcels of land allocated to them by the County Government of Marsabit.

There is a Court case filed by the Rendille Professionals Association and local elders on behalf of the Community regarding the allocations of the land parcels by the County Government of Marsabit.

Honourable Chair,

We invite the Committee to engage Ministry of Defence and the County Government of Marsabit for more information on the matter.

- iii) **Petition submitted by the Wajomvu Community, Mombasa County, concerning the alleged historical injustices involving Plot No. 162/V/M.N. CR 1070, in Mombasa County**

Honourable Chair,

Salim Mwidadi, Mohamed Kombo, Kassim Mwikaa and Mwinyiusi Mwidadi petitioned the Senate on behalf of Wajomvu Community from Jomvu Kuu Village, Jomvu Kuu Ward in Jomvu Sub County presented the petition dated July 2, 2020 regarding ownership of Plot No. 162/V/M.N. CR. 1070 situated in Jomvu Kuu.

The petitioners claim that they are among the 12 Swahili tribes to settle in Mombasa approximately 800 years ago. They claim that on or about 1846, Dr. Kraph arrived on the East African Coast and settled in Rabai. That in 1877 through the benevolence of a jomvu elder by the name Mwidani, Dr. Kraph was given land to establish a church in the predominantly muslim community. According to the petitioners, the community donated a small area where the Methodist church was built. However, when land adjudication was undertaken in 1923, the church was allocated 150 acres of their land.

The petitioners claim that the community has occupied the land as their ancestral land over the years and has been utilising the same for farming, fishing and residential purposes. They complain that the Methodist church embarked on a subdivision and sale of the land to third parties. They are apprehensive that they will be displaced and have no alternative land. According to the petitioners, their case is an historical injustice that the colonial government committed on the community. They submitted a memorandum to the National Land Commission on the issue three (3) years ago but there has been no response from the Commission. The petitioners therefore request the Senate to intervene with a view to undertake an inquiry into the historical injustice claim.

Response

Honourable Chair, I wish to respond as follows-

According to records held by the Ministry, Plot No.162/V/M. N. CR 1070 was registered on October 27, 1923 in the name of the United Methodist Church Mission. The certificate of ownership No. 7540 was registered under title No. CR.6348 for the area measuring 151 acres. The registered proprietor later changed their name to Methodist Church Missions Kenya trustees registered in 1958 and later to Methodist Church in Kenya Trustees Registered.

On June 14, 1973, the Methodist Church in Kenya Trustees Registered transferred a portion of land to Municipal Council of Mombasa. The said subdivision MN/V/505 measuring 15.28 acres was registered on July 11, 1973 and assigned title No. CR 14323. The remainder thereof measuring 135.72 acres is held by the Methodist Church in Kenya Trustees Registered. A copy of the official search is marked **Annexure 6**.

Honourable Chair, the case presented by the petition is an historical injustice claim The National Land Commission is seized of the matter recorded as Historical Case No. NLC/HLI/565/2019. We invite the Committee to engage the Commission for appropriate redress.

- iv) **Petition submitted by the residents of Mkamenyi Village in Voi sub-county of Taita Taveta County on the alleged encroachment of land belonging to Mkamenyi residents by Voi Point Limited in Taita Taveta County**

Honourable Chair,

The petition is dated August 7, 2020 and has been presented by Joseph M. Njuguna, Francis Mwasho, Juma Mwamburi, Saumu K. Mwamburi, Hassan Kiboko, Gladys Juma and Julius Mwasenzi on behalf of residents of Mkamenyi village, Voi sub-county in Taita Taveta County.

From the petition, Mkamenyi village borders Voi Sisal Estate, which was initially '*gifted*' to a retired British soldier by the name Lezen in 1920 by the colonial government, for a period of 99 years. The petition states that the land was surrendered to the government in 1980 and was reallocated to Voi Sisal Estate Limited in 2012. It was transferred to Voi Point Limited in 2019.

The petitioners claim that between 1900 and 1930, the management of the sisal estate requested Mkamenyi elders to allow them to use part of their land located close to the river to install a water pump, farm food for their farmworkers and conduct agricultural research. By 1960s, the residents needed their land back to accommodate the growing population. However, according to the petitioners, the sisal estate refused to hand over the land and instead colluded with the police to extend the boundaries into the residents' homes and put the land under sisal plantation.

The petitioners state that they have engaged this Committee together with the Ministry of Lands and Physical Planning and the county leadership with a view to get back the land. On October 29, 2019, the management of Voi Point Limited invited their representatives to a meeting where they were informed that the company would surrender 35 acres to settle their 28 families. The proposal was however not amenable to the residents since they occupied 150 acres.

The residents are aggrieved that Voi Point Limited proceeded to survey the land without their involvement or the county government and processed a group title for the residents. The company invited the residents to a meeting on August 26, 2020 to issue the title document but they declined. It is claimed that the group title had names of persons who do not live in Mkamenyi. That, only six families residents of Mkamenyi are listed on the title. The petitioners state that efforts to resolve the issues with relevant authorities have been futile. They therefore request the Senate to-

- i) investigate the case
- ii) recommend that the Ministry of Lands and Physical Planning initiate an all inclusive, open and transparent process of giving the residents of Mkamenyi adequate land.

Response

Honourable Chair, I wish to respond as follows-

According to our records, the land in question measures approximately 1953 hectares and is situated within Voi town in Taita Taveta County. A chronology of ownership of the parcel is as follows-

- i. The subject land was originally LR No. 4637 registered as Grant No. C.R. 8814. It was granted to the British East Africa Corporation Limited in 1923 for a term of 99 years from January 1, 1923 to January 1, 2022. The grant was initially issued for agricultural purpose only but the user was later extended to include a petroleum service station.
- ii. The Grant was transferred to Voi Sisal Estates Limited on August 6, 1947 and on March 25, 2011 it was surrendered to the Government to pave way for its extension of the term. (A copy of the surrendered Grant C.R. 8814 is annexed herewith marked **Annexure 7**).
- iii. The Grant was extended for a further term of 99 years commencing January 1, 1993 at an annual rent of Kshs.353.795 (revisable). The parcel was registered as Grant No. C.R. 51725, LR No. 28683 measuring approximately 1953 Hectares. The land was granted to be utilized for agricultural purposes and residence for the grantee. (A copy of the Grant No. C.R. 51725 is annexed marked **Annexure 8**).
- iv. On February 23, 2012 the land was transferred to Voi Plantations Limited for USD.1,855,670 and charged to Diamond Trust Bank of Kenya Limited for Kshs.300,000,000 and USD.5,000,000. On December 29, 2017 a further charge to Diamond Trust Bank of Kenya Limited for Kshs.150,000,000 was registered.

- v. On December 29, 2017 a second further charge for Kshs.1,079,737,000 and a third further charge for Kshs.1,189,511,500 was registered in favour of Diamond Trust Bank of Kenya Limited. A fourth further charge for Kshs.4,218,875,000 was registered on December 29, 2017.
- vi. On October 1, 2014 the National Land Commission awarded Voi Plantations Limited Kshs.359,531,100 in respect of the land acquired for the development of the Mombasa-Nairobi Standard Gauge Railway. The area of land acquired measured approximately 14.9621 Hectares. (A copy of the Award is marked **Annexure 9**).
- vii. On February 13, 2019, all the charges were discharged and the land transferred to Voi Point Limited for Kshs.4,000,000,000. A charge to Diamond Trust Bank of Kenya Limited for Kshs.4,000,000,000 and a further charge to the same bank for Kshs.800,000,000 were registered on the same date. A copy of the official search is marked **Annexure 10**.

Honourable Chair,

- viii. On February 6, 2020, the County Government of Taita Taveta approved the subdivision of the land into 28 portions of various sizes for agricultural use. A copy of the notification of approval (**Annexure 11**) and certificate of subdivision (**Annexure 12**) are annexed herewith. The subdivision was approved on the condition that the company was to surrender Plot No. 25 (L.R. No. 28683/27) measuring approximately 13.68 Hectares for Mkamenyi Squatter Settlement as per the copy of the provisional approval marked **Annexure 13**. Voi Point Limited accepted the conditions of the provisional approval as shown in the copy of the acceptance letter marked **Annexure 14**.
- ix. On February 27, 2020 new Certificates of Title were issued for L.R. Nos. 28683/4 to 28683/31 the resultant subdivisions of L.R. No. 28683.
- x. The Charge in favour of Diamond Trust Bank of Kenya Limited was registered against all the resultant subplots of L.R. No. 28683 apart from L.R. No. 28683/27 that the bank issued a discharge.
- xi. On June 25, 2020, the County Government of Taita Taveta approved the subdivision and change of user of L.R. No. 28683/9 into 52 subplots (A copy of the notification of approval (**Annexure 15**)). The subdivision was conditional upon surrender of 10% of the total acreage for public utility and use. The subdivision was also approved by the Voi Land Control Board as shown in **Annexure 16**.

Honourable Chair,

L.R. No. 28683/27 measuring approximately 35 acres is the portion that Voi Point Limited reserved for the settlement of the squatters. According to our records the plot is still registered under Voi Point Limited. Given that this land is private land, we advise that the squatters to engage Voi Point Limited on their grievances

- v) **Petition submitted the residents of Msambweni Village in Voi sub-county of Taita Taveta County, concerning the alleged impending evictions of Msambweni residents by a private company**

Honourable Chair,

The petition dated September 10, 2020 was presented by residents of Msambweni village, Voi sub-county in Taita Taveta County. They claim to be living in fear of eviction by a private developer (Sparkle Properties Limited) from a parcel of land registered as No.1956/506, C.R No. 23979 measuring 54.26 hectares where they claim to have resided since 1938.

According to the petitioners, their elders accepted a request by Bata Shoe Company to put up a factory on the subject land in 1978 on the premise that the factory would create employment for the community. A 99-year lease running from January 1, 1979 was granted on conditions, inter alia, that the land was to be used for a factory and that the company would not subdivide, sell, transfer or sublet the land.

Bata Shoe Company did not develop the land as agreed and in 2013 transferred the land to Sparkle Properties Limited for construction of a shopping mall in disregard of the conditions of the lease. The petitioners claim to have resisted the development, which prompted Sparkle Properties Limited to file a case court (ELC No. 265 of 2013) seeking to evict them. The court rendered its judgement on the case on February 24, 2020 allowing the eviction order sought by Sparkle Properties Limited. The court also ordered the residents of Msambweni to pay damages for trespass amounting to Kshs.1,050,000.

The petitioners are apprehensive that 3,500 people will be rendered homeless if the court orders are executed. They claim that efforts to resolve the matter with relevant authorities have not been successful and have thus engaged the Senate to intervene.

Response

Honourable Chair, I wish to respond as follows-

The subject parcel of land is situated within Voi Township and borders Ndara A adjudication section and Kaloleni Majengo Squatter Upgrading Scheme. The parcel is registered at the Mombasa Land Registry under the Registered Titles Act, Cap. 281 (*repealed*) as L.R No. 1956/506 C.R. No 23979 on Survey plan No. 107124 measuring approximately 54.26 hectares.

This parcel was allocated to Bata Shoe Company Limited who intended to establish a shoe factory on the land, and was issued with title deed on April 30, 1993. Bata Shoe Company later sold the parcel to Sparkle Properties Limited at a consideration of Kshs.12,000,000. The transfer was lodged on March 21, 2011 and a new title issued to sparkle properties limited as the proprietor (**Annexure 17**).

The proprietor upon receiving title to the land discovered that squatters had moved in and constructed residential houses, they also prevented the owner from taking possession or accessing the property. This prompted the company to move to the Environment and Land Court at Mombasa, Civil Case No.265 of 2013 (Sparkle properties Limited -vs- Johana Ngai & 8 Others)

On January 27, 2020 the court rendered Judgment on the case as follows-

- a) Permanent injunction restraining the defendants whether acting by themselves; their employees, agents and/or servants and/or through any other manner whatsoever interfering with the suit property to unit L.R 1956/506.
- b) Mandatory injunction compelling the defendants to demolish and or pull down structures erected on the suit property and to give vacant possession to the plaintiff.
- c) That there be a permanent injunction restraining the defendants and/or their agents to allow them to occupy or construct the unoccupied space and proceed with construction forthwith
- d) General damages for trespass awarded at Ksh.150,000 payable by each defendant to the plaintiff giving a total sum of Kshs.1,050,000 with interest from the date of filing suit until payment is made in full.
- e) Costs of the suit awarded to the plaintiff.

The issues raised in the instant petition were adequately canvassed in the suit. (**Annexure 18**)

- vi) **Statement requested by Sen. Anwar Loitiptip, MP on September 24, 2020, regarding alleged displacement of squatters from Hidabwo area in Lamu County**

Honourable Chair, I wish to respond as follows-

The Hon. Sen. Anwar Loitip, MP has requested the Cabinet Secretary to-

- i. Explain the circumstances surrounding the ownership of the parcel of land in Hidabu Area, Lamu County, and state the genuine owners of the said parcel of land
- ii. State who is behind the demarcation of the said piece of land and evicting persons who have occupied and settled on the said piece of land since 1998
- iii. State whether Lamu County Government authorized the allegedly illegal demarcation of the piece of land
- iv. Explain measures the Ministry of Lands and the National Land Commission have put in place to protect persons who have enjoyed quiet possession of the said piece of land for a period exceeding 12 years and ensure they are not going to be rendered squatters by rogue land grabbers allowed to own the land through adverse possession.

Response

Honourable Chair, I wish to respond as follows-

In response to questions (i), (ii), (iii) and (iv), I wish to respond as follows:

Hidabu area is an informal squatter settlement within Lamu Island specifically within registration section Lamu/Block II. The area comprises of several Government reserved land and registered private land parcels. Some of the squatters in the settlement have permanent buildings and others semi-permanent structures built over time. The attached plan marked **annexure 19** give an impression of the status and layout of the area.

The County Government of Lamu engaged a private survey firm, Spatial Milestone (K) Ltd, to survey the squatted area. The project is ongoing and at planning stage, so far capturing over 300 squatters.

Ownership

	Plot No.	Size (Ha)	Ownership	Ground Occupant
1	Lamu/Block II/126	2.97	Government of Kenya (Annexure 20)	<ul style="list-style-type: none">• County Commissioner's residence• LAWASCO, KPLC sub-station, KBC mast, Radio Rahma mast.• Lower part settled by over 30 squatters.
2	Lamu/Block	4.86	Government of	<ul style="list-style-type: none">• Public Works and Housing offices

	II/127		Kenya (Annexure 21)	<ul style="list-style-type: none"> • Probation office • Churches (5 No) • Lower part settled by over 120 squatters
3	Lamu/Block II/128	5.06	Government of Kenya (Annexure 22)	<ul style="list-style-type: none"> • King Fahad Hospital (Public). • Lower part has over 60 squatters.
4	Lamu/Block II/129	6.14	Government of Kenya (Annexure 23)	<ul style="list-style-type: none"> • King Fahad Hospital; Mosque (1 No) • Lower part settled by 50 families (squatters)
5	Lamu/Block II/345 Lamu Block II/348 Lamu/Block II/350	0.10 0.10 0.10	Miliki Ltd (Annexure 24)	<p>Have on-going investigation by DCI Lamu between the owner and squatters.</p> <ul style="list-style-type: none"> • Parcel 345 has a well dug by area MCA. • Plot 348 has 2 permanent houses by squatters, while 350 has some recently erected posts.

The government agencies such as the hospital, housing and Interior occupying the reserved plots assert that they require the land for future public purposes.

vii) Statement requested by Sen. Anwar Loitiptip, MP (Lamu County) on alleged encroachment of Lake Kenyatta Riparian Land

Honourable Chair,

The Hon. Sen. Anwar Loitiptip, MP has requested the Cabinet Secretary to-

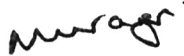
- i) State whether Lamu County followed due process in licensing Lake Kenyatta Beach Management Unit which has been given the responsibility of managing areas of the beach reserved for hippopotamus to graze as well as recreational areas for fishermen and public
- ii) Explain whether Lamu County authorized demarcation of the aid area and subsequently allocated the beach area to Lake Kenyatta Beach Management Unit

- iii) State whether the title deeds for the land in question which are in the hands of Lake Kenyatta Beach Management Unit are genuine, and if so, did NLC conduct due diligence before issuance of the same
- iv) Explain what measures the Ministry of Lands is putting in place to ensure that areas around water bodies used as grazing area for wildlife are protected

Honourable Chair, I wish to respond as follows:

A response to the Statement requested by the Hon. Senator was forwarded vide a report dated January 5, 2021. A copy of the report is marked **Annexure 25**.

Honourable Chair, I submit.



Dr. Nicholas Muraguri
PRINCIPAL SECRETARY

February 24, 2020

