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REPUBLIC OF KENYA

02/10/2025

THE SENATE

4TH SESSION

THE SENATE
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SPEAKER'S OFFICE

THIRTEENTH PARLIAMENT

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

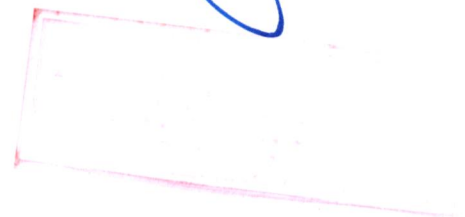
ON

A PETITION REGARDING AN OWNERSHIP DISPUTE OVER MWANANCHI
SETTLEMENT SCHEME IN MWATATE CONSTITUENCY, TAITA TAVETA
COUNTY

SEPTEMBER, 2025

PAPERS LAID	
DATE	7/10/2025
TABLED BY	Chairperson
COMMITTEE	Chair
CLERK AT THE TABLE	Chemp

02/10/25



Contents

ABBREVIATIONS 3

PREFACE 4

CHAIRPERSON'S FORWARD 5

ACKNOWLEDGEMENT 8

CHAPTER I 1

INTRODUCTION 1

LEGAL BASIS FOR PETITIONS 4

CHAPTER 2 5

2.1 CONSIDERATION OF THE PETITION 5

CHAPTER 3 7

ISSUES FOR CONSIDERATION 7

CHAPTER 4 10

COMMITTEE OBSERVATIONS 10

CHAPTER 5 11

COMMITTEE RECOMMENDATIONS 11

ABBREVIATIONS

NLC -National Land Commission

MoLHPWUD - Ministry of Lands Housing Public Works and Urban
Development

PREFACE

Mr. Speaker sir,

The Standing Committee on Land, Environment and Natural Resources is established pursuant to standing order 228(3) of the Standing Orders of the Senate. As set out in the Fourth 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 the following Members.

1. Sen. Mohamed Mwinyihaji Faki, CBS, MP - Chairperson
2. Sen. Karen Nyamu, MP - Vice Chairperson
3. Sen. James Murango, MP - Member
4. Sen. Johnes Mwashushe Mwaruma, MP - Member
5. Sen. Joe Nyutu, MP - Member
6. Sen. Abdul Haji, MP - Member
7. Sen. Allan Chesang, CBS, MP - Member
8. Sen. Beatrice Akinyi Ogola, MP - Member
9. Sen. Mariam Sheikh Omar, MP – Member

CHAIRPERSON'S FORWARD

On 8th February, 2025, the Senate received a Petition on ownership dispute over Mwananchi Settlement Scheme in Mwatate Constituency in Taita-Taveta County. This is in line with Article 119(1) of the Constitution which states that “Every person has the right to petition Parliament to consider any matter within its authority, including enacting, amending or repealing any legislation.”

The Petitioners prayed that:

1. The Committee Intervenes and investigates the matter with a view to:
 - i. ensure that the area residents are adequately compensated;
 - ii. Inquires into the matter and makes appropriate recommendations on the irregular transactions on LR No.12924 situated in Mwatate Constituency;
 - iii. Inquires into the matter and makes legislative interventions relating to the land transfer and acquisition processes to ensure that innocent Kenyans are protected;
 - iv. Take any other appropriate action it deems fit to resolve the matters raised herein.

Pursuant to standing order 238(1) and the Fourth Schedule to the Standing Orders of the Senate, the Petition was committed to the Standing Committee on Land, Environment and Natural Resources.

Pursuant to Articles 37 and 119(1) of the Constitution, section 5(2) of the Petition to Parliament (Procedure) Act and standing order 238(2) of the Senate Standing Orders, the Committee is mandated to consider the Petition and respond to the Petitioners within the prescribed period.

To facilitate 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 requested the Petitioners to submit written documents to elaborate further on the issues raised in the Petition and to supply supporting evidence on the same.

The Committee proceeded to seek responses from the Cabinet Secretary, Ministry of Lands and Physical Planning and National Land Commission (NLC), to address the issues raised in the Petition.

Committee observations

Prayer One:

That the Committee Intervenes and investigates the matter with a view to ensure that the area residents are adequately compensated

There is an ongoing Civil Appeal Application vide memorandum of appeal dated 20th June 2025 that the Attorney General had filed against the judgement of the Honourable Judge E.K Wabwato delivered on 18th October,2024 in Voi ELC CASE NO 7 of 2024(Formerly MOMBASA ELC CASE NO.40 OF 2017, Formerly NAIROBI CIVIL CASE NO 1663 OF 2000). This case awaits the determination of the Court.

Prayer Two:

That the committee inquires into the matter and makes appropriate recommendations on the irregular transactions on LR No.12924 situated in Mwatate Constituency

There is an ongoing Civil Appeal Case awaiting the determination of the Court.

Prayer Three:

That the Committee inquires into the matter and makes legislative interventions relating to the land transfer and acquisition processes to ensure that innocent Kenyans are protected

The committee noted the concerns of the petitioners regarding safeguards to ensure the protection of the right to acquire and own property and will address the arising legislative interventions progressively.

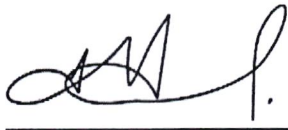
ACKNOWLEDGEMENT

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 and the Ministry of Lands and Physical Planning & 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 Land, Environment and Natural Resources on the Petition on ownership dispute over Mwananchi Settlement Scheme in Mwatate Constituency in Taita-Taveta County

Signed:



Date: 30 / 09 / 2025.

**SEN. MOHAMED MWINYIHAJI FAKI, CBS, MP,
CHAIRPERSON,
SENATE STANDING COMMITTEE ON LAND, ENVIRONMENT AND
NATURAL RESOURCES.**

Committee Recommendations

The Committee having investigated the matter in accordance with its mandate under the standing order 228(4) of the Senate Standing Orders recommends that-

1. The Ministry of Lands Public Works Housing and Urban Development ensures immediate suspension of any ongoing transactions regarding the parcel of land with LR No.12924, until the conclusion and determination of the court case;
2. The National Land Commission carries out investigations to establish the legitimacy of ownership of the parcel of land LR No.12924, and if there are any arising irregularities, report to the Senate within ninety (90) days upon adoption of this report; and
3. The DCI and EACC undertake investigations to ascertain the existence of fraudulent land transactions, with the objective of bringing culpable individuals to book in accordance with the law within ninety (90) days upon adoption of this report.

CHAPTER I
INTRODUCTION

1. At the sitting of the Senate held on 18th February, 2025, The Rt. Hon Speaker, reported to the Senate a Petition on ownership dispute over Mwananchi Settlement Scheme in Mwatate Constituency in Taita-Taveta County.

Underlying Constitutional and Statutory Provisions

2. **Article 1(1) and (2)** of the Constitution, vests all sovereign power in the people of Kenya and shall be exercised only in accordance with the Constitution.
3. **Article 1(3) (a)** of the Constitution delegates sovereign power of the Constitution to, *inter alia*, Parliament and the legislative assemblies in the county governments.
4. **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.”*
5. **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.*

1.12 The Petition

6. THAT, the Mwananchi Settlement Scheme was registered in May 2010 by the Government of Kenya, in which LR No.12924 comprising 9,070 hectares was subdivided to settle 1,322 people.
7. THAT, the Government of Kenya, through the Settlement Fund, a trustee fund, bought the land from the Mwananchi Estates Limited at a cost of Kshs 40 million;
8. THAT, the Mwananchi Ranching (Directed Agricultural) Company Ltd filed a case at the Environment and Land Court in Voi, Case No. ELC, No.7 of 2024, and sought

the following reliefs;

- a) A permanent injunction restraining the defendants from selling, disposing, evicting, alienating, demarcating and issuing of titles, or in any way dealing with LR No.12924, CR 20403, situated in Mwatate;
 - b) A declaration that the transfer of the land to the Settlement Trust Fund trustees and all consequential transfers be null and void;
 - c) A declaration that LR No. 12924 belongs to Mwananchi Ranching (Directed Agricultural) Company Ltd;
9. THAT, the case filed by Mwananchi Ranching (Directed Agricultural) Company Ltd was against Mwananchi Estates Limited, the Settlement Fund trustees, the Land Commissioner and the Attorney General of Kenya;
10. THAT, the 1,322 owners of land in the settlement scheme were not listed as defendants and thus had no opportunity to defend their interests in the suit;
11. THAT, the Mwananchi Ranching (Directed Agricultural) Company alleged that Mwananchi Estates Limited fraudulently sold land it did not own to the Settlement Trustee Fund trustees.
12. THAT, on Friday, 18th October, 2024, Judge E.K. Waboto at the Voi Law Courts gave his judgment on the case in which, among other things, declared that Mwananchi Ranching (Directed Agricultural) Company is the bona fide and legitimate owner of LR No.12924 and that the land registration records be rectified to reflect so.
- i. THAT, the judgment had caused a lot of anxiety amongst the owners of the land in the settlement scheme for fear of losing the land which they legally own.
 - ii. THAT, the petitioners have made the best efforts to have the matters addressed by the relevant authorities of which they failed to give a satisfactory response.
 - iii. THAT, none of the issues raised in the petition are pending before any court of law, Constitutional or legal body.

The Petitioners prayed that:

13. The Committee Intervenes and investigates the matter with a view to:

- i. ensure that the area residents are adequately compensated;
- ii. Inquires into the matter and makes appropriate recommendations on the irregular transactions on LR No.12924 situated in Mwatate Constituency;
- iii. Inquires into the matter and makes legislative interventions relating to the land transfer and acquisition processes to ensure that innocent Kenyans are protected;
- iv. Takes any other appropriate action it deems fit to resolve the matters raised herein.

LEGAL BASIS FOR PETITIONS

14. Petitions to the Senate are governed by the Constitution, the Petition to Parliament (Procedure) Act, No. 22 of 2012 and the Senate Standing Orders.
15. **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.*”
16. **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 238 of the Senate Standing Orders provides as follows-
17. *Committal of Petitions (SO 238)*
- a. *Every Petition presented or reported pursuant to this Part, shall stand committed to the relevant Standing Committee.*
 - b. *Whenever a Petition is committed to a Standing Committee, the Committee shall, in not more than sixty 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.*
18. Standing order 239 requires the Clerk to, within fifteen days of tabling of the report on a petition under Standing Order 238 (Committal of Petitions), submit a copy of the report to the petitioner or petitioners.

CHAPTER 2

2.1 CONSIDERATION OF THE PETITION

2.1.1 Approach taken by the Committee

19. In considering the Petition, the Committee observed that it would be important to verify the facts alleged in the Petition. The Committee therefore resolved to conduct an inquiry including a site visit to Taita Taveta in order to address the issues raised in the Petition. This would also entail and engaging the other government institutions.
20. In this regard the Committee conducted a visit to Taita Taveta County on 11th April, 2025 in the presence of representatives from the National Land Commission where they visited the land in dispute. Thereafter, the Committee engaged the petitioners at Social Hall in Taita Taveta County and further received additional oral and written submissions and evidence from the Petitioners.
21. Thereafter the Committee invited the Cabinet Secretary, MoLHPWUD who provided written responses to the Committee.

Site visit report

22. On Friday, 11th of April 2025, the Committee conducted a visit to Taita Taveta County in the presence of representatives from the National Land Commission where they visited the land in dispute.
23. The Chairperson welcomed the Petitioners and invited them to present their Prayers before the Committee. The Petitioners began by stating that they were representing 1322 land owners of Mwananchi Settlement Scheme which was registered in May 2010 by the Government comprising 9070HA which was subdivided to settle them.

24. The petitioner alleged that the Government had bought the land at a cost of 40million through Settlement Trust Fund from Mwananchi Estates Limited who was the owner of the land. However, Wananchi Ranching (Directed Agricultural) Company filed a case against Mwananchi Estates Limited regarding ownership of the land and the Voi Law Courts declared in their favor declaring that the Wananchi Ranching (Directed Agricultural) Company is the bonafide and legitimate owner of the land in question and that the land registration records should be rectified to reflect so.

25. The above judgment thus caused anxiety among the owners of the land in the settlement scheme as they are afraid of losing their land which they argue they legally own as evidenced by possession of valid deeds. The Petitioners resolved to approach the Senate seeking justice on the matter having already approached relevant authorities without any assistance.

CHAPTER 3

ISSUES FOR CONSIDERATION

I). *Whether the land in dispute was legally acquired by the Government of Kenya from the Mwananchi Estates Limited.*

The petitioners submitted evidence as follows:

26. The Petitioners alleged that the Mwananchi Settlement Scheme was registered in May 2010 by the Government of Kenya, in which LR No.12924 comprising 9,070 hectares was subdivided to settle 1,322 people.

The Ministry of Lands housing, Public Works and Urban Development responded as follows:

27. There was an ongoing Civil Appeal Case the Ministry had filed against the judgement of the Honourable Judge E.K Wabwato delivered on 18th October, 2024 in Voi ELC CASE NO 7 of 2024(Formerly MOMBASA ELC CASE NO.40 OF 2017, Formerly NAIROBI CIVIL CASE NO 1663 OF 2000). The Ministry awaits the determination of the Court.

Committee Observation

28. There is an ongoing Civil Appeal Application vide memorandum of appeal dated 20th June 2025 that the Attorney General had filed against the judgement of the Honourable Judge E.K Wabwato delivered on 18th October,2024 in Voi ELC CASE NO 7 of 2024(Formerly MOMBASA ELC CASE NO.40 OF 2017, Formerly NAIROBI CIVIL CASE NO 1663 OF 2000). This case awaits the determination of the Court.

II) *Whether the allegations that the 1,322 owners of land in the settlement scheme were not listed as defendants and thus had no opportunity to defend their interests in the suit filed by the Mwananchi Ranching (Directed Agricultural)*

Company Ltd was against Mwananchi Estates Limited, the Settlement Fund trustees, the Land Commissioner and the Attorney General of Kenya

The petitioners submitted evidence as follows:

29. The Petitioner alleged that the Mwananchi Ranching (Directed Agricultural) Company Ltd filed a case at the Environment and Land Court in Voi, Case No. ELC, No.7 of 2024, and sought the following reliefs;
- a) A permanent injunction restraining the defendants from selling, disposing, evicting, alienating, demarcating and issuing of titles, or in any way dealing with LR No.12924, CR 20403, situated in Mwatate;
 - b) A declaration that the transfer of the land to the Settlement Trust Fund trustees and all consequential transfers be null and void;
 - c) A declaration that LR No. 12924 belongs to Mwananchi Ranching (Directed Agricultural) Company Ltd;
30. The petitioner alleged that the 1322 owners of land in the settlement scheme were not listed as defendants and thus had no opportunity to defend their interests in the suit.

The Ministry of Lands, housing, Public Works and Urban Development responded as follows

31. There is an ongoing Civil Appeal Application vide memorandum of appeal dated 20th June 2025 that the Attorney General had filed against the judgement of the Honourable Judge E.K Wabwato delivered on 18th October,2024 in Voi ELC CASE NO 7 of 2024(Formerly MOMBASA ELC CASE NO.40 OF 2017, Formerly NAIROBI CIVIL CASE NO 1663 OF 2000). This case awaits the determination of the Court.

Observations of the Committee

32. Based on these findings, the Committee observed that the Honourable Judge E.K Wabwato delivered an ex parte judgment on 18th October, 2024 in Voi ELC CASE NO 7 of 2024 (Formerly MOMBASA ELC CASE NO.40 OF 2017, Formerly NAIROBI CIVIL CASE NO 1663 OF 2000). The Committee further observed that the Petitioners, who claim to be land owners of Mwananchi Settlement Scheme, were not expressly listed as defendants and thus had no opportunity to defend their interests in the suit filed by the Mwananchi Ranching.

CHAPTER 4

COMMITTEE OBSERVATIONS

Prayer One:

That the Committee Intervenes and investigates the matter with a view to ensure that the area residents are adequately compensated

33. There is an ongoing Civil Appeal Application vide memorandum of appeal dated 20th June 2025 that the Attorney General had filed against the judgement of the Honourable Judge E.K Wabwato delivered on 18th October,2024 in Voi ELC CASE NO 7 of 2024(Formerly MOMBASA ELC CASE NO.40 OF 2017, Formerly NAIROBI CIVIL CASE NO 1663 OF 2000). This case awaits the determination of the Court.

Prayer Two:

That the committee inquires into the matter and makes appropriate recommendations on the irregular transactions on LR No.12924 situated in Mwatate Constituency

34. There is an ongoing Civil Appeal Case awaiting the determination of the Court.

Prayer Three:

That the Committee inquires into the matter and makes legislative interventions relating to the land transfer and acquisition processes to ensure that innocent Kenyans are protected

35. The committee noted the concerns of the petitioners regarding safeguards to ensure the protection of the right to acquire and own property and will address the arising legislative interventions progressively.

CHAPTER 5

COMMITTEE RECOMMENDATIONS

The Committee having investigated the matter in accordance with its mandate under the standing order 228(4) of the Senate Standing Orders recommends that–

1. The Ministry of Lands Public Works Housing and Urban Development ensures immediate suspension of any ongoing transactions regarding the parcel of land with LR No.12924, until the conclusion and determination of the court case;
2. The National Land Commission carries out investigations to establish the legitimacy of ownership of the parcel of land LR No.12924, and if there are any arising irregularities, report to the Senate within ninety (90) days upon adoption of this report; and
3. The DCI and EACC undertake investigations to ascertain the existence of fraudulent land transactions, with the objective of bringing culpable individuals to book in accordance with the law within ninety (90) days upon adoption of this report.

APPENDICES

ANNEX I: MINUTES OF THE MEETINGS

- a. Minutes of the 42nd sitting held on Thursday, 3rd April, 2025 – Meeting with the Petitioners;
- b. Minutes of the 72nd sitting held on Tuesday, 22nd July, 2025 – Meeting with the MoLHPWUD
- c. Minutes of the 77th sitting held on Tuesday, 6th August, 2025 – Meeting with the NLC
- d. Minutes of the 82nd sitting held on Monday, 22nd September, 2025 – Consideration and Adoption of the Committee Report on the Petition

ANNEX II: SUBMISSIONS BY KEY STAKEHOLDERS

Annex II (A) – MoLHPWUD Submissions responding to the Petition

Annex II (B) – Submissions sent by the Respondent to the Petition

ANNEX III: SUBMISSIONS BY THE PETITIONER

Annex III (A) – Petition as tabled in the Senate

Annex III (B) – Submissions presented by the Petitioner as evidence backing their
Petition

Annex I: Minutes of the Committee



MINUTES OF THE EIGHTY SECOND (82ND) SITTING OF THE STANDING COMMITTEE ON LAND, ENVIRONMENT AND NATURAL RESOURCES HELD AT FOUR POINTS BY SHERATON, MACHAKOS COUNTY ON MONDAY, 22ND SEPTEMBER, 2025 AT 2:00 PM

PRESENT

- | | |
|--|---------------|
| 1. Sen. Mohamed Mwinyihaji Faki, CBS, MP | - Chairperson |
| 2. Sen. Johnes Mwashushe Mwaruma, MP | - Member |
| 3. Sen. James Murango, MP | - Member |
| 4. Sen. Joe Nyutu, MP | - Member |
| 5. Sen. Mariam Sheikh Omar, MP | - Member |

ABSENT WITH APOLOGIES

- | | |
|-----------------------------------|--------------------|
| 1. Sen. Karen Nyamu, MP | - Vice Chairperson |
| 2. Sen. Beatrice Akinyi Ogola, MP | - Member |
| 3. Sen. Abdul Haji, MP | - Member |
| 4. Sen. Allan Chesang, CBS, MP | - Member |

IN ATTENDANCE

1. Mr. Victor Bett
2. Ms. Ivy Nyambura
3. Mr. Andrew Nyairo
4. Mr. John Gichia
5. Ms. Keziah Muthama
6. Mr. Simon Muinde
7. Mr. Boniface Mbithi

SECRETARIAT

- Clerk Assistant I
- Clerk Assistant III
- Legal Counsel II
- Research Officer III
- Fiscal Analyst III
- Audio Officer
- Serjeant at Arms

MINUTE SEN/LENR/443/2025:

PRELIMINARIES

The Chairperson called the meeting to order at 10.14 am followed by a word of prayer.

The Chairperson began by informing the meeting that eleven (11) draft reports in total to be considered that had been scheduled for discussion. The Secretariat then proceeded to take the Members through the reports highlighting the Petition backgrounds, engagements with various stakeholders, investigations and county visits conducted as well as the key observations and recommendations.

In the course of deliberations, the Committee examined the draft reports presented and took note of the recommendations advanced by individual Members and resolved that the necessary amendments and refinements be incorporated into the drafts.

Upon conclusion of the discussions and having satisfied itself that the reports adequately captured the issues raised in the petitions and the Committee's determinations thereon, the Committee unanimously resolved to adopt a total of eight (8) Petition Reports as amended with the three (3) remaining Petitions requiring further stakeholder engagements.

The Secretariat was accordingly directed to effect the agreed amendments and prepare the final versions of the approved and adopted reports for tabling before the Senate.

The following reports were approved and adopted with amendments as follows-

- i. **Petition by the Residents of Changara in Busia County concerning delays in implementation and completion of the Changara Water Pan World Bank funded project;**
- ii. **Petition on historical injustices and illegal alienation of L.R. No. 7153/1, 7153/2, 7153/R, also known as L.R. 12825 in Kiambu County;**
- iii. **Petition by Nyandarua IDPs on delayed compensation and occupation of parcels of land;**
- iv. **Petition regarding the plight of the landless in Muthanthara, Embu County;**
- v. **Petition by Marungu residents within Mghange Mwanda Ward, Taita Taveta County on the alleged threatened eviction from their ancestral land by Mghange Catholic Parish;**
- vi. **Petition on ownership dispute over Mwananchi Settlement Scheme in Mwatate Constituency in Taita-Taveta County;**
- vii. **Petition concerning recognition of land ownership rights and redress of Historical Injustices in Mombasa County; and**
- viii. **Petition by the Mwabundusi land squatters on delayed allocation of land by way of resettlement or compensation for their ancestral land.**

The following reports were deemed unsatisfactory and thus need further engagements with various stakeholders to be completed-

- i. **Petition regarding eviction of Korogocho Community living in the Nairobi River Corridor after its declaration as a special planning area, Nairobi County;**
- ii. **Petition to the Senate concerning land injustices against the Olderkesi Community Members in Narok West Constituency, Narok County concern; and**
- iii. **Petition by CECARE on behalf of Pumwani residents, concerning the conversion of the LR NO. 209/ 2378/1 Pumwani Majengo from public to private land.**

MINUTE SEN/LENR/445/2025

ANY OTHER BUSINESS

There was no other business discussed.

MINUTE SEN/LENR/446/2025

**ADJOURNMENT AND DATE OF
NEXT MEETING**

The meeting was adjourned at 6.34 pm. The date of the next meeting was to be called on notice.

SIGNED.....

DATE...20/9/2025

SEN. MOHAMED MWINYIHAJI FAKI, CBS, MP

CHAIRPERSON

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



MINUTES OF THE SEVENTY SEVENTH (77TH) SITTING OF THE STANDING COMMITTEE ON LAND, ENVIRONMENT AND NATURAL RESOURCES HELD ON TUESDAY, 6TH AUGUST, 2025 IN COMMITTEE ROOM 1, FIRST FLOOR, BUNGE TOWER BUILDING AT 11:00 AM

PRESENT

- | | |
|--|--------------------|
| 1. Sen. Mohamed Mwinyihaji Faki, CBS, MP | - Chairperson |
| 2. Sen. Karen Nyamu, MP | - Vice Chairperson |
| 3. Sen. Mariam Sheikh Omar, MP | - Member |
| 4. Sen. Johnes Mwashushe Mwaruma, MP | - Member |
| 5. Sen. Joe Nyutu, MP | - Member |
| 6. Sen. Beatrice Akinyi Ogola, MP | - Member |

ABSENT WITH APOLOGIES

- | | |
|--------------------------------|----------|
| 1. Sen. Abdul Haji, MP | - Member |
| 2. Sen. James Murango, MP | - Member |
| 3. Sen. Allan Chesang, CBS, MP | - Member |

IN ATTENDANCE

I. SENATOR – FRIEND TO THE COMMITTEE

- | | |
|--------------------------|-------------------------|
| Sen. Richard Onyonka, MP | - Senator, Kisii County |
|--------------------------|-------------------------|

II. NATIONAL LAND COMMISSION

- | | |
|------------------------|-----------------|
| 1. Prof. J. K. Tuitoek | - Commissioner |
| 2. Elijah Letangule | - Dep. Director |

III. PETITIONERS

- | | |
|-------------------|--------------|
| 1. Philip Ndubi | - Petitioner |
| 2. John Kebaso | - Petitioner |
| 3. Bernard Mogaka | - Petitioner |
| 4. Pinton Momanyi | - Petitioner |
| 5. Evans O. Mose | - Petitioner |

IV. SECRETARIAT

- | | |
|-----------------------------|------------------------------------|
| 1. Mr. Victor Bett | - Clerk Assistant 1 |
| 2. Mr. Andrew Nyairo | - Legal Counsel II |
| 3. Mr. John Gichia | - Research Officer III |
| 4. Ms. Keziah Muthama | - Fiscal Analyst |
| 5. Mr. Simon Muinde | - Audio Officer |
| 6. Mr. Jack Lemeteki | -Assistant Media Relations Officer |
| 7. Ms. Christabelle Wasilwa | -Assistant Public Comms. Officer |

MINUTE SEN/LENR/415/2025:

PRELIMINARIES

The Chairperson called the meeting to order at 11.05 am followed by a word of prayer.

MINUTE SEN/LENR/416/2025:

ADOPTION OF THE AGENDA

The agenda of the meeting was adopted after having been proposed by Sen. Beatrice Ogola, MP, and seconded by Sen. Johnes Mwashushe Mwaruma, MP as follows –

1. Prayer;
2. Adoption of the Agenda;
3. **Consideration of the Petition by the Mwabundusi land squatters on delayed allocation of land by way of re-settlement or compensation for their ancestral land (Committee Paper 54) -**
 - a. The Cabinet Secretary, Ministry of Agriculture and Livestock Development; and
 - b. The Chairperson, National Land Commission;
 - c. Petitioners
4. **Consideration of the Petition on a land ownership dispute relating to Mwananchi Settlement Scheme in Mwatate Constituency, Taita/ Taveta County (Committee Paper 55) -**
 - a. Meeting with the Chairperson National Land Commission; and
 - b. The proprietor, Wananchi Ranching Directed Agricultural Company Limited.
5. Any Other Business; and
6. Date of the Next Meeting and Adjournment.

MINUTE SEN/LENR/419/2025:

CONSIDERATION OF THE PETITION BY THE MWABUNDUSI LAND SQUATTERS ON DELAYED ALLOCATION OF LAND BY WAY OF RE-SETTLEMENT OR

**COMPENSATION FOR THEIR
ANCESTRAL LAND** (Committee Paper 54)

a. The Cabinet Secretary, Ministry of Agriculture and Livestock Development;

The Committee was in receipt of a letter Ref: MOALD/CS/ADM/13 VOL. VII dated 4th August, 2025 communicating the unavailability of the Cabinet Secretary following an earlier planned foreign travel and sought the Committee's indulgence to reschedule the Committee meeting and submit written responses which were attached.

The Committee acceded to the request and admitted the written responses.

b. The Chairperson, National Land Commission;

The National Land Commission (NLC) was represented by one of the Commissioners representing the Chairperson and informed the Committee as follows –

1. That general particulars of the parcel of land in question:

Plot No: Kisii Municipality Block IV/16

Registered Owner (s): KARLO Kisii

Size: Approx 100 Ha

Term: 99 Years

From: 01/01/1963

Location: The plot is located within the Kisii Municipality opposite Kisii School on the Kisii Keroka Highway.

2. The parcel in has been a subject of interests from various government agencies such as Kenya Institute of Highways and Building Authority (KHIBIT), National Youth Service (NYS), the Veterinary Department, Kisii Bottlers and Kisii Cancer Center.

3. On July 17th 2017, through Kenya Gazette No. 6862 the National Land Commission (NLC) reviewed the grant and disposition of the aforementioned parcel and found the land to be public utility made recommendations to revoke existing titles on the land. The revoked numbers were LR-16757, LR-16758 and LR-17666 registered under Tegemea Oil Company, Geoffrey Asanyo, and Jared Kangwana and recommended that land to revert to KARLO.

4. The Kisii Bottlers' title was upheld as well as that of the ICDC whose majority shareholding is with the Government. A Historical Land Injustices (HLI) claim was later logged by Mwanyabaro (clan) family on 7th October, 2019 and the claim was allocated No. NLC/HLI/608/2019. In the claim, the family, sought compensation for the land which they claimed to have been taken away from their forefathers. The

respondents to the claim are The Attorney General, Ministry of Agriculture and Livestock Development, Ministry of Lands, the County Government of Kisii and KARLO

5. The Commission organised a physical hearing for this claim on 24th June 2024 at Mama Grace Onyango Cultural and Social Centre in Kisumu, in which the family and the other parties involved were invited to participate. Further, the parties were given fourteen days to present their Submissions to the Commission after the hearings.
6. The Commission will present its determination to the matter upon conclusion of the Historical Land Injustice process
7. The Land partly falls within the Kisii Municipality planned area and borders the freehold adjudication section of Mwabundusi. It is surrounded by homesteads, schools, the Kenya National Polytechnic Kisii and Agricultural Training Centre Kisii.
8. The Current use on the ground is Research and a portion set aside for industrial use by the Kisii Bottlers.
9. The plot is served with infrastructural services that include: Power, sewer, water connectivity and a tarmacked road network.

The Commission concluded their submissions by informing the Committee that they are concluding investigations into this particular land and will be done by latest 30th September, 2025.

c. The Petitioners;

The Petitioners tabled their additional submissions on the Petition and reiterated on two aspects in their Petition that they would like addresses –

1. The land is not grabbed by external parties and is reverted back;
2. The Historical Injustices matter be concluded by NLC and that in their investigations ensure that they have verified that KALRO fenced off what belongs to them. The Petitioners aver that KALRO fenced off more land and that after Re-survey the excess land is reverted back to the original inhabitants who are represented by the Petitioners.

Noting the matters above the Committee resolved that –

- i. NLC ensures that they investigate that actual acreage that was meant for KALRO, in relation to what they fenced off including a verification of the actual acreages by

conducting a fresh survey on the ground. The survey should be done in the presence of the Petitioners, local leadership and thereafter the findings shared with the Committee; and

- ii. Fasten the consideration of the Historical Injustice Claim and stick to the timelines given, by 30th September, 2025.

MINUTE SEN/LENR/420/2025:

**CONSIDERATION OF THE PETITION ON
A LAND OWNERSHIP DISPUTE
RELATING TO MWANANCHI
SETTLEMENT SCHEME IN MWATATE
CONSTITUENCY, TAITA/ TAVETA
COUNTY** *(Committee Paper 55)*

a. The Chairperson, National Land Commission;

The NLC informed the Committee that they were not adequately prepared to respond to the Petition and will be sending responses within seven (7) days.

The NLC further prevailed upon the Committee to withdraw the earlier summons that were issued and that they are fully committed to appear before the Committee and respond to the matters that were requested.

The Commissioner representing the Chairperson, committed to personally ensure that the all the Petitions responses that were asked by the Committee would be submitted in advance before appearance at the appointed date.

The Committee acceded to the Commissioners request on behalf of NLC and the Chairperson and resolved to invite NLC after the recess period. The Committee further reiterated that the submissions be sent latest seven (7) days before the scheduled appearance.

b. The proprietor, Wananchi Ranching Directed Agricultural Company Limited;

The committee was in receipt of correspondence from the proprietor, Wananchi Ranching Directed Agricultural Company Limited, Mr. Abdisatar Haji Mohamed indicating that the matters to be canvassed before the Committee are alive in court and he is under advice that it would amount to contempt of court.

MINUTE SEN/LENR/421/2025


ANY OTHER BUSINESS

There was no other business discussed.

MINUTE SEN/LENR/422/2025

**ADJOURNMENT AND DATE OF
NEXT MEETING**

The meeting was adjourned at 1.29 pm. The date of the next meeting was scheduled for Thursday, 7th August, 2025 at 9.00 am.



7/8/2025

SIGNED.....

DATE.....

SEN. MOHAMED MWINYIHAJI FAKI, CBS, MP

CHAIRPERSON

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



MINUTES OF THE SEVENTY SECOND (72ND) SITTING OF THE STANDING COMMITTEE ON LAND, ENVIRONMENT AND NATURAL RESOURCES HELD ON TUESDAY, 22ND JULY, IN COMMITTEE ROOM 1, FIRST FLOOR, BUNGE TOWER BUILDING 2025 AT 10:00 AM

PRESENT

- | | |
|--|--------------------|
| 1. Sen. Mohamed Mwinyihaji Faki, CBS, MP | - Chairperson |
| 2. Sen. Karen Nyamu, MP | - Vice Chairperson |
| 3. Sen. Johnes Mwashushe Mwaruma, MP | - Member |
| 4. Sen. Joe Nyutu, MP | - Member |
| 5. Sen. Abdul Haji, MP | - Member |
| 6. Sen. Beatrice Akinyi Ogola, MP | - Member |
| 7. Sen. Mariam Sheikh Omar, MP | - Member |
| 8. Sen. James Murango, MP | - Member |

ABSENT WITH APOLOGIES

- | | |
|--------------------------------|----------|
| 1. Sen. Allan Chesang, CBS, MP | - Member |
|--------------------------------|----------|

IN ATTENDANCE

MINISTRY OF LANDS, PUBLIC WORKS, HOUSING AND URBAN DEVELOPMENT

- | | |
|---------------------------|-------------------------------|
| 1. Hon. Alice Wahome, EGH | - Cabinet Secretary |
| 2. Mr. Kennedy G. Njenga | - Directors Land Adjudication |
| 3. Mr. Martin Weldon | - Director of Survey |
| 4. Mr. Nyandoro David | - CLR |

SECRETARIAT

- | | |
|----------------------|------------------------|
| 1. Mr. Victor Bett | - Clerk Assistant 1 |
| 2. Ms. Ivy Nyambura | - Clerk Assistant III |
| 3. Mr. Andrew Nyairo | - Legal Counsel II |
| 4. Mr. John Gichia | - Research Officer III |

- | | |
|-----------------------------|------------------------------------|
| 5. Ms. Keziah Muthama | - Fiscal Analyst III |
| 6. Mr. Simon Muinde | - Audio Officer |
| 7. Mr. Jack Lemeteki | -Assistant Media Relations Officer |
| 8. Ms. Christabelle Wasilwa | -Assistant Public Comms. Officer |
| 9. Ms. Cynthia Waithera | -Intern |

MINUTE SEN/LENR/380/2025:

PRELIMINARIES

The Chairperson called the meeting to order at 10.24 am followed by a word of prayer.

MINUTE SEN/LENR/381/2025:

ADOPTION OF THE AGENDA

The agenda of the meeting was adopted after having been proposed by Sen. Beatrice Akinyi Ogola, MP, and seconded by Sen. James Murango, MP as follows-

1. Prayer;
2. Adoption of the Agenda;
3. Confirmation of Minutes of the previous sitting;
4. Matters Arising;
5. **Meeting with the Cabinet Secretary, Ministry of Lands, Public Works, Housing and Urban Development and the Chairperson, National Land Commission to deliberate on the following Petitions -**
 - i. *The Petition on historical injustices and illegal alienation of L.R. No. 7153/1, 7153/2, 7153/R, also known as L.R. 12825 in Kiambu County;*
 - ii. *The Petition regarding the plight of the landless in Muthanthara, Embu County;*
 - iii. *The Petition on delayed allocation of alternative land by way of re-settlement or compensation for the ancestral land that was alienated by the Government of Kenya for creation of Kisii Agricultural Institute and Kisii Farmers Training Center;*
 - iv. *The Petition concerning recognition of land ownership rights and redress of historical injustices in Mombasa County;*
 - v. *The Petition regarding land ownership dispute of the Mwananchi Settlement Scheme in Mwatate Constituency in Taita Taveta County;*
 - vi. *The Petition concerning land injustices against community members living in Olderkesi, Narok West Constituency of Narok County;*
 - vii. *The Petition regarding eviction of Korogocho community living in the Nairobi River corridor after its declaration as a special planning area;*
 - viii. *The Petition regarding Public land grabbing in Kithima Location in Meru County; and*
 - ix. *The Petition by Marungu Residents within Mchange Mwanda Ward, Taita Taveta County.*

6. Meeting with the Chairperson, National Land Commission on the following eight (8) Statements before the Committee -

- i. Statement sought by Sen. Richard Onyonka, MP, regarding alleged delayed compensation of landowners affected by the Eldoret bypass project;
- ii. Statement sought by Sen. Fatuma Dullo, CBS, MP regarding alleged grabbing of community land in Isiolo County;
- iii. Statement sought by Sen. (Dr.) Steve Lelegwe Ltumbesi, CBS, MP, regarding acquisition of part of L.R. No. Samburu/East Waso/1 in Samburu County by the National Government;
- iv. Statement sought by Sen. Wahome Wamatinga, MP, regarding the status of land belonging to the Kenya Veterinary Vaccine Production Institute (KEVEVAPI);
- v. Statement sought by Sen. Andrew Omtatah Okoiti, MP, regarding the delay in compensating owners of land whose parcels were compulsorily acquired for the Ejinja- Bumala Road Project in Busia and Kakamega Counties;
- vi. Statement sought by Sen. Shakilla Abdalla, MP regarding acquisition and utilization of land for the construction of the Lamu Port and access roads;
- vii. Statement sought by Sen. Fatuma Dullo, CBS, MP, regarding the status of compensation to landowners displaced in the construction of the Horn of Africa Gateway Development Project; and
- viii. Statement sought by Sen. Agnes Kavindu Muthama, MP, regarding compulsory acquisition of land in Mutituni Market, Machakos County belonging to the late Reuben Mutuma by the Government.

7. Any Other Business; and

8. Date of the Next Meeting and Adjournment.

MINUTE SEN/LENR/382/2025:

CONFIRMATION OF MINUTES OF THE PREVIOUS SITTING

The confirmation of Minutes was deferred.

MINUTE SEN/LENR/383/2025:

MATTERS ARISING

There were no matters arising.

MINUTE SEN/LENR/384/2025:

MEETING WITH CABINET SECRETARY, MINISTRY OF LANDS, PUBLIC WORKS, HOUSING AND URBAN DEVELOPMENT

1. Petition on Historical Injustices – L.R. No. 12825, Kiambu County

Petition Summary: The Mbari ya Mbogo family claims that their ancestral land was illegally alienated, citing violations of land laws and irregularities in past survey and registration processes. They allege that the National Land Commission (NLC) conducted a biased and improperly concluded hearing and demand that the land be returned, development halted, and compensation awarded.

Ministry Response: The Ministry acknowledged the concerns raised but clarified that matters relating to historical land injustices fall under the constitutional mandate of the NLC pursuant to Article 67(2) (e) of the Constitution and the National Land Commission Act. As such, the Ministry referred the petitioners to the NLC for further action and determination.

2. Petition by Marungu Residents – Mwanda/Mgange Ward, Taita Taveta

Petition Summary: Petitioners alleged irregular allocation of 1,000 acres of trust land to the Holy Rosary Catholic Church, beyond an initially agreed 75 acres. They claim the demarcation lacked proper community consultation and suspect manipulation during a water project exercise.

Ministry Response: The Ministry presented documentary evidence showing legal allocation through the then County Council of Taita Taveta, including minutes, consent by the Land Control Board, and gazette notices. The allocation was formalized with a lease issued to the Catholic Archdiocese of Mombasa. The land was categorized as private in 2020, rendering it unavailable for adjudication. The Ministry maintained the allocation followed due process under the Trust Land Act (Cap. 288).

3. Petition on Landlessness in Muthanthara, Embu County

Petition Summary: Residents of Muthanthara village reported they have lived on the land since independence but lack title deeds and face threats of eviction. They seek recognition, protection from harassment, and declaration of the area as an adjudication section.

Ministry Response: The Ministry stated that Muthanthara is part of the Kamarandi Registration Section, which was declared in 1972, demarcated, and adjudicated by 1982. The adjudication register was finalized and registered in 1987. All disputes were addressed within the legal timelines. As the law does not allow re-declaration of adjudication sections, the Ministry cannot restart the process. However, it committed to conducting ground verification to identify affected individuals and reconcile occupancy with titles issued.

4. Petition on Alienated Land for Kisii Agricultural Institute and FTC

Petition Summary: Residents allege that land originally allocated to KALRO and the Kisii FTC in 1963 exceeded the lease terms and was never returned. They also claimed non-use of much of the land and lack of compensation to the original owners.

Ministry Response: The Ministry emphasized that compensation and historical land injustice matters fall within the purview of the NLC. It advised the petitioners to pursue their claims through the Commission, which has the constitutional authority to investigate and recommend compensation or redress for historical grievances.

5. Petition on Land Ownership Disputes in Mombasa County

Petition Summary: Long-term tenants residing on various parcels in Mombasa County alleged exploitation by absentee landlords, lack of legal leases, and denial of tenancy rights. They requested lease agreements, policy clarity, and a pathway to land ownership.

Ministry Response: The Ministry pointed to the NLC as the appropriate forum for these matters. They acknowledged the complex historical land issues in the coastal region and encouraged the petitioners to engage with the Commission for redress, policy reform, and investigation.

6. Petition on Mwananchi Settlement Scheme – Mwatate, Taita Taveta

Petition Summary: Residents raised alarm over a recent court ruling that awarded the land (L.R. No. 12924) to a third party, threatening the tenure of over 1,300 beneficiaries who were settled on the land by the government and issued titles.

Ministry Response: The Ministry informed the Committee that it has lodged a civil appeal against the judgment delivered by the Voi Environment and Land Court on 18th October 2024. It assured the Committee that the appeal is active and that the Ministry will pursue all legal avenues to safeguard the rights of the beneficiaries pending the outcome.

7. Petition on Land Disputes – Olderkesi, Narok West

Petition Summary: Community members complained of irregular land allocation during subdivision of Olderkesi Adjudication Section, including exclusion of original members and unaccounted leases to a conservancy investor, Mr. Calvince Cottars.

Ministry Response: The Ministry outlined that Olderkesi was lawfully declared an adjudication section in 2010. A notice of register completion was issued and inspection was open for 60 days as required. No objections were formally lodged. Over 6,600 titles have already been issued out of the expected 7,818. On the conservancy matter, the Ministry stated it was not party to the private lease agreement, which should be handled by the conservancy committee. Legal remedies are available under the Land Adjudication Act.

8. Petition on Korogocho Evictions – Nairobi River Corridor

Petition Summary: The Korogocho Community Forum raised issues over evictions following the Nairobi River Corridor’s designation as a Special Planning Area, citing lack of public participation, intimidation, and inadequate compensation.

Ministry Response: The Ministry clarified that planning, designation, and eviction decisions within Nairobi fall under the Nairobi City County Government. As such, the county is best placed to respond to the concerns raised, though the Ministry encouraged due process and adherence to the Constitution in all actions.

9. Petition on Public Land Grabbing – Kithima, Meru County

Petition Summary: Petitioners allege that three parcels of public land earmarked for a dispensary, primary, and secondary school have been illegally occupied by private entities.

Ministry Response: The Ministry confirmed that all three parcels—Kiirua/Nkando 704, 702, and 690—are registered in the name of the County Council of Meru for public use and have no encumbrances. The records show clear ownership, and any illegal occupation can be addressed through legal eviction mechanisms.

10. Petition by Nyandarua IDPs – Delayed Compensation and Survey

Petition Summary: Internally Displaced Persons (IDPs) in Nyandarua County petitioned the Senate over delays in compensation, issuance of title deeds, and lack of survey on farms settled between 2010–2013. They also cited frozen funds in banks.

Ministry Response: The Ministry reported that while some farms were planned and surveyed, others were not, and regularization is pending. A budget of Ksh. 25.9 million is required to finalize planning and issuance of title deeds for these farms. It noted that over Ksh. 7.6 billion has already been spent nationwide on IDP resettlement, and that the government ceased land purchase for IDPs in 2013 in favor of cash payouts. The Ministry committed to completing the pending exercises subject to budget availability.

On concluding the Committee took note of the Ministry’s responses and acknowledged areas requiring further follow-up, particularly with the National Land Commission, county governments, and courts. The Ministry was commended for its cooperation and commitment to stakeholder engagement and resolution of land grievances.

Further, the Committee resolved to-

- i. Share records in Committee possession regarding *the Petition regarding the plight of the landless in Muthanthara, Embu County* to assist the Ministry of Lands to

- review the issues raised by the Petitioners before embarking on a site visit for further data collection;
- ii. Have land records regarding *the Petition on delayed allocation of alternative land by way of re-settlement or compensation for the ancestral land that was alienated by the Government of Kenya for creation of Kisii Agricultural Institute and Kisii Farmers Training Center* sent to the Committee within seven (7) days;
- iii. Have Ministry of Lands to share the list of beneficiaries who recently received titled deeds in the *Petition concerning land injustices against community members living in Olderkesi, Narok West Constituency of Narok County* within seven (7) days;
- iv. Give the Ministry of Lands a grace period of 6 months to effect the commitment they made on resettling of the Nyandarua/Laikipia IDPS on land already procured within this FY 2025/2026 and report back to the Committee; and
- v. Send out a summon to the Chairperson, National Land Commission after having not honored a number of invitations by the Committee.

MINUTE SEN/LENR/385/2025

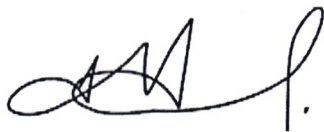
ANY OTHER BUSINESS

There was no other business discussed.

MINUTE SEN/LENR/386/2025

ADJOURNMENT AND DATE OF NEXT MEETING

The meeting was adjourned at 1.24 pm. The date of the next meeting was to be called on notice.



22/7/25

SIGNED..... DATE.....

SEN. MOHAMED MWINYIHAJI FAKI, CBS, MP
CHAIRPERSON

STANDING COMMITTEE ON LAND, ENVIRONMENT AND NATURAL RESOURCES.



MINUTES OF THE FORTY SECOND SITTING OF THE STANDING COMMITTEE ON LAND, ENVIRONMENT AND NATURAL RESOURCES HELD ON THURSDAY, 3RD APRIL, 2025 IN COMMITTEE ROOM 9, 1ST FLOOR, BUNGE TOWER AT 10:00 AM

PRESENT

- | | |
|--|---------------|
| 1. Sen. Mohamed Mwinyihaji Faki, CBS, MP | - Chairperson |
| 2. Sen. Johnes Mwashushe Mwaruma, MP | - Member |
| 3. Sen. Joe Nyutu, MP | - Member |
| 4. Sen. James Murango, MP | - Member |
| 5. Sen. Beatrice Akinyi Ogola, MP | - Member |

ABSENT WITH APOLOGIES

- | | |
|--------------------------------|--------------------|
| 1. Sen. Karen Nyamu, MP | - Vice Chairperson |
| 2. Sen. Allan Chesang, CBS, MP | - Member |
| 3. Sen. Abdul Haji, MP | - Member |
| 4. Sen. Mariam Sheikh Omar, MP | - Member |

IN ATTENDANCE

PETITIONERS

- | | |
|---|--------------------|
| 1. Sen. (Dr.) Lelegwe Ltumbesi, CBS, MP | -Samburu Senator |
| 2. Sen. Shakilla Abdalla, MP | -Nominated Senator |

SECRETARIAT

- | | |
|------------------------|------------------------------------|
| 1. Ms. Ivy Nyambura | - Clerk Assistant III |
| 2. Mr. Andrew Nyairo | - Legal Counsel II |
| 3. Ms. Janice Lekuton | - Research Officer III |
| 4. Mr. Simon Muinde | - Audio Officer |
| 5. Mr. Jack Lemeteki | -Assistant Media Relations Officer |
| 6. Mr. Boniface Mbithi | - Serjent at Arms |

MINUTE SEN/LENR/240/2025:

PRELIMINARIES

The Chairperson called the meeting to order at 10.27 am. This was followed by a word of prayer and thereafter a round of introductions.

MINUTE SEN/LENR/241/2025:

ADOPTION OF THE AGENDA

The agenda of the meeting was adopted having been proposed by Sen. Johnes Mwashushe Mwaruma, MP, and seconded by Sen. James Murango, MP as follows-

1. Prayer;
2. Adoption of the Agenda;
3. Confirmation of Minutes of the previous sitting;
4. Matters Arising;
5. Meeting with the-
 - i. The Archbishop of Mombasa, Catholic Archdiocese of Mombasa on the Petition by Marungu Residents on threatened eviction from their ancestral land by Holy Rosary Catholic Parish Mwanda, Taita Taveta County (*Committee Paper 24*); and
 - ii. The Petitioners on the Petition on land ownership dispute of Mwananchi Settlement Scheme in Mwatate Constituency, Taita Taveta County (*Committee Paper 25*).
6. Any Other Business; and
7. Date of the Next Meeting and Adjournment.

MINUTE SEN/LENR/242/2025:

CONFIRMATION OF MINUTES OF THE PREVIOUS SITTING

The confirmation of minutes was deferred to the next meeting.

MINUTE SEN/LENR/243/2025:

MATTERS ARISING

There were no matters arising.

MINUTE SEN/LENR/244/2025

MEETING WITH THE ARCHBISHOP OF MOMBASA, CATHOLIC ARCHDIOCESE OF MOMBASA ON THE PETITION BY MARUNGU RESIDENTS ON THREATENED EVICTION FROM THEIR ANCESTRAL LAND BY HOLY ROSARY

**CATHOLIC PARISH MWANDA, TAITA
TAVETA COUNTY (Committee Paper 24)**

The Committee had invited the Archbishop of Mombasa, Catholic Diocese vide letter REF: SEN/DSEC/DPEAC/LENR/2025(3) (127) dated 27th March, 2025 to respond on matters raised in the above Petition, however, they had not responded to the letter.

The Committee noting that they were key in investigations of the issues raised by the petitioners thus resolved to give them one more opportunity to appear before the Committee and respond to the allegations by sending another invitation letter to the Archbishop before embarking on doing its report.

MINUTE SEN/LENR/245/2025

**MEETING WITH THE PETITIONERS ON
THE PETITION ON LAND OWNERSHIP
DISPUTE OF MWANANCHI
SETTLEMENT SCHEME IN MWATATE
CONSTITUENCY, TAITA TAVETA
COUNTY (Committee Paper 25)**

The Chairperson welcomed the Petitioners and invited them to present their Prayers before the Committee. The Petitioners began by stating that they were representing 1322 land owners of Mwananchi Settlement Scheme which was registered in May 2010 by the Government comprising of 9070HA which was subdivided to settle them.

The Government had bought the land at a cost of 40million through Settlement Trust Fund from Mwananchi Estates Limited who was the owner of the land. However, Wananchi Ranching (Directed Agricultural) Company filed a case against Mwananchi Estates Limited regarding ownership of the land and the Voi Law Courts declared in their favor declaring that the Wananchi Ranching (Directed Agricultural) Company is the bonafide and legitimate owner of the land in question and that the land registration records should be rectified to reflect so.

The above judgment thus caused anxiety among the owners of the land in the settlement scheme as they are afraid of losing their land which they argue they legally own as evidenced by possession of valid deeds. The Petitioners resolved to approach the Senate seeking justice on the matter having already approached relevant authorities without any assistance.

In the Petition the Petitioners prayed that the Committee should urgently investigate the issues raised in the petition and take the following actions-

- i. Intervenes and investigates the matter with a view to ensure that the area residents are adequately compensated;
- ii. Inquires into the matter and makes appropriate recommendations on the irregular transactions on L.R No. 12924 situated in Mwatate Constituency;
- iii. Inquiries into the matter and makes legislative interventions relating to land transfer and acquisition processes to ensure that innocent Kenyans are protected; and
- iv. Takes any other appropriate action it deems fit to resolve the matters raised herein.

On concluding their presentation the Committee noted that there was need to engage the Ministry of Lands to respond on issues raised regarding the purchase of land that appears to have been acquired fraudulently, further, they assured the Petitioners since there was no order on eviction on the Court's judgment they were safe from any sort of evictions presently. The Petitioners were advised to ensure they share allotment letters and payment receipts as evidence they indeed made payments for the land.

On further deliberations the Committee resolved to-

- i. Include site visits to Marungu, Mwatate and Mkuki areas on the aforementioned Petitions during its County visit to Taita Taveta schedule for 10th April, 2025 to 14th April, 2025; and
- ii. Invite the Cabinet Secretary, Ministry of Lands, Public Works, Housing and Urban Development to provide information of the aforementioned Petitions among other pending legislative business before the Committee.

MINUTE SEN/LENR/LENR/246/2025

ANY OTHER BUSINESS

The meeting was informed of the upcoming induction retreat scheduled for 3rd to 7th April, 2025 including a petition hearing scheduled for Saturday, 5th April, 2025. Additionally, Members were reminded of the Taita Taveta County visit scheduled for 10th to 14th April, 2025.

MINUTE SEN/LENR/247/2025

ADJOURNMENT AND DATE OF NEXT MEETING

The meeting was adjourned at 11.17 am. The date of the next meeting was to be called by notice.



15/4/2025

SIGNED.....

DATE.....

SEN. MOHAMED MWINYIHAJI FAKI, CBS, MP
CHAIRPERSON
STANDING COMMITTEE ON LAND, ENVIRONMENT AND NATURAL
RESOURCES

Annex II:
Submissions
by key
Stakeholders



REPUBLIC OF KENYA

MINISTRY OF LANDS, PUBLIC WORKS, HOUSING AND URBAN DEVELOPMENT

**INVITATION TO A MEETING OF THE SENATE STANDING COMMITTEE ON LAND,
ENVIRONMENT AND NATURAL RESOURCES**

Honourable Chair,

Pursuant to a letter REF: SEN/DSEC/DPEAC/LENR/2025(3) (205) dated 25th June, 2025, the Committee invited the Cabinet Secretary Ministry of Lands, Public Works, Housing and Urban Development to a meeting on Tuesday, 22nd July, 2025 to discuss the following Petitions;

- 1) The Petition on historical injustices and illegal alienation of L.R. No. 7153/1,7153/2,7153/R, also known as L.R. 12825 in Kiambu County;
- 2) The Petition by Marungu Residents within Mchange Mwanda Ward, Taita Taveta County;
- 3) The Petition regarding the plight of the landless in Muthanthara, Embu County;
- 4) The Petition on delayed allocation of alternative land by way of re-settlement or compensation for the ancestral land that was alienated by the Government of Kenya for creation of Kisii Agricultural Institute and Kisii Farmers Training Centre;
- 5) The Petition concerning recognition of land ownership rights and redress of historical injustices in Mombasa County;
- 6) The Petition regarding land ownership dispute of the Mwananchi Settlement Scheme in Mwatate Constituency in Taita Taveta County;
- 7) Petition concerning land injustices against community members living in Olderkesi, Narok West Constituency of Narok County;
- 8) The Petition regarding eviction of Korogocho community living in the Nairobi River corridor after its declaration as a special planning area; and
- 9) The Petition regarding public land grabbing in Kithima Location in Meru County.

Honourable Chair, in addition, pursuant to a letter Ref: SEN/DSEC/DPEAC/LENR/2025(3) (213) dated 14th July, 2025 the Committee invited the Cabinet Secretary to a meeting on 22nd July, 2025 to provide information on the following;

10. The Petition by Nyandarua IDPs on occupation of parcels of land bought in 2010-2013 and compensation money frozen in banks.

RESPONSES

1. The Petition on historical injustices and illegal alienation of L.R. No. 7153/1,7153/2,7153/R, also known as L.R. 12825 in Kiambu County.

The Petitioners' claim

The Petition is based on Historic Injustices meted to Mbari ya Mbogo's Family, based on, violation of the Survey Act, the Land Act and the Land Registration Act. The petitioners allege that the foundation of LR. No. 12825 is based on illegalities and irregularities. They claim the matter was previously raised and heard before The National Land Commission's Historical Land Injustice Committee under Article 67(2)(e) of the Constitution of Kenya and Section 15 of National Land Commission Act in the Matter of Historical land Injustices Claim Ref. No. NLC/HLI/053/ 2017 between Mbogo's Family of Mbari Ya Mbogo as Plaintiff/Applicant and Margret Nyokabi Mbugua and families of 9 others as Respondents.

The petitioners further claim that the National Land Commission proceeded to conduct a sham "Hearing" of the "Dispute" and rendered a determination thereon on 7th February 2019 in favour of the Respondents. The family was served with a belated determination letter 12 days after the Commissioners had exited office.

The petitioners are seeking the following;

- i) Investigate the matter with a view to returning the ancestral land back to Mbogo's Family of Mbari ya Mbogo,
- ii) Stop any further day to day development, sale and leasing off, by defendants till the matter is settled,
- iii) Resolve that all beneficiaries, investors and stakeholders operating thereon to compensate on properties and all illegally occupied land, and
- iv) Resolve on the compensation for historical injustices, damages and other loses as a result of forceful eviction meted to Mbogo's family.

Response

Honourable Chair, the petition on historical injustices and illegal alienation of L.R. No. 7153/1,7153/2,7153/R, also known as L.R. 12825 in Kiambu County, with a view of compensating the petitioners can well be addressed by the National Land Commission which has the constitutional mandate of addressing historical land injustices and compensation.

2. The Petition by Marungu Residents within Mchanga Mwanda Ward, Taita Taveta County,

The Petitioners' Claim

The petitioners who are residents of Marungu within Mwanda/Mgange ward in Taita Taveta County claim that they have lived in the area for more than four decades. They allege that they have buried their loved ones within the area and have been doing subsistence farming. The petitioners further claim that sometime in the year 2007, the Holy Rosary Catholic Church approached the elders of Marungu area and requested to be allocated land for purposes of putting up an orphanage and a church.

They claim that the elders donated a maximum of 75 Acres but on the site identification day, the area chief directed that 1000 acres be identified for the mission and not the initial 75 Acres. This they assert, did not auger well with the elders and the site identification exercise was not concluded.

The petitioners further contend that since the year 2007, there has not been a meeting of the elders and the authorities to identify the 1000 Acres for the mission nor the initial 75 Acres which was to be identified. However, they allege that in the year 2009, the area Chief together with church officials brought a surveyor to demarcate and excise the 1000 Acres but the surveyor declined to do the demarcation since the land was already settled on by Marungu residents.

The petitioners claim that sometimes afterwards, there was a water pan project within the area and the residents as well as non- residents were asked come to come with copies of their Identity cards for them to be hired as casual workers and they suspect they could have been used to sanitize the demarcation.

The petitioners claim that in the year 2019, the mission constructed a church in the area falling within the 1000 Acres and in 2021, the Ministry of Lands set up an adjudication scheme covering Marungu area named Ngoloki Adjudication Scheme in May 2023.

The petitioners assert that the ongoing adjudication omitted approximately 1000 Acres in the area with the reason that the land is adjudicated and titled in favor of the Catholic mission. They claim that this is a very big omission and injustice if indeed the land was adjudicated without the knowledge of the residents.

The petitioners aver that the people of Marungu are now facing eviction from their ancestral land courtesy of unscrupulous dealings between the church, some lands officials and the current and former provincial administration officers.

The petitioners claim that in 2021, they tried to have the matter resolved by the National Land Commission but they have not received a response thus far and that the matter and issues are not before any Court of Law nor any Constitutional body.

The petitioners have therefore requested this Committee to;

- i. Use its constitutional powers to demand for explanations from relevant officers and authorities
- ii. Demands a correction of the injustice that is already underway and likely to culminate in a security and humanitarian crisis
- iii. Demands that the 1000 Acres be adjudicated in favour of residents already residing in the said parcel of land as they are the rightful land owners

Response

Honourable Chair,

According to our records, the subject parcel of land falls on former Trust land. The Holy Rosary Catholic Church applied for allocation of 1000 Acres of land at Marungu/Mkamwasi to the then County Council of Taita Taveta and the same was approved. A consent for setting apart the land was also issued by Wundanyi Land Control Board. Annexure 1 are copies of the minutes and the Land Control Board Consent.

On December 4, 2008, the then County Council of Taita Taveta justified the setting a part of the 1000 Acres as shown in the table below. Annexure 2 is a copy of the letter.

S. NO.	PURPOSE	ACREAGE (ACRES)
1	Administrative Centre	2 acres
2	Nursery school and related facilities	5 acres
3	Primary school with related facilities including school demonstration firm	30 acres
4	Secondary and all related facilities including school demonstration farm	65 acres
5	Vocation centre with all related facilities	20 acres
6	Health Centre	5 acres
7	FARMS	
i.	No. of families-20 each with a house and family shamba 4 acres	80 acres
ii.	Staff-Farm manager, drivers for farm machinery	4 acres
iii.	Bee keeping	20 acres
iv.	Water systems with boreholes, shallow wells, sand dams for drip irrigation	50 acres
v.	Tree planting	300 acres

vi.	Animal keeping- dairy cows, sheep and goat	360 acres
8	Police post	3 acres
9	Housing for the orphans	30 acres
10	Church	10 acres
11	Sisters (Nuns) Convent and farm	20 acres
	TOTAL ACREAGE	1004 acres

In accordance with provisions of the then Trust Land Act (Cap. 288), the parcel of land was set apart by the then Commissioner of lands vide Gazette Notice No. 761 of December 24, 2010. The area gazetted was approximately 404.71 hectares and the boundaries were clearly defined. Annexure 3 is a copy of the gazette notice.

On February 14, 2011, the entire gazetted land measuring approximately 404.71 Hectares was allocated to Catholic Archdiocese of Mombasa vide a letter of allotment Ref; 116402 T. C. Annexure 4 is a copy of the letter of allotment. They accepted the allocation and paid the required legal fees. Annexure 5 is a copy of the acceptance letter and the receipt. A lease document was processed for Catholic Archdiocese of Mombasa and registered on December 11, 2020 as CR 76335.

Honourable Chair, the land now falls in the category of private land and is therefore not available for adjudication.

3. The Petition regarding the plight of the landless in Muthanthara, Embu County

The Petitioners' Claim

The petitioners claim that they and the larger community of Muthanthara village in Mbeere North, Embu County have no title deeds to the land they have occupied since independence.

They further claim that they are faced with the threat of eviction and have visited several government offices without a solution to their problem.

- i. They have therefore lodged a petition for registration and issuance of title deeds;
- ii. The Senate to give direction regarding their ownership status and to be shielded from harassment by third parties;
- iii. The Senate to initiate proceedings for a declaration of Muthanthara as an adjudication area;
- iv. The Senate to make any other order it deems fit in respect of the petition

RESPONSE

Honourable Chair, Muthanthara village is part of the larger Kamarandi Registration section in Embu County. It resulted in 992 land parcels covering an area of 7454.00 Hectares at the time of registration.

This registration section was declared on 11th January 1972 in accordance with the provisions of Land Adjudication Act, Cap 284 of the Laws of Kenya. This act provides for ascertainment of rights and interests over community land (formally Trust land) in line with customary law. It gives guidance on the procedure and establishes mechanisms of dispute resolution through land adjudication committee, arbitration board, objection to adjudication register and finally appeals to the Minister (Cabinet Secretary).

The Ministry satisfactorily executed its mandate as per the Land Adjudication Act, Cap 284, laws of Kenya.

Honourable Chair, after completion of demarcation and survey work, the Adjudication Register for this registration section was published complete on 26th June, 1975 in accordance with section 25(c) of the same Act and whereby in the proceeding Section 26 which states that; *"Any person named in or affected by the adjudication register or who considers it to be incorrect or incomplete in any respect may, within sixty (60) days of the date upon which the notice of completion of the adjudication register is published, object to the adjudication officer in writing, saying in what respect he considers the adjudication register to be incorrect or incomplete."*

All objections to the adjudication register received were heard, determined and implemented and those aggrieved by the Adjudication Officers' decisions were allowed to file appeal to the minister (Cabinet Secretary) cases within sixty (60) days as provided for in Section 29 of Cap. 284.

All claims were heard, determined and implemented and the section was finalized on 15th April 1982 and registered on 13th February 1987.

Since the act had provided mechanisms for the petitioners to lay their claims during the land adjudication tribunals, it is assumed that they were contented with the way the adjudication of the section was done.

The issues being raised appear to challenge this process and there is no provision in the provided law for re-declaration of adjudication in the same section.

Honourable Chair, the Ministry will try to engage all stakeholders and conduct a ground verification to identify the people on the ground and title holders with an aim of addressing the issues raised in the petition.

4. The Petition on delayed allocation of alternative land by way of re-settlement or compensation for the ancestral land that was alienated by the Government of Kenya for creation of Kisii Agricultural Institute and Kisii Farmers Training Centre

The Petitioners' Claim

The petitioners state that complaint before the Senate is about the studious silence by the National Land Commission in addressing the land question in which the residents of Mwabundusi are languishing in abject poverty while their land that was alienated by the Kenya Government in 1963 is being utilized by Kenya Agricultural and Livestock Organization (KALRO) and Kisii Farmers Training Centre (FTC), who were allocated the said land.

The petitioners argue that the land originally belonged to the families of Mogaka Nyabaro, Naphtali Openda Christopher Mbaka and Atogo Mogaka and others. That in the year 1963/4 or thereabouts, the Ministry of Agriculture alienated a large parcel of land for the purpose of setting up a veterinary centre and later farmers training centre for the Nyanza Region. The lease was for 37 years and consequently it was to expire in the year 1992. They aver that the Government of Kenya in a decision was taken without involving the community as the original owners.

They further argue that KALRO was originally allocated 83 acres of land but is currently occupying more than 300 Acres of land which land remains fallow, underutilized and the original community owners do not derive any benefit from it. The petitioners add that in the year 2015, they presented a petition to the National Land Commission (NLC). However, the Commission did not act on their petition.

The petitioners lament that KALRO continues to hold large parcels of land, more than they need. That the petitioners were pushed by the Government to the river bank where they continue to suffer while they are prohibited from fully utilizing the land along the river banks due to the Environmental Management and Coordination Act 2015 since it is riparian land.

They further state that the Government has an obligation to ensure that every person whose land was alienated is compensated and the petitioners' case is a classic example of historical injustice. That despite the clear road map and constitutional mandate given to the NLC, the Commission has continued to be a bystander despite having raised their grievances to the Commission.

The petitioners state that efforts to have the NLC address this issue have proved futile and hence this petition to the Senate. The petitioners feel their issue is not being addressed contrary to the dictates of Articles 35 and 47 of the constitution.

On account of the above the petitioners are seeking the Senate to;

- a) Compel the NLC to determine the actual size of land that was allocated to KALRO and Kisii Farmers Training Center and set aside whichever land that is over and above 83 Acres allocated to the two institutions as per the lease.
- b) Order prompt and expeditious compensation or resettlement of the petitioners into any available public land.
- c) Any other recommendation that the Senate may deem fit and just over this matter.

RESPONSE

Honourable Chair, the issues contained in the petition fall under the mandate of the National Land Commission who are best placed to address them.

5. The Petition concerning recognition of land ownership rights and redress of historical injustices in Mombasa County;

The Petitioners' Claim

The petitioners aver that they are residents of Mombasa County residing on parcels of land registered as original plot numbers MN/II/803, 804, 805, 806, 807, 80, 49 and 79, Mainland North of Mombasa, VI/MN/211/12/R Kashani, 360/II/MN, Kisauni. 219/XVII, 232/XVII, Mwembe Kuku plot 1068/XVII, XLV/54 Bondeni Mombasa Island.

They claim that they have been paying rent to absentee landlords who conduct unfair rent practices by charging monthly rent without providing formal receipts and neither do they have formal/ registered leases despite paying rent for many years.

They allege that the landlords have gone ahead and subdivided the original plots into smaller parcels without their consent and without following the proper procedure for change of user from agricultural to residential and assigned exorbitant valuations to the subplots. The tenants claim pre-emptive right to purchase the subplots.

They posit that their efforts to have their grievances addressed by the relevant authorities have failed to receive a satisfactory response.

The petitioners pray that the Senate;

- i. Initiates investigation into allegations of human rights violations and land injustices within the affected plots of land in Mombasa County with a view to ensure that the petitioners are awarded land lease agreements;
- ii. Utilize the findings of this investigation to formulate lasting solutions to the ongoing land ownership issues faced by residents of Mombasa County;
- iii. Recommend Mechanisms that allow for the Petitioners to directly pay taxes and/ or to the government
- iv. Make a recommendation for the legal recognition of Petitioners' tenancy rights
- v. Undertakes a comprehensive analysis to define the specific challenges faced by coastal communities regarding land ownership
- vi. Make a recommendation on provision of clear definitions of terms such as 'squatters', 'absentee landlords' and 'houses without land' within the context of ongoing coastal land reforms.

RESPONSE

Honourable Chair, the matters raised in this petition can best be addressed by the National Land Commission pursuant to their mandate.

6. The Petition regarding land ownership dispute of the Mwananchi Settlement Scheme in Mwatate Constituency in Taita Taveta County; and

The Petitioners' Claim

The Petitioners state that Mwananchi settlement scheme was registered in May 2010 by the Government of Kenya in which Land Registration Number 12924 comprising of 9,070 Hectares was subdivided to settle 1322 people. The Government of Kenya through the Settlement Trust Fund bought the land at a cost of Kshs.40 million from Wananchi Estates Limited who was the owner of the land. Wananchi Ranching (Directed Agricultural) Company Limited filed a case at the Environment and Land court at Voi as ELC NO 7 of 2024 and sought the following reliefs:

- a) A permanent injunction restraining the defendants from dealing with LR NO 12924-CR 20403 in whatever way.
- b) A declaration that the transfer of the land to Settlement Trust Fund Trustees and all consequential transfers was null and void.
- c) A declaration that LR 12924 belongs to Wananchi Ranching (Directed Agricultural) Company Limited

They state that the case filed by Wananchi Ranching (Directed Agricultural) Company was against Wananchi Estates Limited, Settlement Trust Fund Trustees,

the Commissioner of Lands and the Attorney General of Kenya. The 1322 owners of land in the settlement scheme were not listed as defendants and thus had no opportunity to defend their interests in the suit. Wananchi Ranching (Directed Agricultural) Company alleged that Wananchi Estates Limited fraudulently sold land it didn't own to Settlement Trust Fund. They aver that on 18th October 2024, Judge E. K. Wabwoto at Voi Law Courts gave his judgment on the case in which among other things, declared that Wananchi Ranching (Directed Agricultural) Company is the bonafide and legitimate owner of LR No 12924 and that the land registration records should be rectified to reflect so. The judgement has caused a lot of anxiety amongst the owners of the land in the settlement scheme for fear of losing their land which they legally own as evidenced by the possession of valid title deeds some of which are shown below:

NO	NAME OF OWNER	TITLE DEED NO
1.	Ronald M.Mwakio	Taita-Taveta/Mwatate Wananchi/664
2.	Joseph Mwanguwe Mwamburi	Taita-Taveta/Mwatate Wananchi/1319
3.	Irene Wakesho Mjomba	Taita-Taveta/Mwatate Wananchi/613
4.	Bakari Kalema	Taita-Taveta/Mwatate Wananchi/1025
5	Ronald M.Shake	Taita-Taveta/Mwatate Wananchi/342
6.	Donald Bongosa Mcharo	Taita-Taveta/Mwatate Wananchi/880

The petitioners state that they have made best efforts to have the matters raised addressed by relevant authorities but the same remain unresolved. They claim that none of the issues raised in the Petition is pending in any Court of law, Constitutional or any other legal body.

They therefore pray that the Senate:

- i) Intervenes and investigates the matter with a view to ensure that the area residents are adequately compensated;
- ii) Inquires into the matter and makes appropriate recommendations on the irregular transactions on L.R No. 12924 situated in Mwatate Constituency;
- iii) Inquires into the matter and makes legislative interventions relating to land transfer and acquisition processes to ensure that innocent Kenyans are protected; and

- iv) Takes any other appropriate action it deems fit to resolve the matters raised here in Trustees.

RESPONSE

Honourable Chair, there is an ongoing Civil Appeal Case the Ministry has filed against the Judgement of the Honourable Judge E. K. Wabwato delivered on 18th October 2024 in Voi ELC CASE NO 7 of 2024 (Formerly MOMBASA ELC CASE NO. 40 OF 2017, Formerly NAIROBI CIVIL CASE NO 1663 OF 2000). The Ministry is awaiting the determination of the court. Annexure 6 is a copy of the appeal application.

7. Petition concerning land injustices against community members living in Olderkesi, Narok West Constituency of Narok County.

The Petitioners' Claim

The petitioners state that Olderkesi group ranch is situated in Narok west constituency, Esoit location, Naikarra ward in Narok County. It is a communal land that measures approximately about 101,313 Acres. About 7,818 Acres of this land was converted into a conservancy area by the name Olderkesi conservancy. On 5th January 2013, the conservancy became active. It borders Maasai Mara game reserve. There are currently 24 conservancies in Maasai Mara, Olderkesi being one of them.

They further state that there has been an investor by the name Calvince Cottars who leased the parcel of land since 1920's but the community has not received any returns/compensation for this leasehold. Olderkesi group ranch is in the process of being subdivided. Land adjudication and subdivision has already been done and community members have been shown their land and the title deeds were due for issuance in March 2025. Olderkesi group ranch has 25 clusters. Representatives from these clusters were nominated to be members of the land adjudication committee. These committee has been in existence for over 22 years now.

The petitioners aver that sub-dividing the Olderkesi land, each community member was to be allocated 3 Acres of land. Unfortunately, this was not the case as the committee members allocated huge chunks of land to themselves, their relatives and friends from other regions. The local leadership has colluded with the committee to intimidate and deny community members their rightful share. Some of the committee members have sold some parcels of land already. The list of original members has not been made public. There has been no transparency in the entire process. As a matter of fact, the adjudication officer with his team during the formulation of the adjudication register, which contains the record of rights

and interests to the land in the adjudication section left out bonafide members of the adjudication section and instead inserted the names of non-members and was not made public as required by law in the Land Adjudication Act Chapter 284, Laws of Kenya.

They state that the investor (Cottars) who has invested in this land since 1920's whose leasehold must have expired by now still runs his business in this land. The community is not aware if there was a renewal of his leasehold and haven't received any returns for this. The community members have visited several Government offices to seek intervention with no success. They reached out to the Governor of Narok County, The Ministry of Lands and the National Land Commission and have made the best efforts to have these matters addressed by the relevant authorities all of which have failed to give a satisfactory response with none of the issues raised in this Petition is pending in any court of Law, Constitutional or any other legal body

The petitioners therefore pray that the Senate-

- i) Intervenes and investigates the matter with a view to ensure that the original members of the Olderkesi Group Ranch are identified and are fairly allocated land, the total number of registered members is established and a list of the number of parcels of land sold and the beneficiaries is furnished;
- ii) Inquires into the matter and establishes when the Olderkesi Conservancy was founded, the lease amount paid by Mr. Calvince Cottars, detailed information of the lessor(s) and ensure that the community members are adequately compensated from the leasehold venture: and
- iii) inquires into the matter and makes legislative interventions relating to sale of land, transfer and acquisition processes to ensure that indigenous communities are protected.

RESPONSE

Honourable Chair, in response to questions (i), (ii) and (iii) I wish to respond as follows;

The Ministry vide notice of establishment declared Olderkesi location to be an Adjudication Section under Section 5 of the Land Adjudication Act Cap 284 Laws of Kenya on 30th September 2010. Annexure 7 is a copy of Notice of Establishment of Olderkesi Adjudication Section. The land is neither a group ranch nor community land since it was declared, demarcated and surveyed as an adjudication section.

The Ministry issued a notice of completion of the adjudication register and opened it up for inspection for 60 days as required by Section 25(C) and 26(I) of the Land

Adjudication Act, Cap 284. Annexure 8 is a copy of notice of completion. Any bona-fide member left out or non-member included ought to have filed an objection within this period as provided for in the law. This had been explained to the landowners in a baraza. Annexure 9 is a copy of letter through the Area Chief to all landowners to attend the baraza. Upon expiry of no objection notice, the adjudication register has been finalized and registered for titling. Out of the expected 7,818 titles, already about 6,676 titles have been issued.

The community set aside Parcel No.6147 of approximately 7000 Acres as a conservancy named Olderkesi Wildlife Conservancy and it has been operated as such even prior to demarcation and survey of the Olderkesi Adjudication Section. The Ministry is not privy to the details of the agreement between the community and the lessor. This would be addressed best by the officials/committee of the conservancy.

Honourable Chair, in the Constitutional Petition No.7 of 2019, the Court declared that a party must exhaust the provisions of Land Adjudication Act to settle any dispute arising prior to invoking the powers of the courts. The petitioners did not exhaust the provisions of the Land Adjudication Act.

8. The Petition regarding eviction of Korogocho community living in the Nairobi River corridor after its declaration as a special planning area

The Petitioners' Claim

Korogocho Community Forum is a community-based organization operating within Korogocho Location, Ruaraka Constituency, Nairobi City County. The petitioners claim that on 5th March, 2025, the Nairobi City County issued a notice in local dailies, declaring the Nairobi River Corridor as a Special Planning Area. This area spans the area along Nairobi River, from Naivasha Road to Ruai, including its tributaries. The notice declared that the corridor was to extend 60 meters beyond the high-water mark on each side of the river (30 meters riparian corridor and an additional 30 meters development area).

The petitioners have highlighted the following areas of concern:

- a) Lack of adequate notice and public participation;
- b) Unfair eviction criteria and intimidation;
- c) Lack of representation in decision making;
- d) Unresolved compensation issues arising from earlier evictions, and
- e) Lack of commitment to compensate affected persons by the Nairobi City County.

The petitioners, therefore, pray that the Senate should:

- a) Compel the Nairobi City County and the National Government to adequately compensate those already evicted and those who will be affected by future evictions;
- b) Ensure credible public participation is conducted as required by the Constitution; and
- c) Ensure that community representatives are included in all decision-making processes involving the Nairobi River Corridor.

RESPONSE

Honourable Chair, the matters raised in the petition fall within the mandate of the Nairobi City County. Therefore, they are best placed to provide a comprehensive response.

9. The Petition regarding public land grabbing in Kithima Location in Meru County

The Petitioners' Claim

Kithima Location is situated in Buuri East Sub County, Meru County. The petitioners claim that three parcels of land which had been earmarked for public utilities have been grabbed and occupied by a private entity. The lands in question are;

- i) Kiirua/Nkando 704 (earmarked for Kithima Dispensary)
- ii) Kiirua/Nkando 702 (earmarked for Kithima Primary School)
- iii) Kiirua/Nkando 690 (earmarked for C.C.M Secondary)

The petitioners, therefore, pray that the Senate intervenes and ensures that:

- i) The illegal occupants of the said parcels of public land are evicted;
- ii) The boundaries of the said parcels of land are mapped out and beacons erected to that effect; and
- iii) Any other action that the senate may consider necessary to protect public property and the constitutional rights of the residents of Kithima Location.

RESPONSE

Honourable Chair, according to our records Kiirua/Nkando 704 measuring 0.42 Hectares is reserved for Kithima Dispensary. It was registered on 28th January, 2014 in favour of County Council of Meru on freehold basis and has no encumbrances. Annexure 10 is a copy of the green card.

Honourable Chair, according to our records Kiirua/Nkando 702 measuring 6.40 Hectares is reserved for Kithima Primary School. It was registered on 28th January, 2014 in favour of County Council of Meru on freehold basis and has no encumbrances. Annexure 11 is a copy of the green card.

Honourable Chair, according to our records Kiirua/Nkando 690 measuring 7.86 Hectares is reserved for C.C.M Secondary School. It was registered on 28th January, 2014 in favour of County Council of Meru on freehold basis and has no encumbrances. Annexure 12 is a copy of the green card.

The three parcels are registered in favour of County Council of Meru (now County Government of Meru) and retain the reserved users with no encumbrances. Eviction of illegal occupants is a function of the Ministry of Interior and National Government. Once the evictions are done, this Ministry can then proceed to undertake re-establishment of boundaries and beaconing of the same.

10. Petition by Nyandarua IDPs on occupation of parcels of land bought in 2010-2013 and compensation money frozen in banks

At its sitting held on 10th July, 2025, the Committee considered the Petition by Nyandarua IDPs on delayed compensation and occupation of parcels of land and resolved to request the Cabinet Secretary to provide the following information:

- a) The land survey for the settlement of the IDPs;
- b) Status of sub-division of the land allocated for settlement of IDPs;
- c) The budget required to settle the IDPs being referred to in this Petition; and
- d) Total amount of money used to settle IDPs to date.

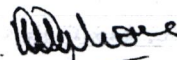
Honourable Chair, in response to (a) and (b) above, I wish to state as follows;

The presence of Internally Displaced Persons (IDPs) in Kenya was as a result of post-election violence following the disputed General Elections in 2007. The resettlement program for the IDPs commenced in 2009 following a Presidential Directive. The Government purchased farms for resettlement of IDPs. Before settling the IDPs the purchased farms were planned, demarcated and surveyed by the Ministry. However, some IDPs were allocated and settled on farms which were unplanned and un-surveyed with an intention of implementing the exercise later, which has not been done to date. Annexure 13 is a copy of the parcels of lands in Laikipia and Nyandarua counties that are settled and require planning, demarcation, survey and issuance of title deeds.

In August, 2013 the Government Shifted the Policy of purchase of land and adopted the cash payment. The number of IDPs who had been resettled by the time the new directive was issued was 6,656 households. The program for compensating IDPs who were living in camps through cash payments by the National Consultative Coordinating Committee was completed in 2016.

Honourable Chair, to regularize the IDPS settled in their farms, there is need to plan, survey, and demarcate the pending farms and issue title deeds to the beneficiaries, an exercise which requires Kshs. 25,946,900/=. Annexure 14 is a copy of the budget. To date, the Government has spent Kshs. 7,600,815,359.00 on resettlement of the Internally Displaced Persons countrywide.

Honourable Chair, I submit.



Hon. Alice Wahome, EGH
CABINET SECRETARY

21st July, 2025

ANNEXURE 6

REPUBLIC OF KENYA
IN THE COURT OF APPEAL OF KENYA AT MOMBASA
CIVIL APPEAL NO. OF 2025

SETTLEMENT FUND TRUSTEES
COMMISSIONER OF LANDS
HON. ATTORNEY GENERAL.....APPELLANTS/APPLICANTS

-VERSUS-

FATUMA MOHAMMED 1ST RESPONDENT
ASHA MOHAMMED 2ND RESPONDENT
WANANCHI RANCHING LIMITED 3RD RESPONDENT
WANANCHI ESTATES LIMITED 4TH RESPONDENT
HARRIS HORN ALIAS HARRY HORN 5TH RESPONDENT
NATIONAL LAND COMMISSION..... 6TH RESPONDENT

10

-AND-

LEILA ZAMZAM MOHAMMED INTERESTED PARTY
*(Being an Appeal against the Judgment and Orders of the Honorable Judge
E.K Wabwoto, delivered on 18th October 2024 in Voi ELC CASE NO. 7 OF
2024, (FORMERLY MOMBASA ELC CASE NO. 40 OF 2017, FORMERLY
NAIROBI CIVIL CASE NO. 1663 OF 2000)*

20

REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT VOI
ELC CASE NO. 7 OF 2024
(FORMERLY MOMBASA ELC CASE NO. 40 OF 2017)
(FORMERLY NAIROBI CIVIL CASE NO. 1663 OF 2000)

FATUMA MOHAMMED 1ST PLAINTIFF
ASHA MOHAMMED 2ND PLAINTIFF
WANANCHI RANCHING LIMITED 3RD PLAINTIFF

-VERSUS-

2

WANANCHI ESTATES LIMITED..... 1ST DEFENDANT
HARRIS HORN ALIAS HARRY HORN 2ND DEFENDANT
SETTLEMENT FUND TRUSTEES 3RD DEFENDANT
COMMISSIONER OF LANDS..... 4TH DEFENDANT
HON. ATTORNEY GENERAL 5TH DEFENDANT
NATIONAL LAND COMMISSION.....6TH DEFENDANT

-AND-

LEILA ZAMZAM MOHAMMED.....INTERESTED PARTY

RECORD OF APPEAL

Dated at MOMBASA this..... 20thday of JUNE, 2025 _____ 10



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4

REPUBLIC OF KENYA
IN THE COURT OF APPEAL OF KENYA AT MOMBASA
CIVIL APPEAL NO. OF 2025

SETTLEMENT FUND TRUSTEES
COMMISSIONER OF LANDS
HON. ATTORNEY GENERAL.....APPELLANTS/APPLICANTS

-VERSUS-

FATUMA MOHAMMED 1ST RESPONDENT
ASHA MOHAMMED 2ND RESPONDENT
WANANCHI RANCHING LIMITED 3RD RESPONDENT — 10
WANANCHI ESTATES LIMITED 4TH RESPONDENT
HARRIS HORN ALIAS HARRY HORN 5TH RESPONDENT
NATIONAL LAND COMMISSION..... 6TH RESPONDENT

-AND-

LEILA ZAMZAM MOHAMMED INTERESTED PARTY
*(Being an Appeal against the Judgment and Orders of the Honorable Judge
E.K Wabwoto, delivered on 18th October 2024 in Voi ELC CASE NO. 7 OF
2024, (FORMERLY MOMBASA ELC CASE NO. 40 OF 2017, FORMERLY
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REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT VOI
ELC CASE NO. 7 OF 2024
(FORMERLY MOMBASA ELC CASE NO. 40 OF 2017)
(FORMERLY NAIROBI CIVIL CASE NO. 1663 OF 2000)

— 20

FATUMA MOHAMMED 1ST PLAINTIFF
ASHA MOHAMMED 2ND PLAINTIFF
WANANCHI RANCHING LIMITED 3RD PLAINTIFF

-VERSUS-

WANANCHI ESTATES LIMITED..... 1ST DEFENDANT
 HARRIS HORN ALIAS HARRY HORN 2ND DEFENDANT
 SETTLEMENT FUND TRUSTEES 3RD DEFENDANT
 COMMISSIONER OF LANDS..... 4TH DEFENDANT
 HON. ATTORNEY GENERAL 5TH DEFENDANT
 NATIONAL LAND COMMISSION.....6TH DEFENDANT

-AND-

LEILA ZAMZAM MOHAMMED.....INTERESTED PARTY

STATEMENT OF ADDRESS FOR SERVICE

The address for the parties in this appeal shall be:

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 316 Upperhill Chambers

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Email: nlc.legal@landcommission.go.ke

Dated at MOMBASA this 20thday of JUNE, 2025

SARU. L

Senior State Counsel

FOR. HON ATTORNEY GENERAL

DRAWN & FILED BY,

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Attorney Generals Chambers,
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— 10

7

REPUBLIC OF KENYA
IN THE COURT OF APPEAL OF KENYA AT MOMBASA
CIVIL APPEAL NO. OF 2025

SETTLEMENT FUND TRUSTEES
COMMISSIONER OF LANDS
HON. ATTORNEY GENERAL.....APPELLANTS/APPLICANTS

-VERSUS-

FATUMA MOHAMMED 1ST RESPONDENT
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-VERSUS-

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 HON. ATTORNEY GENERAL 5TH DEFENDANT
 NATIONAL LAND COMMISSION..... 6TH DEFENDANT

-AND-

LEILA ZAMZAM MOHAMMED.....INTERESTED PARTY

CERTIFICATE OF RECORD OF APPEAL

Certified, correct and prepared to accord with the copies as supplied by the Deputy Registrar of the High Court of Kenya at Mombasa.

-10

Dated at MOMBASA this..... 20th.....day of JUNE, 2025



SARU. L

Senior State Counsel

FOR. HON ATTORNEY GENERAL

DRAWN & FILED BY,

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-VERSUS-

11

WANANCHI ESTATES LIMITED..... 1ST DEFENDANT
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-AND-

LEILA ZAMZAM MOHAMMED.....INTERESTED PARTY

INDEX OF CONTENTS

Item No.	Particulars	Page No.
1.	Cover Page Record of Appeal	1-3
2.	Statement of Address for Service	4-6
3.	Certificate of Record of Appeal	7-9
4.	Index of Contents	10-12
5.	Memorandum of Appeal	13-18
6.	Copy of Email transferring the file	19
7.	Copy of Letter transferring file	20
8.	Further Ammended Plaintiff	21-25
9.	Ammended Plaintiff	26-36
10.	Plaint	37-41
12.	Affidavit of Asha Mohammed	42-44
13.	Grant of Letters of Administration	45-46
14.	Affidavit of Haji Mohammed Adam	47-49

10

20

12

15.	Copy of Grant for Suit Property No. CR 20403	50-52
16.	Copy of Affidavit by Harris Horn	53-55
17.	Copy of Defendant's Defence	56-57
18.	Plaintiff's Written Submissions	58-64
19.	Defendants Written Submissions	65-67
20.	Affidavit of Haji Mohammed Adam	68-72
21.	Letter calling for revocation	73-76
22.	Documents calling for revocation	77-217
23.	Copy of Sale agreement	218-220
24.	Copy of Valuation Report	221-229
25.	Copy of Notice of Motion by 2 nd Defendant	230-238
26.	Copy of Search on Parcel LR. No. 12924	239
27.	Copy of 3 rd Plaintiff Witness Statements	240-242
28.	Copy of 1 st Plaintiff Witness Statements	243-248
29.	Copy of Haji Mohammed Adam Affidavit	249-252
30.	Copy of Haji Mohammed Adam Grant of Letters of Administration	253
31.	Copy of RTA Title for Parcel CR 20403	254-257
32.	Copy of CR 12 for Wananchi Ranching Company	258
33.	Copy of Letter from Ministry of Lands and Settlement	259-260
34.	Plaintiff's Replying Affidavit	261-263

10

20

12(a)

35.	Copy of CR 12 for Wananchi Estate Limited	264-267
36.	Proposed Interested Party Notice of Motion	268-277
37.	Proposed Interested Party Submissions	278-285
38.	Intended Defendants Notice of Motion	286-292
39.	Plaintiff's Replying Affidavit	293-295
40.	Plaintiff's Grounds of Opposition	296-298
41.	Ruling on Joinder	299-309
42.	Letter Requesting typed proceedings	310
43.	Notice of Appeal	311-312
44.	Notice of Appeal	313-314
45.	Judgement	315-341
46.	Notice of Appeal	342-344
47.	Letter Requesting typed proceedings	345
48.	Copy of Certified typed Proceedings	346-410
49.	Ruling on Stay of Execution	411-426

Dated at MOMBASA this.....20th.....day of JUNE, 2025

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13

REPUBLIC OF KENYA
IN THE COURT OF APPEAL OF KENYA AT MOMBASA
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SETTLEMENT FUND TRUSTEES
COMMISSIONER OF LANDS
HON. ATTORNEY GENERAL.....APPELLANTS/APPLICANTS

-VERSUS-

FATUMA MOHAMMED 1ST RESPONDENT
ASHA MOHAMMED 2ND RESPONDENT
WANANCHI RANCHING LIMITED 3RD RESPONDENT
WANANCHI ESTATES LIMITED 4TH RESPONDENT
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-AND-

LEILA ZAMZAM MOHAMMED INTERESTED PARTY
*(Being an Appeal against the Judgment and Orders of the Honorable Judge
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REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT VOI
ELC CASE NO. 7 OF 2024
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— 20

FATUMA MOHAMMED 1ST PLAINTIFF
ASHA MOHAMMED 2ND PLAINTIFF
WANANCHI RANCHING LIMITED 3RD PLAINTIFF

-VERSUS-

14

WANANCHI ESTATES LIMITED..... 1ST DEFENDANT
 HARRIS HORN ALIAS HARRY HORN 2ND DEFENDANT
 SETTLEMENT FUND TRUSTEES 3RD DEFENDANT
 COMMISSIONER OF LANDS..... 4TH DEFENDANT
 HON. ATTORNEY GENERAL 5TH DEFENDANT
 NATIONAL LAND COMMISSION.....6TH DEFENDANT

-AND-

LEILA ZAMZAM MOHAMMED.....INTERESTED PARTY

MEMORANDUM OF APPEAL

The Honourable Attorney General, being the Chief Legal Advisor to the Government, on behalf of the Settlement Fund Trustees, Commissioner of Lands and the Hon. Attorney General, appeals against the whole of the Judgement of the Honorable Judge E.K Wabwoto, delivered on 18th October 2024 in Voi ELC CASE NO. 7 OF 2024, (FORMERLY MOMBASA ELC CASE NO. 40 OF 2017, FORMERLY NAIROBI CIVIL CASE NO. 1663 OF 2000) on the following grounds, namely THAT:-

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1. The Learned Judge erred in law and fact by finding that the 1st, 2nd and 3rd Respondents are the legitimate and bonafide owners of L.R. No 12924 (CR 20403) despite clear, irrefutable documentary and evidentiary material indicating that:

- a) The Settlement Fund Trustees lawfully acquired the land pursuant to a government backed settlement scheme, with knowledge and acquiescence of the deceased and the Respondents.
- b) The 1st Respondent, a beneficiary of the Settlement Scheme, was allocated 10 acres, thereby affirming the legitimacy of the Scheme.
- c) The 4th Respondent (Wananchi Estates Ltd) was formed by the deceased's son, Ahmed Mohamed Haji Adan, with involvement of some of the same parties now challenging its legitimacy.

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d) The 3rd Respondent is listed as a shareholder/director in the 4th Respondents, thus raising questions on the veracity of alleged fraud and ignorance.

2. The Learned Judge erred in law and fact by finding that the 1st, 2nd and 3rd Respondents have proved the particulars of fraud against the Appellants despite:

a) Absence of clear and convincing evidence linking the Appellants to any fraudulent act or omission.

b) No proof that the Appellants acted with knowledge of, or participated in, any internal irregularities among the company shareholders or directors. 10

c) The Turquand Rule was not considered, which protects third parties dealing in good faith with a company without requiring inquiry into internal procedures.

d) The Beneficiaries of the Settlement Scheme are innocent purchaser for value without notice of alleged fraud and followed due process in land acquisition and settlement implementation.

3. The Learned Judge erred in law and in violation of natural justice by granting orders affecting the rights and proprietary interests of persons not joined as parties to the suit, in that:

a) The beneficiaries of the Settlement Scheme, who hold valid titles and have been in occupation for decades, made an application for joinder but were denied audience, thereby prejudicing their constitutional and procedural rights under Article 50(1) of the Constitution (right to fair hearing). 20

4. The Learned Judge failed to consider the nature of the Settlement Fund Trustees' mandate, which was exercised in furtherance of public interest, rural settlement and land redistribution, in that

~~a) Cancellation of the Settlement Scheme undermines decades of public administrative decisions without calling for proper evidence-based review.~~

b) The Judgment failed to balance private claims with broader national and social objectives surrounding the land in question. 30

5. The Learned Judge erred in law and in fact by declaring the 1st, 2nd and 3rd Respondents as the legitimate and bona fide owners of land parcel L.R. No. 12924 (CR 20403), which, as at the date of judgment, no longer existed in its original form, having been subdivided and registered in the names of numerous beneficiaries of the Settlement Scheme, and that :

- a) The court thereby issued orders that are incapable of enforcement and which override the interests and titles of persons who were never parties to the suit.
- b) The decision violated principles protecting registered owners under the Land Registration Act and failed to take judicial notice of existing land records.
- c) Reliance was placed on weak or circumstantial inferences of fraud without the requisite standard of proof (clear, cogent, and convincing).

6. The Learned Judge erred in law and fact by granting declaratory and injunctive orders against the Appellants without:

- a) Any evidence of a direct nexus between the Appellants and the acts complained of.
- b) Hearing evidence from the parties in occupation or administration of the land under the Settlement Scheme.

IT IS PROPOSED to ask the Honourable Court for ORDERS:-

- (a) THAT this appeal be allowed in its entirety.
- (b) THAT, the whole of the Judgement of the **Honorable Judge E.K Wabwoto**, delivered on 18th October 2024 in Voi ELC CASE NO. 7 OF 2024, (FORMERLY MOMBASA ELC CASE NO. 40 OF 2017, FORMERLY NAIROBI CIVIL CASE NO. 1663 OF 2000) be set aside.
- (c) THAT, the Decree emanating from the Judgement of the **Honorable Judge E.K Wabwoto**, delivered on 18th October 2024 in Voi ELC CASE NO. 7 OF 2024, (FORMERLY MOMBASA

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ELC CASE NO. 40 OF 2017, FORMERLY NAIROBI CIVIL CASE NO. 1663 OF 2000) be set aside.

- (d) A declaration that the 1st Appellant (Settlement Fund Trustees) is a bona fide purchaser for value without notice of fraud, and acquired lawful interest in LR No. 12924 (CR 20403).
- (e) A declaration that the Settlement Scheme established on the suit property was lawfully created, with full knowledge and participation of the key stakeholders, including some of the Respondents and their beneficiaries.
- (f) A finding that the trial court erred in law and fact by issuing adverse orders affecting third parties (allottees /beneficiaries of the scheme) who were not joined as parties to the suit, thereby condemning them unheard and violating the rules of natural justice. — 10
- (g) An order remitting the matter back to the Environment and Land Court for retrial or reconsideration, with directions that all interested and affected parties, including beneficiaries of the Settlement Scheme and lawful allottees, be enjoined and heard.
- (h) Costs of this appeal and the proceedings in the Environment and Land Court be awarded to the Appellants.

Dated at MOMBASA this 20th day of JUNE, 2025 — 10

SARU. L
Senior State Counsel
FOR. HON ATTORNEY GENERAL

DRAWN & FILED BY,
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To Honourable Judges of the Court of Appeal at Mombasa

LODGED in the REGISTRY at MOMBASA this day of JUNE, 2025

— 30

DEPUTY REGISTRAR

COURT OF APPEAL

MOMBASA



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VOI ELCLC 7/2024 (Formerly Mombasa ELC 40/2017 Fatuma Mohamed & Others - Vs-Wananchi Estates Limited & 6 Others)

1 message

elccourt voi <elccourtvoi@gmail.com>

Wed, Mar 20, 2024 at 10:13 AM

To: Mwazighe Advocates <mwazigheadvocates@gmail.com>, KKOAA <info@kkoaadvocates.co.ke>, KKO&A ADVOCATES LLP <kkoallp@gmail.com>, koadv@wananchi.com, info@landcommission.go.ke, state law office <agmombasa@gmail.com>

Greetings,


Pursuant to **Gazette Notice No. 5057** dated **6th April 2023** for Establishment of **ELC Court at Voi**, the above mentioned Matter has been transferred from Mombasa to this Court. - 10

Find the attached notice indicating the new allocated VOI ELC Case Number and the date Scheduled before the Judge at Voi.

Kindly acknowledge the receipt of this email.

NTI

Regards
Patrick Maina (C/A)
For Deputy Registrar
Environment and Land Court - Voi

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89K

ELCLC-7-2024 3



THE JUDICIARY
ENVIRONMENT AND LAND COURT - VOI

20

VOI ELCLC 1/2024
Formerly Mombasa ELC 40/2017

Fatuma Mohamed

Asha Mohamed

Wananchi Ranching Limited

-----Plaintiffs

VS

Wananchi Estates Limited
Harris Horn Alias Harry Horn
Settlement Fund Trustees
Commissioner of lands
Hon Attorney General

National Land Commission

Leila ZamZam Mohamed

-----Defendants - 10

-----Interested Party

FILE TRANSFER NOTICE

TO:

<p>KKOA Advocates LLP P.O Box 55035-00200 Nairobi Email;info@kkoadvocate s.co.ke , kkoallp@gmail.com</p>	<p>K.H. Advocates P.O Box 24788 Nairobi Email; khoadv@wananchi.com</p>	<p>National Land Commission Email; info@landcommissio n.go.ke</p>	<p>The Hon Attorney General Mombasa Email;agmombasa@ gmail.com</p>
--	--	---	--

Pursuant to **Gazette Notice No. 5057** dated 6th April 2023 for Establishment of **ELC Court at Voi**, this matter has been transferred to Voi ELC Court with a case Number **VOI ELCLC 1/2024**

Take note that the matter has been fixed for a **Mention** on the 15th day of April 2024 at 9.00 am before the **Judge**.

If no appearance is made on your behalf by yourself, your advocate or someone by law authorized to act for you, the case will proceed in your absence.

Issued at Voi this 19th day of March, 2024



[Signature]
Deputy Registrar
ENVIRONMENT AND LAND
COURT VOI



Social Transformation
Access to Justice

Voi Law Courts | Next to DCC's Office
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voihighcourt@court.go.ke / elccourtvoi@gmail.com | www.judiciary.go.ke

Justice Be Our Shield and Defender

ELC - 1 - 2024 - 2

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
CIVIL CASE NO. 1663 OF 2000



FATUMA MOHAMED1ST PLAINTIFF
ASHA MOHAMED2ND PLAINTIFF
WANANCHI RANCHING LTD.....3RD PLAINTIFF

VERSUS

WANANCHI ESTATES.....1ST DEFENDANT
HARRIS HORN ALIAS HARRY HORN2ND DEFENDANT
SETTLEMENT FUND TRUSTEES.....3RD DEFENDANT -12
COMMISSIONER OF LANDS4TH DEFENDANT
ATTORNEY GENERAL OF KENYA.....5TH DEFENDANT

FURTHER AMMENDED PLAINT

1. The 1st Plaintiff is an adult Kenya suing as the administrator and Trustee of the Estate of Haji Mohamed Adan and her address is care of Muthaura Kiome & Mwarania Advocates, Town House, 2nd Floor, Kaunda Street.
2. The second Plaintiff is an adult Kenya Suing as the administrator and Trustee of the Estate of Haji Mohamed Adan and her address is care of Muthaura Kiome & Mwarania Advocates, Town House, 2nd Floor, Kaunda Street.
3. ~~(a) The 3rd defendant is a security Trust-Fund Body Corporate capable of suing and~~ being sued. —20
3. ~~The 3rd Plaintiff is a Limited Liability Company having its registered office at Nairobi~~ and its address of service is care of Muthaura Kiome & Mwarania Advocates, Town House, 2nd Floor, Kaunda Street.

FILED - 2 - 2020

13/10/20

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- 4. The 1st Defendant is a Limited Liability Company having its registered office at Nairobi and service of the summons herein will be effected through the Plaintiffs' Advocates office.
- 4. (a) The 2nd Defendant is a Director of the 1st Defendant.
- 5. The 3rd Defendant is a security trust Fund body corporate, capable of suing and being sued.
- 5 (a) The 4th Defendant is the Commissioner of Lands in Charge of issuing Titles at the Land Registry and the 5th Defendant is sued in that behalf for the Commissioner of Lands.
- 5 (b) The 5th Defendant is the Attorney General of Kenya sued in that behalf for the Government of Kenya.
- 6. The 3rd Plaintiff at material time was the registered owner of LR No. 12924 comprising of 9070 hectares in Voi Taita Taveta District in which the Late Haji Mohammed Adan had the majority shares together with his family & others.
- 7. Fraudulently and without the knowledge or consent of the 3rd Plaintiff the 1st and 2nd Defendants made themselves Directors of the 3rd Plaintiff Company and subsequently transferred the Land to the 1st Defendant thereafter selling to other persons for Kshs 40 Million who has transferred the suit Land to the 3rd Defendant and the 4th Defendant is in the process of issuing titles to settlers.

PARTICULARS OF FRAUD.

- 20

- a. The deceased was not party to the changes effected in the Directorship of the 3rd Plaintiff by the Defendants.
- b. The Deceased did not know the persons who made the Defendant director of the 1st Defendant.
- c. There was not valid consideration for the Transfer of shares to the Defendants.

2/02/2020

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- d. The 1st and 2nd Defendants did not inform the 1st, 2nd and 3rd Plaintiffs of any changes in the Directorship of the records of the 3rd Plaintiff.
- e. The 3rd Plaintiff was not party to the sale of the Land to other persons who now claim to have bought the Land and are surveying the Land.
- f. The subsequent sale by the 1st and 2nd Defendants were after the death of the said Haji Mohamed Adan and Ahmed Mohamed Haji Adan.
- g. The Estate of Haji Mohamed Adan was not party to the sale by the 1st and 2nd Defendants.
- h. The Estate of Haji Mohamed Adan and that of Ahmed Mohamed Haji Adan was never made aware of the sale for Kshs 40 Million.
- i. That the 2nd Defendant was unknown to the Late Haji Mohamed Adan. - 10
- j. The 2nd Defendant has never been onto the Land.
- k. The Defendants sold the Land without the authority to do so and well knowing that the Directors with the majority shareholders were deceased.

- 8. (a) The parties hereto have no other pending suit in respect of the suit premises.
- (b) The Defendants acts have caused loss and damage to the interest of the 1st, 2nd and 3rd Plaintiff and the Defendants are in the process of surrendering the head Title to other Persons to the Detriment of the Plaintiffs.

9. The Honourable Court has the Jurisdiction.

10. Despite demands made and notice of intention to sue given the Defendants have failed to desist from parting with the Land surveying and transferring portions thereof to the said third parties. - 20

REASONS WHEREOF the plaintiffs pray for judgement against the Defendants and jointly severally for.

- ~~a. The transfer to the 3rd Defendant be declared null and Void and all consequential transfers be so declared.~~
- b. A declaration that L.R No. 12924 belongs to Wananchi ranching Ltd.

2024/01/24

f

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c. Damages

d. Costs

~~AMMENDED~~ at Nairobi this 2nd day of March 2001

FURTHER AMMENDED at Nairobi this 21st day of October 2010

Muthaura Kiome & Mwarania
Advocates for the Plaintiffs

DRAWN & FILED BY

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ADVOCATE

ARGWINGS KODHEK ROAD

NAIROBI

ELCLO- 7 - 2020 11/16

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SETTLEMENT FUND TRUSTEES

MINISTRY OF LANDS

ARDHI HOUSE

COMMISSIONER OF LANDS

MINISTRY OF LANDS

ARDHI HOUSE

ATTORNEY GENERAL OF KENYA

STATE LAW OFFICES

NAIROBI

EX-10-2020 110/30

26 131

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

CIVIL CASE NO. 1663 OF 2006

FILED IN CIVIL CASE NO. 1663 OF 2006
1ST PLAINTIFF
2ND PLAINTIFF
3RD PLAINTIFF

FATUMA MOHAMED
ASHA MOHAMED
WANANCHI RANCHING LTD.

VERSUS

WANANCHI ESTATES LTD 1ST DEFENDANT
HARRIS HORN ALIAS HARRY HORN 2ND DEFENDANT

AMMENDED PLAINT

1. The 1st Plaintiff is an adult Kenyan suing as the administrator and trustee of the Estate of Haji Mohammed Adan and her address is care of Muthaura Kiome & Mwarania Advocates, Town House, 2nd Floor, Kaunda Street, Nairobi.
2. The 2nd Plaintiff is an adult Kenyan suing as the administrator and trustee of the Estate of Haji Mohammed Adan and her address is care of Muthaura Kiome & Mwarania Advocates, Town House, 2nd Floor, Kaunda Street, Nairobi.
3. The 3rd Plaintiff is a limited liability company having its registered office at Nairobi and its address of service is care of Muthaura Kiome & Mwarania Advocates, Town House, 2nd Floor, Kaunda Street, Nairobi.
4. The 1st Defendant is a limited liability company having its registered office at Nairobi and service of the Summons herein will be effected through the Plaintiffs Advocate's office.
5. The 3rd Plaintiff at material time was the registered owner of LR.NO. 12924 comprising of 9070 hectares in Voi Taita Taveta District in which the late Haji Mohamed Adan had the majority shares together with his family and others.
7. Fraudulently and without the knowledge or consent of the 3rd Plaintiff the 1st and 2nd Defendants made themselves Directors of the 3rd Plaintiff company and subsequently transferred the land to the 1st Defendant thereafter selling to other persons for Shs.40 million.

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27 [REDACTED]

PARTICULARS OF FRAUD

- a) The Deceased was not party to the changes effected in the directorship of the 3rd Plaintiff by the Defendants.
- b) The deceased did not know the persons who made the Defendant director of the 1st Defendant.
- c) There was no valid consideration for the transfer of shares to the Defendants.
- d) The 1st and 2nd Defendant did not inform the 1st, 2nd and 3rd Plaintiff's of any changes in the Directorship of the records of the 3rd of the Plaintiff.
- e) The 3rd Plaintiff was not party to the sale of the Land to other persons who now claim to have bought the land are surveying the land.
- f) That subsequent SALE by the 1st and 2nd Defendants were after the death of the said Haji Mohamed Adan and Ahmed Mohamed Haji Adan.
- g) The Estate of Haji Mohamed Adam was not party to the sale by the 1st and 2nd Defendants.
- h) That the Estate of Haji Mohamed Adan and that of Ahmed Mohamed Haji Adan was never made aware of the sale for Shs.40 million.
- i) That the 2nd Defendant was unknown to the late Haji Mohamed Adan.
- j) The 2nd Defendant has never been opto the land.
- k) The Defendants sold the land without the authority do so and well knowing that the Directors with the majority shareholders were deceased.
- l) The actions of the directors were a fraud under the rules and in contraventions of the law.

8A. The parties hereto have no other pending suit in respect of the suit premises.


8B. The Defendants acts have caused loss and damage to the interest of the 1st, 2nd and 3rd Plaintiff and the Defendants are in the process of surrendering the head title to other persons to the detriment of the Plaintiffs.

- 9. The Honourable Court has the jurisdiction.
- 10. Despite demands made and notice of intention to sue given the Defendants have failed to desist from parting with the land surveying and transferring portions thereof to the said third parties.

REASONS WHEREFORE the Plaintiffs pray for judgement against the Defendants jointly and severally for:-

- a) A declaration that LR.NO. 12924 belongs to Wananchi Ranching Ltd.
- b) Damages
- c) Costs

DATED at NAIROBI this 2nd day of March 2004. — 10


 MUTHAURA KIOME & MWARANIA
 ADVOCATES FOR THE PLAINTIFFS

DRAWN & FILED BY:

MUTHAURA KIOME & MWARANIA
 ADVOCATES
 TOWN HOUSE, 2ND FLOOR
 KAUNDA STREET
 NAIROBI

TO BE SERVED UPON:

HARRIS HORN
 ALIAS HARRY HORN

— 20

Delivered to...

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA

29
OCT 2019
CIVIL REG
NAIROBI

CIVIL CASE NO. 1663 OF 2009

FATUMA MOHAMED 1ST PLAINTIFF
ASHA MOHAMED 2ND PLAINTIFF
WANANCHI RANCHING LTD 3RD PLAINTIFF

VERSUS

WANANCHI ESTATES 1ST DEFENDANT
HARRIS HORN ALIAS HARRY HORN 2ND DEFENDANT
SETTLEMENT FUND TRUSTEES 3RD DEFENDANT - 10
COMMISSIONER OF LANDS 4TH DEFENDANT
ATTORNEY GENERAL OF KENYA 5TH DEFENDANT

CERTIFICATE OF URGENCY

I MUTHAURA KIOME ADVOCATE believe that the above matter is URGENT
as the 1ST Defendant is excavating the land and making it dangerous for the
animals and humans when rain falls making it environmentally hazardous
for the said animal and damaging the ecosystem.

Dated at Nairobi on 29 of Oct 2019

MUTHAURA KIOME & MWARANIA

ADVOCATES FOR THE PLAINTIFFS - 20

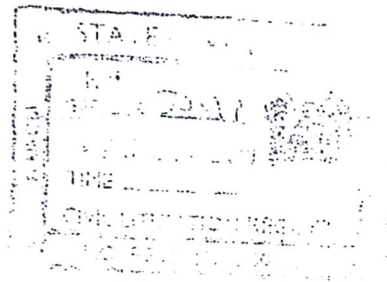
DRAWN AND FILED BY:

MUTHAURA KIOME & MWARANIA ADVOCATES

TOWN HOUSE 2ND FLOOR

P.O BOX 1366 00100

NAIROBI



30

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
CIVIL CASE NO. 1663 OF 2000

FATUMA MOHAMED1ST PLAINTIFF
ASHA MOHAMED2ND PLAINTIFF
WANANCHI RANCHING LTD.....3RD PLAINTIFF

VERSUS

WANANCHI ESTATES.....1ST DEFENDANT
HARRIS HORN ALIAS HARRY HORN2ND DEFENDANT
SETTLEMENT FUND TRUSTEES.....3RD DEFENDANT (C)
COMMISSIONER OF LANDS4TH DEFENDANT
ATTORNEY GENERAL OF KENYA.....5TH DEFENDANT

CHAMBER SUMMONS

Under Order VIA rr 3.4 & 8 of the Civil Procedure Rules and Section 3A and
100 of the civil Procedure Act Cap 21 and all other enabling Provisions of the
Laws of Kenya AND UNDER ORDER XXXIX Rule 1 & 2

LET ALL parties concerned attend the Judge in chambers on 28th day
of OCTOBER 2010 at O'clock or soon thereafter as may appear in the Daily
cause List when counsel for the Applicant will be heard on application for orders:

1. THAT this Honourable Court be pleased to grant leave to the Plaintiffs/Applicants - 2C
to further amend the Plaint to include and add three new defendants namely (1)
The Attorney General, (2) The Commissioner of Lands and (3) the Settlement fund
trustees.

31

2. THAT this application be granted urgent and service of this application be dispensed with *ex parte*.
3. THAT the status quo be maintained on the Land LR No. 12924
4. THAT Costs of this application be provided for

WHICH APPLICATION is based on the following grounds...

1. THAT it is necessary for the determination of this suit that the additional three Defendants to be enjoined as parties because subsequent to the institution of the suit the 2nd, 3rd and 4th Defendants have brought strangers or settlers into the land in dispute.
2. THAT unless the status quo is maintained the Plaintiffs will be displaced from the land with over 3000 livestock that are on the land

AND ON the following affidavit of the Director of the Plaintiff, MOHAMED AHMED SALAR.

Dated at Nairobi this 21st day of October 2010

Mutiaura Kiome & Mwarania
Mutiaura Kiome & Mwarania
Advocates for the Plaintiffs

DRAWN & FILED BY

MUTHIAURA AKIOME & MWARANIA ADVOCATES

TOWN HOUSE, 2ND FLOOR

P.O BOX 1366-00100

NAIROBI

- 20 -

TO BE SERVED UPON

The 5 Defendants

"If any party served does not attend at the time and place above mentioned, such orders may be issued and proceedings taken as the court may deem just and expedient"

32

REPUBLIC OF KENYA
H.H. COURT OF KENYA
CENTRAL REGISTRY
IN THE HIGH COURT OF KENYA
CIVIL CASE NO. 1663 OF 2000
22 OCT 2010
CIVIL SIDE
NAIROBI

FATUMA MOHAMED 1ST PLAINTIFF
ASHA MOHAMED 2ND PLAINTIFF
WANANCHI RANCHING LTD 3RD PLAINTIFF

VERSUS

WANANCHI ESTATES 1ST DEFENDANT
HARRIS HORN ALIAS HARRY HORN 2ND DEFENDANT
SETTLEMENT FUND TRUSTEES 3RD DEFENDANT - 10
COMMISSIONER OF LANDS 4TH DEFENDANT
ATTORNEY GENERAL OF KENYA 5TH DEFENDANT

SUPPORTING AFFIDAVIT

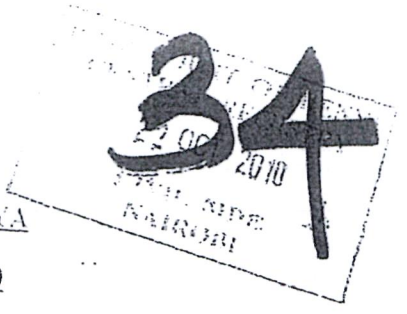
I MUTHAURA KIOME of P.O. Box 1700-00100 Nairobi in the republic of Kenya do hereby make oath and state as follows -

1. THAT I am an Advocate of Kenya acting on behalf of the Plaintiffs/Applicants herein.
2. THAT I am competent to swear this affidavit
3. THAT in order for the Honourable Court to be able to determine this matter in its entirety we would wish and we do request that the three(3) new additional Defendants be enjoined.
4. THAT we are constrained to request a further amendment of the amended Plaintiff.
5. THAT the further amended Plaintiff will not prejudice or inconvenience the other Defendants. - 20

ENC-3-204 114/58

PK

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
CIVIL CASE NO. 1663 OF 2000



FATUMA MOHAMED	1 ST PLAINTIFF
ASHA MOHAMED	2 ND PLAINTIFF
WANANCHI RANCHING LTD.	3 RD PLAINTIFF
VERSUS	
WANANCHI ESTATES	1 ST DEFENDANT
HARRIS AORIN	2 ND DEFENDANT
COMMISSIONER OF LANDS	3 RD DEFENDANT
SETTLEMENT FUND TRUSTEES	4 TH DEFENDANT
ATTORNEY GENERAL OF KENYA	5 TH DEFENDANT

SUPPORTING AFFIDAVIT

I ABDI SATAR HAJI of P.O Box Voi make oath and say as follows:

1. THAT I am a Director of the 3rd Plaintiff company.
2. THAT I am conversant with the suit herein wherein there are allegations of a fraudulent transfer of the Land in dispute to the 1st Defendant.
3. THAT the 1st Defendant has transferred the Land to the 3rd Defendant which transfer took place while the present suit was in progress and the 3rd Defendant is in the process of transferring it to other people.
4. THAT unless the settlement Fund Trustees who are now registered as owners are include in the Suit the same cannot be properly disposed off.

- 20

ELC/C-7-2000 14/60

57

- 5. THAT the 4th and 5th Defendants are sued on behalf of the Government as parties who are introducing settlers and other people into the land.
- 6. THAT surveyors have moved into the Land to do parceling of the Land.
- 7. THAT the 3rd Plaintiff has 3,000 herd of cattle on the Land.
- 8. THAT the 4th and 5th Plaintiff may transfer land and issue other Titles to the Land if the status quo is not maintained.
- 9. THAT it is now necessary to include the 3rd, 4th and 5th Defendants for the proper hearing of this suit.
- 10. THAT unless the status Quo is maintained the actions of the 3rd, 4th and 5th Defendants of surveying, issuance of Title and Scooping the Land will change the character of the Land. - (10)
- 11. THAT I make this affidavit in support of an application for further amendment of the Plaint, an injunction and reissue of the summons to all the Defendants.
- 12. THAT I make this affidavit conscientiously well knowing the facts.

SWORN at NAIROBI by the said)

ABDI SATAR HAJI)

This 21st day of October 2010) Deponent

BEFORE ME)
 GITANI MABUTI)
 ADVOCATE)
 COMMISSIONER OF OATHS)

ENCLOSURE - 1000

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36

DRAWN & FILED BY

MUTHAURA KIOME & MIWARANIA ADVOCATES

TOWN HOUSE, 2ND FLOOR

P.O BOX 1366-00100

NAIROBI

TO BE SERVED UPON

The 5 Defendants

C

Filed 10/10/2020

59

37

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

CIVIL CASE NO. 1663 OF 2011

FATUMA MOHAMMED	1ST PLAINTIFF
ASHA MOHAMMED	2ND PLAINTIFF
WANANCHI RANCHING LTD.	3RD PLAINTIFF

VERSUS

WANANCHI ESTATES LTD	1ST DEFENDANT
HARRIS HORN ALIAS HARRY HORN	2ND DEFENDANT

PLAINT

- 10

1. The 1st Plaintiff is an adult Kenyan suing as the administrator and trustee of the Estate of Haji Mohammed Adan and her address is care of Mathaura Kiome & Mwarania Advocates, Town House, 2nd Floor, Kaunda Street, Nairobi.
2. The 2nd Plaintiff is an adult Kenyan suing as the administrator and trustee of the Estate of Haji Mohammed Adan and her address is care of Mathaura Kiome & Mwarania Advocates, Town House, 2nd Floor, Kaunda Street, Nairobi.
3. The 3rd Plaintiff is a limited liability company having its registered office at Nairobi and its address of service is care of Mathaura Kiome & Mwarania Advocates, Town House, 2nd Floor, Kaunda Street, Nairobi.
4. The 1st Defendant is a limited liability company having its registered office at Nairobi and service of the Summons herein will be effected through the Plaintiffs Advocate's office.
5. The 3rd Plaintiff at material time was the registered owner of LR NO. 12924 comprising of 9070 hectares in Voi Taita Taveta District in which the late Haji Mohamed Adan had the majority shares together with his family and others.

- 20

7. Fraudulently and without the knowledge or consent of the 3rd Plaintiff the 1st and 2nd Defendants made themselves Director of the 3rd Plaintiff company and subsequently transferred the land to the 1st Defendant directly selling to other persons for Sh. 40 million.

FINE MURDER
 197
 2011
 Lolale

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PARTICULARS OF PLAINT

- a) The Deceased was not party to the changes effected in the directorship of the 3rd Plaintiff by the Defendants.
- b) The deceased did not know the persons who made the Defendant director of the 1st Defendant.
- c) There was no valid consideration for the transfer of shares to the Defendants.
- d) The 1st and 2nd Defendant did not inform the 1st, 2nd and 3rd Plaintiff's of any changes in the Directorship of the records of the 3rd of the Plaintiff.
- e) The 3rd Plaintiff was not party to the sale of the Land to other persons who now claim to have bought the land and are surveying the land. - 10

f) That subsequent SALE by the 1st and 2nd Defendants were after the death of the said Haji Mohamed Adam and Ahmed Mohamed Haji Adam.

- g) The Estate of Haji Mohamed Adam was not party to the sale by the 1st and 2nd Defendants.
- h) That the estate of Haji Mohamed Adam and that of Ahmed Mohamed Haji Adam was never made aware of the sale for \$15.40 million.
- i) That the 2nd Defendant was unknown to the late Haji Mohamed Adam.
- j) The 2nd Defendant has never been onto the land.
- k) The Defendants sold the land without the authority do so and well knowing that the Directors with the majority shareholders were deceased. - 20
- l) The actions of the directors were a fraud under the rules and in contraventions of the law.

8. 7A
8B The Defendants acts have caused loss and damage to the interest of the 1st, 2nd and 3rd Plaintiff and the Defendants are in the process of surrendering the head title to other persons to the detriment of the Plaintiffs.

9. The Honourable Court has the jurisdiction

S. 120 of the Ordinance

1. The Plaintiff claims that the Defendant has wrongfully and unlawfully taken possession of the land described in the schedule of the plaint and that the Defendant is in breach of the said land lease.

REASONS WHEREFORE the Plaintiff pray for judgement against the Defendants jointly and severally for:-

- a) A declaration that LR. NO. 12924 belongs to Wananchi Ranching Ltd.
- b) Damages
- c) Costs

DATED at NAIROBI this 6th day of October 2000.

~~Signature~~
 MUTHAURA KIOME & MWARAMBA
 ADVOCATES FOR THE PLAINTIFFS - 10

DRAWN & FILED BY:

MUTHAURA KIOME & MWARAMBA
 ADVOCATES
 TOWN HOUSE, 2ND FLOOR
 KAUUNDA STREET
 NAIROBI

TO BE SERVED UPON:

HARRIS HORN
 ALIAS HARRY HORN - 20

[Handwritten signature]

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FATUMA MOHAMED 1ST PLAINTIFF
 ASHA MOHAMED 2ND PLAINTIFF
 WANANCHI RANCHING LTD. 3RD PLAINTIFF

VERSUS

WANANCHI ESTATES LTD 1ST DEFENDANT
 HARRIS HORN ALIAS HARRY HORN 2ND DEFENDANT

VERIFYING AFFIDAVIT

- 10

I, ASHA MOHAMED of P.O. Box 641 Voi make oath and say as follows:-

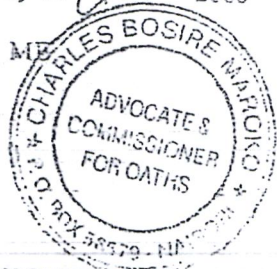
1. THAT I am the administratrix of the estate of Haji Mohamed Adaq and the Plaintiff herein.
2. THAT Fatuma Mohamed is the other administratrix.
3. THAT no other suit exists between the parties hereto in any other court.
4. THAT this affidavit is made and depened in verification of the facts of this suit.

SWORN by the said

ASHA MOHAMED A/WANANCHI

This 5 day of Oct 2000

BEFORE ME



ASHA

- 20

COMMISSIONER FOR OATHS

DRAWN & FILED BY:

MUTHAURA KIOME & MWARANIA
 ADVOCATES
 TOWN HOUSE, 2ND FLOOR
 KAUNDA STREET
 NAIROBI

15

41



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAIROBI

Civil Suit No. 1663 OF 1952

FATUMA MOHAMMED	} 1st Plaintiff
ASHA MOHAMED	
WANANCHI RANCHING LTD	

Ch Muthaura Kiome Advocate
against

WANANCHI ESTATES LTD	} 1st Defendant
WANGI HILL AGRI. PACS LTD	

To: WANANCHI ESTATES LTD
NAIROBI

(Service of this summons will be deemed to have been made to you if it is served on the following Advocates Muthaura Kiome & Mwangi Kiome, Advocates)

WHEREAS the above-named Plaintiff has instituted a suit against you upon the claim,

the particulars of which are set out in the copy plaint with annexure attached hereto.

YOU ARE HEREBY REQUIRED within 15 days from the date of service hereof to enter an appearance in the said suit.

Should you fail to enter an appearance within the time mentioned above, the Plaintiff may proceed with the suit and judgement may be given in your absence.

Given under my hand and the Seal of the Court this 27th day of October 1952

[Signature]

[Signature]
Deputy Registrar

Note.—You may appear in this by entering an appearance either personally or by duly appointed advocate at NAIROBI. Appearance can be entered by filing with the Court Memo. of Appearance (forms are obtained from Court at 15 cents each) in duplicate, showing the defendant's address for service. A filing fee must accompany such memoranda. A copy of Memo. of Appearance should also be sent to the plaintiff or his advocate, if any.

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

CIVIL CASE NO. 1663 OF 2000

42

FATUMA MOHAMED 1ST PLAINTIFF
 ASHA MOHAMED 2ND PLAINTIFF
 WANANCHI RANCHING LTD. 3RD PLAINTIFF

VERSUS

WANANCHI ESTATES LTD 1ST DEFENDANT
 HARRIS HORN ALIAS HARRY HORN 2ND DEFENDANT

AFFIDAVIT

- 10

I, ASHA MOHAMED of P.O. Box 641 Voi Nairobi make oath and say as follows:-

1. THAT I am the administratrix of the Estate of Haji Mohammed Adan and the Plaintiff herein and therefore authorised to swear this affidavit.
2. THAT my father was the brain behind the formation of Wananchi Ranching Ltd and its subsequent allocation of LR 12924 comprising of 9070 hectares in Voi.
3. THAT my late father owned 1190 shares in the said company.
4. THAT my late brother owned another 800 shares.
5. THAT my fathers shares were more than 30% of the issued share capital.
6. THAT between my late father and my late brother the two owned the majority of the issued share capital.
6. THAT the land is utilized for mining and ranching and on the ranch stands huge developments by the whole family of about 200 dependants.
7. THAT there are more than 1.000 cattle on the land.

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18

- 8. THAT my father before his demise swore an affidavit as he was very sick when he learnt that the 1st and 2nd Defendants had fraudulently placed their names in the land title through directorships and ownership which was not done by him or the company.
- 9. THAT my sister Fatuma and I are the administratrix of the estate of Haji Mohamed Adan my late father, by grant of this Honourable Court number 870 of 1997 annexed hereto and marked A1.
- 10. THAT when my father realised what was happening, he prepared to institute a suit but died before instituting the same and is annexed hereto and marked A2 is an affidavit by my late father.
- 11. THAT the Defendants have never sought to know and informed the family of my deceased father of their activities. - 10
- 12. THAT the suit premises were registered in the name of Wananchi Ranching Ltd at all material times.
- 13. THAT the 1st and 2nd Defendant now want to surrender the title for allocation by Government and they have purportedly received Shs 40 million and annexed hereto is a copy of the title marked A3.
- 14. THAT there are strange people now surveying the land for allocation to either themselves or others brought by the Defendants.
- 15. THAT the Plaintiffs and their animals are about to lose access to amenities such as boreholes, dams and shelter on the land. - 20
- 16. THAT there has never been an agreement for sale or transfer of the land to anyone by the Plaintiffs.
- 17. THAT the acts of the Defendants are fraudulent in that the plaintiffs have no knowledge of them.
- 18. THAT the 2nd Defendant has never purchased the land nor is he authorised to sell or receive payment for the land by anyone.
- 19. THAT I make this affidavit conscientiously about matters within my knowledge as have come to my knowledge in support of the annexed application.

DATED at NAIROBI this 6th day of October 2000.

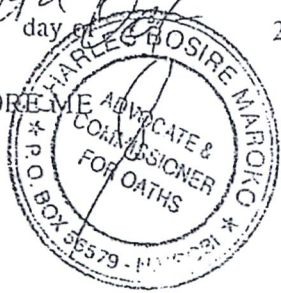
44

SWORN by the said)

ASHA MOHAMED)

This day of 2000)

BEFORE ME) ASHA



COMMISSIONER FOR OATHS)

DRAWN BY:

MUTHAURA KIOME & MWARANIA
ADVOCATES
TOWN HOUSE, 2ND FLOOR
KAUNDA STREET
NAIROBI

10

45



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

SUCCESSION CAUSE NO. H.C./R.M. 810 OF 1997

In the matter of the Estate of HAJI MOHAMED ADAM Deceased.

BE IT KNOWN that on the 24TH JUNE, 1997, the last

Written Will (with Codicil(s)) of HAJI MOHAMED ADAM

AFORESAID deceased late of

VOL TOWN IN KENYA who died domiciled in

REPUBLIC OF KENYA 11TH FEBRUARY, 1996, at

HIGH SECTION VBI a copy of which Will (and Codicil(s)) is

annexed, was proved in this Court and that administration of all the estate of the

deceased which by law devolves to and vests in his personal representative was granted to

ASHA MOHAMED of P O BOX 1255

RESIDENT IN KENYA the executor(s) named in the said Will (and Codicil(s))

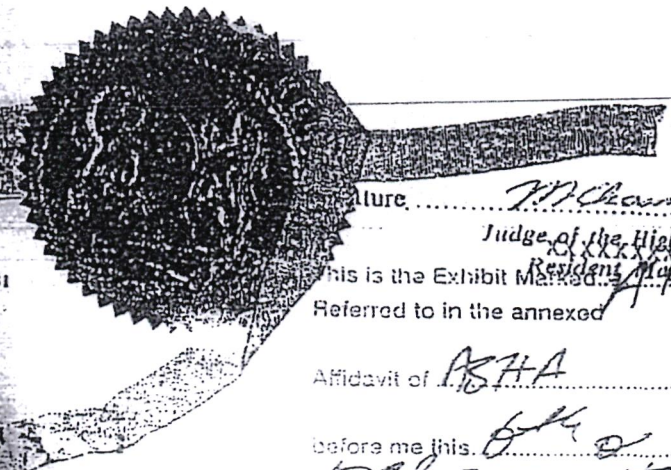
they having undertaken faithfully to administer such estate according to law and to

render a just and true account thereof whenever required by law so to do.

ISSUED by the High Court/Resident Magistrate's Court/through the registry at

NAIROBI IN KENYA this 24TH JUNE, 1997

AMENDED ON 12TH JULY, 2000



Signature of Judge of the High Court/Resident Magistrate

This is the Exhibit Marked Referred to in the annexed

Sworn Affidavit of

Declared before me this day of

Oct 2000 at



46

REPUBLIC OF KENYA

HIGH COURT OF KENYA

MAIROBI

AT

SUCCESSION CAUSE No. H.C./R.M. 810 OF 19 97

In the matter of the Estate of HAJI MOHAMED ADAM Deceased.

BE IT KNOWN that on the 24TH JUNE, 19 97, the last

Written Will (with Codicil(s)) of HAJI MOHAMED ADAM AFORESAID

(also known as) deceased late of VOI TOWN IN KENYA

THE REPUBLIC OF KENYA who died domiciled in 11TH FEBRUARY, 19 96 at

EASTLEIGH SECTION VII on the 19 at - 10

..... a copy of which Will (and Codicil(s)) is hereto annexed, was proved in this Court and that administration of all the estate of the deceased which by law devolves to and vests in his personal representative was granted to

FATUMA MOHAMED of

(and ASHA MOHAMED P O BOX 1255 WUNDANYI IN KENYA

.....) the executor(s) named in the said Will (and Codicil(s)) he/they having undertaken faithfully to administer such estate according to law and to render a just and true account thereof whenever required by law so to do.

ISSUED by the High Court/Resident Magistrate's Court/through the registry at MAIROBI IN KENYA 24TH JUNE, 19 97

AMENDED ON 12TH JULY, 2000

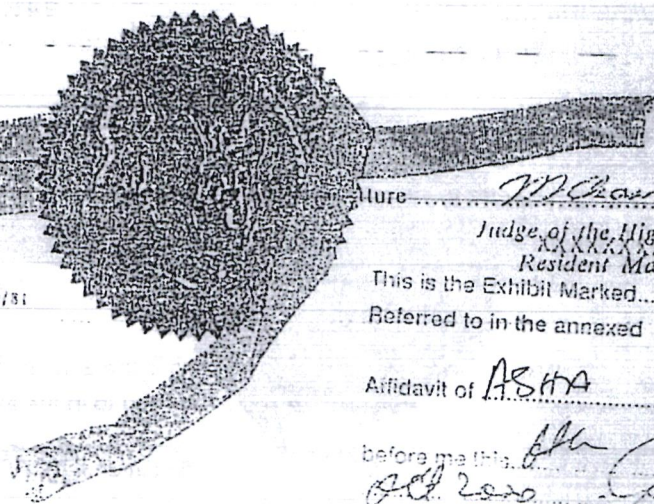
Signature of Judge of the High Court/Resident Magistrate

This is the Exhibit Marked Referred to in the annexed

Affidavit of ASHA Sworn

before me this 24th June 1997

GPR1334-189m-10/81



Affidavit of Adan 47 Sworn
before me this 6th 47 day of
Jul 2000 at H/W

IN THE MATTER OF THE WANANCHI RANCHING (DIRECTED AGRICULTURAL) COMPANY LIMITED
Commissioner for Oaths

AND

IN THE MATTER OF L.R.12924 C.R.20403 VOI

AFFIDAVIT

1. HAJI MOHAMED ADAN, of Voi within the Republic of Kenya and of Post Office Box Number 51, Voi make Oath and Say:

1. I am a director and a shareholder of The Wananchi Ranching (Directed Agricultural) Company Limited. (Hereinafter referred to as the "Company")

2. The Company was incorporated on 14th March 1974 with an authorized share capital of KShs.120,000 divided into 6,000 shares of Shs.20.00 each.

3. That the other directors and shareholders of the Company at the time of incorporation were:

- (i) Rufus Mwangisi Mwebaki holding 800 Shares;
- (ii) Mr. Ahmed Mohamed Haji Adam holding 800 Shares;
- (iii) The Central Agricultural Board holding 1 Share;

The above directors including myself were also the original shareholders.

4. That Ahmed Mohamed Haji Adam is my eldest son (hereinafter referred to as "Ahmed").

M. Adan
[Signature]

48

- (iv). Haji Mohamed Adam holding 1190 Shares
- (v) Harris Horn
- (vi) Harry Horn Jr.
- (vii) Ruel Kachula.
- (viii) Ol-Leila Holdings Limited

(a). Directors of Wananchi Estates Limited:

- (a) Harris Horn
- (b) Ruel E.M.
- (c) Harris Horn (Jnr)
- (d) Ahmed Muhamed Adam

- 10

(b). Shareholders of Wananchi Estates Limited:

- (a). Ol-Leila Holdings Limited
- (b) Wananchi Ranching (Directed Agricultural) Company Limited.
- (c) Harris Horn
- (d) Ruel Kachula
- (e) Ahmed Mohamed Haji Adam
- (f) Harris Horn Jr.

9. I have never attended or been informed of any board or shareholders meetings of the Company at which the appointment of the additional directors or the issue of shares to the further shareholders was discussed or agreed. All these changes have come as a matter of shock and surprise to me and I am greatly dissatisfied in the seeming involvement of Ahmed in these changes. They are all the more surprising in having come to me at this stage in my life.

- 20

10. I have no knowledge of the transfer of the Ranch (on which I have personally expended over KShs. 2,000,000.00 on development in putting up bore-holes, dams, paying land rent, etc.). The transfer was never discussed by anyone with me, nor did I approve it nor would I have consented to it had I been informed because the ranch forms the most substantial family asset and is the

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[Handwritten signature and initials]

49

birthright which I propose to leave to my heirs.

11. I have never met Harris Horn nor Harris Horn Jr who were appointed directors of the Company.

12. I make this affidavit now as I am old, and feeling the effects of declining health; I have diabetes which has now progressed to an advanced stage and I have been feeling unwell for several years. I also suffer from high blood pressure. I was hospitalised in 1992. Notwithstanding this and being of sound mind in full possession of my faculties and having understood the far reaching effects of what has been done to the ranch without my knowledge. I now make this affidavit because of this state of health and having received and accepted advice regarding the state of the company and its asset position and in contemplation of future claims in legal proceedings for reinstatement of the Company's and my rights of ownership which I have asked my said advocates (both in my capacity as shareholder and director of the company) to investigate, advise me, and to pursue, if necessary by litigation.

13. That as I am not conversant with the English Language I have had the contents of this affidavit read and explained to me in Swahili by Mr. Billing an advocate with the firm of Sandhu Ruffan Advocates and I have understood it and confirm its contents as being true.

14. What is stated is true to my knowledge save as to matters deponed to on information and belief, whose sources and grounds are specified and set out above.

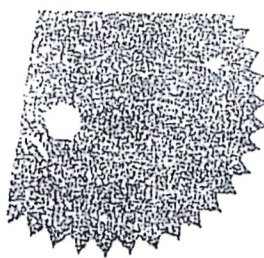
SWORN by HAJI MOHAMED ADAM
on 25th day of October 1993

I have read the contents of this affidavit
; the deponent in the swahili language
and he has confirmed the contents as being
true

BEFORE ME



[Handwritten signature]
22/10/93



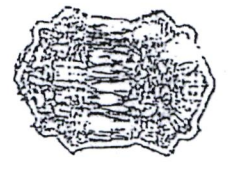
REPUBLIC OF KENYA

THE REGISTRATION OF TITLES ACT
(Chapter 231)

This is the Exhibit Marked...
Referred to as Annexed...
Affidavit of...
before me this...
at...

50

CHARLES...
C...



Grant No. ER 20403

ANNUAL RENT: SHS. 5,840/- for the first 10 years from 1.2.1975
SHS. 6,400/- after ten years
TERM: 45 YEARS FROM 1.2.1975

NOW ALL MEN BY THESE PRESENTS that the President of the Republic of Kenya
hereby GRANTS unto THE WANANCHI RANCHING (DIRECTED AGRICULTURAL) COMPANY LIMITED
a limited liability company having its registered office at Voi (Post Office
Number 51)

(hereinafter called "the Grantee") all that piece of land situate in S.W. of Voi Town in Talita
District containing by measurement nine nought seven nought decimal nought (9070.0)
in thereabouts that is to say Land Reference Number 12924

which said piece of land with the dimensions, abutments and boundaries thereof is delineated on the plan
annexed hereto and more particularly on Land Survey Plan Number 145657 deposited in the
Survey Records Office at Nairobi To Hold for the term of forty five (45) Years
from the first day of February One thousand nine hundred and seventy-five
subject to (a) the payment in advance on the first day of January in each year of the annual rent of
Shillings three thousand eight hundred forty for the first ten (10) years from 1.2.1975
Six thousand four hundred after ten (10) years
(b) the provisions of the Government Land Act (Chapter 231) and the regulations made thereunder

X

ABDISATAR HAJI MOHAMED
P.O. BOX 641 - 80300,
VOI.
distarrcyber@gmail.com

04/08/2025

THE HONOURABLE SENATORS,

Dear Honourable Members,

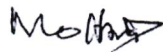
RE: WANANCHI RANCH (DIRECTED AGRICULTURAL) LTD

Good evening Gentlemen,

I have been preparing to appear before you tomorrow on the 5th August, 2025. However, as I sought legal advice, My Advocates have advised me that the matter is **Sub-Judice** and any attempt to deal with it amounts to contempt of court which will lead to my immediate arrest, conviction and being sentenced to imprisonment.

I hereby write to inform you that as a result of the above, I shall not attend but in future when the case in the **MOMBASA COURT OF APPEAL** is finalized, I will be ready to comply.

Thank you.



Regards,

Abdisatar Haji.

Annex III: Petitioners Submissions

THE CLERK OF THE SENATE
PARLIAMENT BUILDINGS
P.O. BOX 41842-00100
NAIROBI

Email: clerk.senate@parliament.go.ke

**RE: PETITION ON LAND OWNERSHIP DISPUTE OF MWANANCHI SETTLEMENT SCHEME IN
MWATATE CONSTITUENCY, TAITA TAVETA COUNTY.**

We the undersigned, Citizens of the Republic of Kenya and being among the 1322 land owners in Mwananchi Settlement Scheme, wish to present this petition to the senate on behalf of ourselves and other land owners.

We humbly draw the attention of the senate on the following:

1. **THAT** Mwananchi settlement scheme was registered in May 2010 by the government of Kenya in which Land Registration Number 12924 comprising of 9070 hectares was subdivided to settle 1322 people.
2. **THAT** the government of Kenya through Settlement Trust Fund bought the land at a cost of ksh.40 million from Wananchi Estates Limited who was the owner of the land.
3. **THAT** Wananchi Ranching (Directed Agricultural) Company Limited filed a case at the Environment and Land court at Voi as ELC NO 7 of 2024 and sought the following reliefs:
 - a) A permanent injunction restraining the defendants from dealing with LR NO 12924 -CR 20403 in whatever way.
 - b) A declaration that the transfer of the land to Settlement Trust Fund Trustees and all consequential transfers is null and void.
 - c) A declaration that LR 12924 belongs to Wananchi Ranching (Directed Agricultural) Company
4. **THAT** the case filed by Wananchi Ranching (Directed Agricultural) Company was against Wananchi Estates Limited, Settlement Trust Fund Trustees, the Land Commissioner and the Attorney General of Kenya.
5. **THAT** the 1322 owners of land in the settlement scheme were not listed as defendants and thus had no opportunity to defend their interests in the suit.
6. **THAT** Wananchi Ranching (Directed Agricultural) Company alleged that Wananchi Estates Limited fraudulently sold land it didn't own to Settlement Trust Fund Trustees.

PETITION ON LAND OWNERSHIP DISPUTE OF MWANANCHI SETTLEMENT SCHEME IN MWATATE, TAITA TAVETA COUNTY

7.THAT on 18th October 2024, Judge E.K.Wabwoto at Voi Law courts gave his judgment on the case in which among other things, declared that Wananchi Ranching (Directed Agricultural) Company is the bonafide and legitimate owner of LR No 12924 and that the land registration records should be rectified to reflect so.

8.THAT the judgement has caused a lot of anxiety amongst the owners of the land in the settlement scheme for fear of losing their land which they legally own as evidenced by the possession of valid title deeds some of which are shown below:

NO	NAME OF OWNER	TITILE DEED NO
1.	Ronald M.Mwakio	Taita-Taveta/Mwatate Wananchi/664
2.	Joseph Mwanguwe Mwamburi	Taita-Taveta/Mwatate Wananchi/1319
3.	Irene Wakesho Mjomba	Taita-Taveta/Mwatate Wananchi/613
4.	Bakari Kalema	Taita-Taveta/Mwatate Wananchi/1025
5	Ronald M. Shake	Taita-Taveta/Mwatate Wananchi/342
6.	Donald Bongosa Mcharo	Taita-Taveta/Mwatate Wananchi/880

9.THAT the petitioners have made best efforts to have the matters raised herein addressed by relevant authorities but the same remain unresolved.

10.THAT none of these issues raised in the Petition is pending in any Court of law, Constitutional or any other legal body.

THEREFORE, your humble Petitioners pray that the Senate:

1. Intervenes and investigates the matter with a view to ensure that the area residents are adequately compensated;
2. Inquires into the matter and makes appropriate recommendations on the irregular transactions on L.R No. 12924 situated in Mwatate Constituency;
3. Inquires into the matter and makes legislative interventions relating to land transfer and acquisition processes to ensure that innocent Kenyans are protected; and
4. Takes any other appropriate action it deems fit to resolve the matters raised herein.

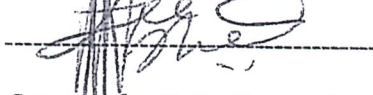
And your Petitioners will ever pray.

Dated this 2nd day of December 2024.

PETITION ON LAND OWNERSHIP DISPUTE OF MWANANCHI SETTLEMENT SCHEME IN MWATATE, TAITA TAVETA COUNTY






Countersigned by:

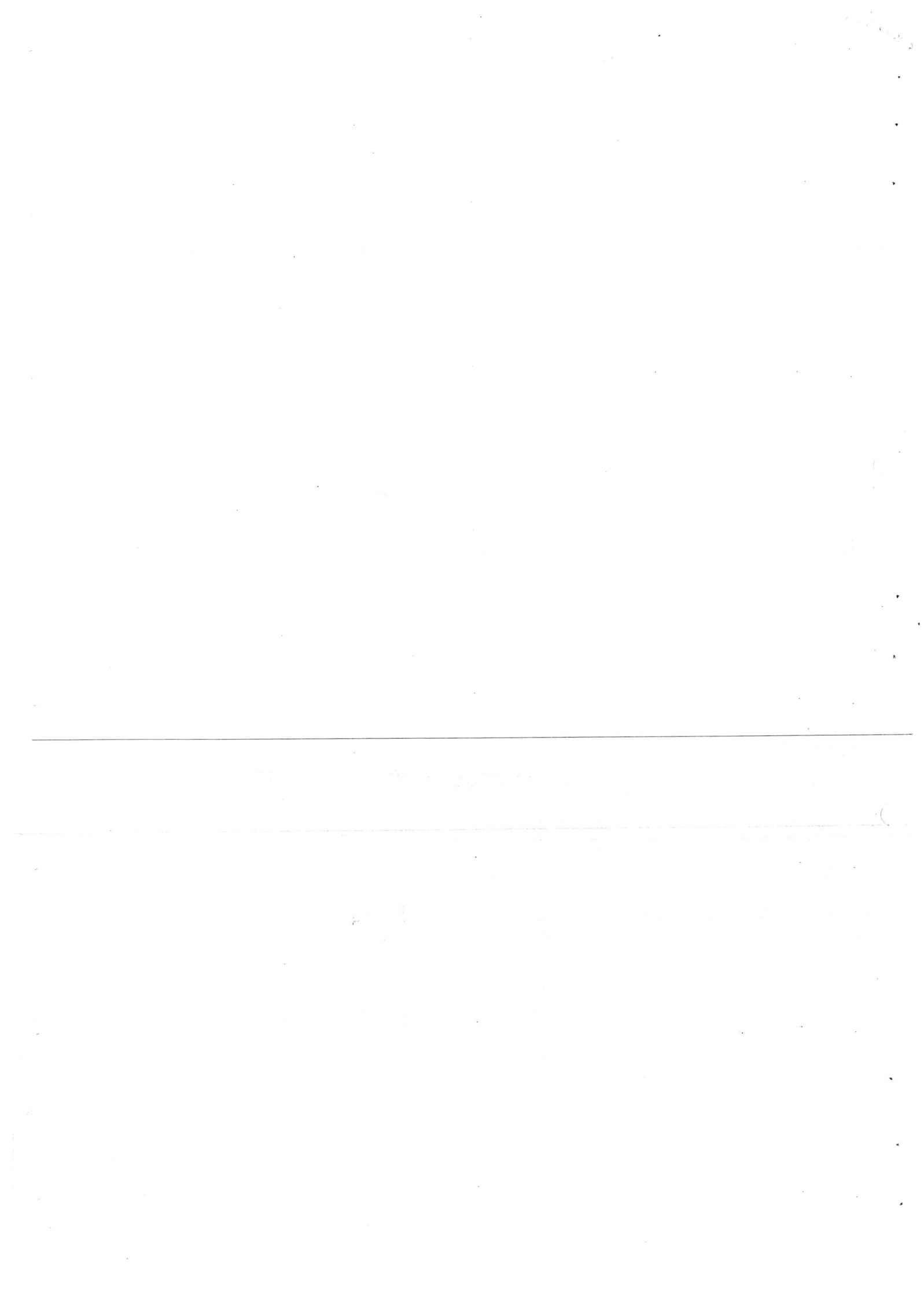
Senator Hon. Johnes Mwaruma



Senator for Taita Taveta County

SIGNED:

NAME	ADDRESS	MOBILE NUMBER	IDENTITY CARD NUMBER	SIGNATURE
DONALD BONGOSA MCHARO	Box 31 MWATATE	0729467752	0028023	
ROMANA M. MWARAIO	Box 47, MWATATE	0712576207	0154445	
BAKARI KALEMA	Box 63 MWATATE	0722843079	10395418	
JOSEPH MWARUMBE MWARAIO	Box 164 MWATATE	0724119224	4856825	
IRINE WAKESHO MWARAIO	PO-BOX 26 MWATATE	0723 228 561	14510 216	





BUSINESS REGISTRATION SERVICE
P. O. BOX 30031
NAIROBI
22 JUL 2024

To
JOHN MWAKIO MWANG'OMBE
P.O. Box 581
80300 - VOI

THE COMPANIES ACT, 2015

Records relating to the below company held by the Companies Registry as at 22 Jul 2024

COMPANY	WANANCHI ESTATES LIMITED
COMPANY NUMBER	C.45688
NOMINAL SHARE CAPITAL	2,000,000.00
NUMBER AND TYPE OF SHARES (VALUE PER SHARE)	ORDINARY: 100000 (KES 20.00 EACH)
DATE OF REGISTRATION	28TH MAR, 1991
REGISTERED OFFICE	P.O BOX 45156 TELEPHONE: , EMAIL: COUNTY: , DISTRICT: , LOCALITY: STREET: NGONG AVENUE, BUILDING: 209/1819 4TH
POSTAL ADDRESS	P.O BOX 45156
ENCUMBRANCES	

Name of Directors and Shareholders of the above company with their particular are as follows

NAME	DESCRIPTION	ADDRESS	NATIONALITY	SHARES
HARRY HORN SNR	DIRECTOR/SHAREHOLDER	P.O BOX P.O BOX 45156 NAIROBI	KENYAN	ORDINARY: 1
THE WANANCHI RANCHING (AGRICULTURAL DIRECTED) CO.LIMITED	DIRECTOR/SHAREHOLDER	P.O BOX P.O BOX 51 VOI	N/A	ORDINARY: 6000
RUEL KACHULAH	DIRECTOR/SHAREHOLDER	P.O BOX P.O BOX 45156 NAIROBI	KENYAN	ORDINARY: 1
G.W. GITHU AND CO ADVOCATES	SECRETARY		N/A	ORDINARY: 0
AHMED MOHAMED ADAM	DIRECTOR/SHAREHOLDER	P.O BOX P.O BOX 51 VOI	KENYAN	ORDINARY: 1
HARISS HORN JNR	DIRECTOR/SHAREHOLDER	P.O BOX P.O BOX 1 45156 NAIROBI	KENYAN	ORDINARY: 1
OL-LEILA HOLDINGS LIMITED	DIRECTOR/SHAREHOLDER	P.O BOX P.O BOX 34040 NAIROBI	N/A	ORDINARY: 93996
TOTAL				100000

Yours Faithfully,
REGISTRAR OF COMPANIES



REF NO: 0S-ZDFV6Q3X

TO

THE SENATE DEPARTMENTAL COMMITTEE ON LABOUR AND SOCIAL WELFARE.

PARLIAMENT BUILDINGS

P.O.BOX 41842-00100,

NAIROBI.

FROM: MWANANCHI SETTLEMENT SCHEME PETITIONERS

2/4/2025

RE: PETITION ON LAND OWNERSHIP DISPUTE OF MWANANCHI SETTLEMENT SCHEME IN MWATATE, TAITA TAVETA COUNTY.

DOCUMENTS IN SUPPORT OF OUR PETITION.

- 1.Evidence of the Filing of case by Wananchi Ranching (Directed Agricultural) Company (ELC NO 7 of 2024) at the Environment and Land Court at Voi against Wananchi Estates Limited, Settlement Trust Fund Trustees, The Land Commissioner and the Attorney General is found in document marked ANNEX 1 page 1.
- 2.Evidence that Wananchi Ranching (Directed Agricultural) Company did not sue the Mwananchi settlement scheme land owners to defend their interest in the land case is also found in ANNEX I page 1.
- 3.The reliefs sought by Wananchi Ranching (Directed Agricultural) Company in their case are found in page 2 of ANNEX 1 document.
- 4.Evidence that on 18th October 2024, Judge E.K.Wabwoto at Voi Law courts gave his judgment on the case in which among other things, declared that Wananchi Ranching (Directed Agricultural) Company is the bonafide and legitimate owner of LR No 12924 and that the land registration records should be rectified to reflect so is found on page 23 and 24 of ANNEX 1.
- 5.Evidence that the petitioners and others legally own the Mwananchi settlement scheme land is found in ANNEX 2.

Thank you.

PARLAMENT BUILDING

1110X 1143-0000

11/1/52

RE: Mwananchi Settlement Scheme Petitioner

11/1/52

RE: PETITION ON LAND OWNERSHIP DISPUTE OF Mwananchi Settlement Scheme Petitioner

11/1/52

DOCUMENTS IN SUPPORT OF OUR PETITION.

1. Evidence of the filing of case by Mwananchi Ranching (Directed Agricultural) Company (L.C. No. 1 of 1954) at the Environment and Land Court at Voi against Mwananchi Settlement Scheme Petitioner. The Land Commissioner and the Attorney General's found in document titled ANNEX 1 page 1.

2. Evidence that Mwananchi Ranching (Directed Agricultural) Company did not sue the Mwananchi Settlement Scheme land owners to defend their interest in the land as is also found in ANNEX 1 page 2.

3. The records sought by Mwananchi Ranching (Directed Agricultural) Company in their case are found in page 3 of ANNEX 1 document.

4. Evidence that on 18th October 2024, Judge E.K. Wadhwa at Voi Law courts gave his judgment on the case in which among other things, declared that Mwananchi Ranching (Directed Agricultural) Company is the bonafide and legitimate owner of LR No. 12824 and that the land registration records should be rectified to reflect so is found on page 24 and 24 of ANNEX 1.

5. Evidence that the petitioners and others legally own the Mwananchi settlement scheme land

is found in ANNEX 2

Thank you

ANNEX I

REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT VOI

ELC CASE NO. 7 OF 2024

(FORMERLY MOMBASA ELC CASE NO. 40 OF 2017)

(FORMERLY NAIROBI CIVIL CASE NO. 1663 OF 2000)

FATUMA MOHAMMED.....1ST PLAINTIFF

ASHA MOHAMMED.....2ND PLAINTIFF

WANANCHI RANCHING LIMITED.....3RD PLAINTIFF

=VERSUS=

WANANCHI ESTATES LIMITED.....1ST DEFENDANT

HARRIS HORN ALIAS HARRY HORN.....2ND DEFENDANT

SETTLEMENT FUND TRUSTEES.....3RD DEFENDANT

COMMISSIONER OF LANDS.....4TH DEFENDANT

HON. ATTORNEY GENERAL.....5TH DEFENDANT

NATIONAL LAND COMMISSION6TH DEFENDANT

AND

LEILA ZAMZAM MOHAMMED.....INTERESTED PARTY

JUDGMENT

1. The Plaintiffs instituted this suit vide a plaint dated 6th October 2000.

The plaint was later amended on 23rd April 2014 and subsequently



thereafter on 11th June 2024. The Plaintiff sought the following reliefs against the Defendants:-

(a) A permanent injunction be issued restraining the Defendant by themselves, their agents, servants, employees, attorneys, assigns and/or any other of their representatives from selling, disposing, evicting, alienating, demarcating and issuing of titles, interfering with the Plaintiff quiet possession or in any way dealing with L. R. No. 12924 – CR 20403 situated in Mwatate.

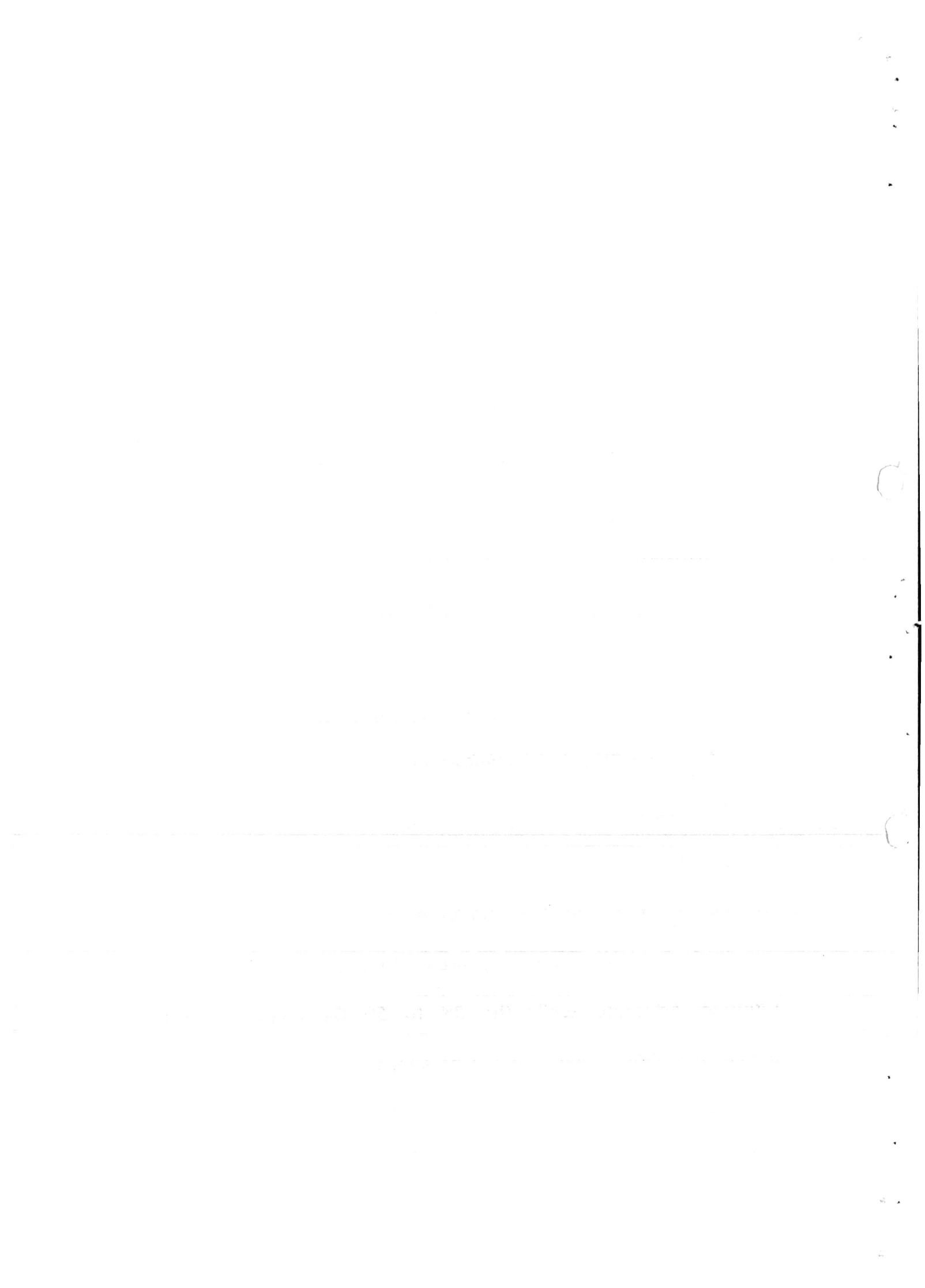
(b) The transfer to the 3rd Defendant be declared null and void and all consequential transfers be so declared.

(c) A declaration that L.R. No. 12924 belongs to Wananchi Ranching (Directed Agricultural) Limited.

(d) Damages.

(e) Costs.

2. Upon service of the pleadings and summons to the Defendant, the 1st and 2nd Defendants entered appearance through the firm of K. H. Osmond Advocate while the 3rd to 5th Defendants entered appearance vide a Memorandum of Appearance dated 16th August 2012 through the Honourable Attorney General. The Defendants did not file any statement of defence nor any response in respect to



the Plaintiff's claim. The 1st and 2nd Defendants later filed a Notice of Change of Advocates appointing the firm of A. W. Maina to act for them vide a Notice of Change dated 18th September 2015.

The Plaintiff's case

3. It was the Plaintiff's case that the 3rd Plaintiff was at all material times the registered owner of L.R. No. 12924 composing of 9070 hectares in Voi, Taita Taveta in which the late Haji Mohamed Adan had the majority shares together with his family and others.
4. It was averred that the 1st and 2nd Defendants fraudulently and without knowledge of the 3rd Plaintiff made themselves Directors of the 3rd Plaintiff company and subsequently transferred the land to the 1st Defendant thereafter selling to other persons for Kshs. 40Million. The following particulars of fraud were pleaded in their amended plaint:-
 - (a) *The deceased was not a party to the charges effected in the Directorship of the 3rd Plaintiff by the Defendant.*
 - (b) *The deceased did not know the persons who made the 1st and 2nd Defendants directors.*
 - (c) *There was not valid consideration for the transfer of shares to the Defendant.*

(d) The 1st and 2nd Defendant did not inform the 1st, 2nd and 3rd Plaintiffs of any changes in the Directorship of the records of the 3rd Plaintiff.

(e) The 3rd Plaintiff was not party to the sale of land to other persons who now claim to have bought the land.

(f) The subsequent sale by the 1st and 2nd Defendants were after the death of the said Haji Mohamed Adan and Ahmed Mohammed Haji Adan.

(g) The Estate of Haji Mohamed Adan was not party to the sale by the 1st and 2nd Defendants.

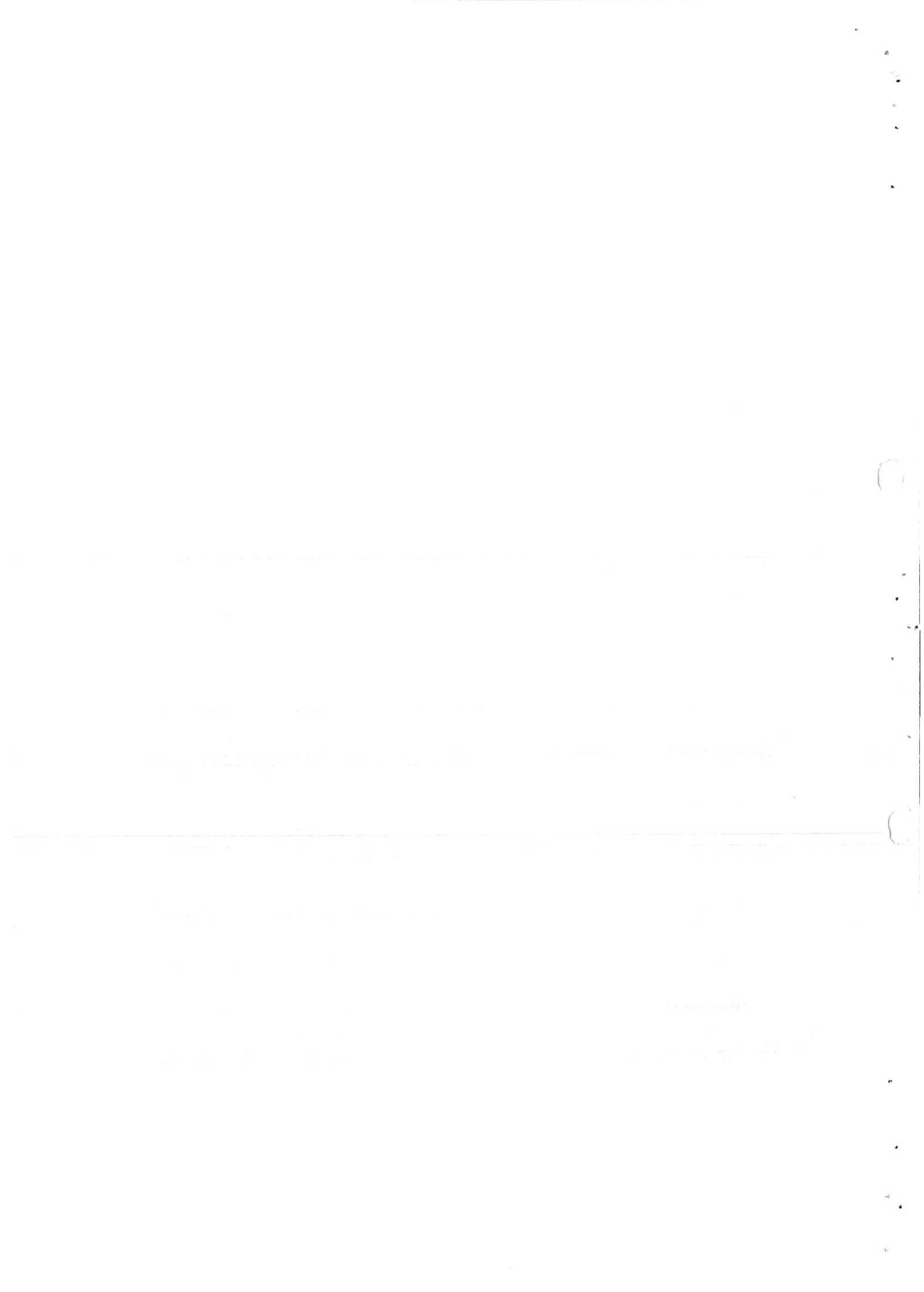
(h) The Estate of Haji Mohamed Adan and that of Ahmed Mohammed Haji Adan was never made aware of the sale of Kshs. 40Million.

(i) That the 2nd Defendant was unknown to the late Haji Mohamed Adan.

(j) The 2nd Defendant has never been onto the land.

(k) The Defendant sold the land without authority to do so and well knowing that the Directors with the majority shareholders were deceased.

5. During trial 2 witnesses testified on behalf of the Plaintiffs. The 1st Plaintiff Fatuma Mohamed the administratrix of the Estate of Haji



Mohamed Adan testified as PW1 while Abdisatar Haji a Director of the 3rd Plaintiff testified as PW2.

6. PW1 adopted her witness statement filed on 2nd December 2022 and the Plaintiff's bundle of documents on record. It was her evidence that her father was the brain behind the formation of the 3rd Plaintiff's company and its subsequent allocation of L.R. 12924 comprising of 9070 hectares in Voi. Her late father owned 1190 shares in the said company and her late brother Ahmed Mohamed Haji Adam also owned 800 shares in the said company.
7. It was also her testimony that her late father's shares were more than 30% of the share capital and that between her late father and her late brother the two owned the majority of the issued share capital. She also stated that the land is utilized for mining and ranching and on the ranch stands huge developments by the whole family of around 200 dependents. There are more than 1000 cattle on the land which is a source of income and owned by the family of the late Haji Mohamed Adam. Before his demise, her father swore an affidavit as he was very sick when he learnt that the 1st and 2nd Defendants herein had fraudulently placed their names in the land title through directorships and ownership which was not done nor consented by him or the company.

8. It was also her testimony that her sister Asha Mohamed and her are the administratrix of the estate of Haji Mohamed Adam, their late father, by grant of this Honourable Court in Succession Cause No. 870 of 1997. That when her father realized what was happening, he prepared to institute a suit but died before instituting the same. The 2nd Defendants never sought to know or inform the family of her deceased father their activities on the suit land. The suit property was at all material times registered to the Wananchi Ranching (Directed Agricultural) Company Ltd.

9. She also stated that the 1st and 2nd Defendants allegedly surrendered the Certificate of Title of the suit land for allocation by the Government and they have purportedly received Kenya Shillings Forty Million (Kshs. 40,000,000/-) as payments for the suit property. The 1st, 2nd, 3rd and 4th Defendants herein have gone ahead and allowed strange people into the land who have surveyed and allocated the same to themselves and others. The Plaintiffs and their animals have lost access to important amenities such as boreholes, dams and shelter on their land as a result of these acts by the Defendants. That she wishes to vividly state that there has never been any agreement for sale or transfer of the suit land to anyone by the Plaintiffs and the 3rd Plaintiff herein which is the sole proprietor of

the suit property. The acts by the 1st, 2nd and 3rd Defendants are fraudulent in that the Plaintiffs did not have knowledge of them.

10. The 1st Defendant never purchased the suit land from the 3rd Plaintiff nor was it authorized to sell or receive payment for the land on behalf of anyone.

11. **Abdisatar Haji** testified as PW2. He also relied on his witness statement filed in court on 2nd December 2022 in his evidence in chief. It was his testimony that the suit land L.R. 12924 belongs to the 3rd Plaintiff as evidenced by the Certificate of Title under The Registration of Titles Act Cap 281, Grant No. CR 20403, issued to it on the 1st of February 1975. The 1st Defendant Wananchi Estate limited was fraudulently established/made without the knowledge of the directors/shareholders of the Wananchi Ranching (Directed Agricultural) Company Limited, with the purpose of fraudulently transferring the suit property L.R. 12924. The said transfer was illegal since the 1st Defendant herein could not possibly have or enjoy any rights over the said property. It was not the registered proprietor.

The 1st and 2nd Defendants conspired to fraudulently transfer the suit land to the 3rd Defendant which transfer took place without the knowledge or consent of the Plaintiffs and while the present suit was in progress. That subsequently surveyors moved into the suit land

and started subdividing the same with instructions from the 3rd Defendants. The 3rd and 4th Defendants further proceeded to initiate the transferring of the suit land to other people to the detriment of the Plaintiffs.

12. He also stated that the 3rd Plaintiff has over 3,000 herd of cattle on the land and risks losing and utilizing the same because of the interferences it already faces on the suit land.

Defendants case

13. The Defendants save for entering appearance did not file any statement of defences neither did they participate in the trial herein despite service by the Plaintiffs.

The case of the Interested Party

14. The Interested Party never testified during trial but participated in the proceedings herein and filed written submissions in support of the Plaintiff's case.

The Plaintiff's submissions

15. The Plaintiffs filed written submissions dated 1st July 2024 through the firm of KKOAA Advocates LLP. Counsel submitted on the following issues:-

- (i) *Whether the Defendants engaged in fraudulent activities to acquire the property.*



- (ii) *Who has the legal and beneficial ownership of the property.*
- (iii) *Whether the titles generated fraudulently should be cancelled.*
- (iv) *Who should bear the costs of the suit.*

16. On the first issue, it was submitted that Haji Mohamed Adam (deceased) and three other shareholders incorporated the 3rd Plaintiff for ranching purposes. (Refer to page 13 of the list and bundle of documents dated 1st December 2022). The original shareholders of the 3rd Plaintiff were:-

- (i) Haji Mohamed Adam
- (ii) Ahmed Mohamed Haji Adam
- (iii) Rufus Mwanyasi Mwabaki; and
- (iv) Central Agricultural Board (CAB)

17. The Company acquired the suit property as evidenced by the Certificate of Title under Registration of Titles Act Cap. 281, Grant No. CR 20403 which was acquired on 1st February, 1975. The 1st Defendant Company was formed by Harris Horn (Deceased) who was the father to the 2nd Defendant. The Directors of the 1st Defendant were Harris Horn (Deceased). Harris Horn Jr (the 2nd Defendant herein). Ahmed Mohaemd Haji and Ruel E. M. Kachula. The shareholders were Harris Horn and Ruel E. M. Kachula who each had one share in the 1st Defendant. There was also established

another company known as Ol-Leila Holdings Limited whose directors and shareholders were Harris Horn Sr (Deceased) and Ruel E. M. Kachula.

18. It was also submitted that a keen look at the three companies shows that there was a thread running through joining them into a centralized administrative structure. The structure was fraudulently manipulated by Harris Horn (Deceased) and the 2nd Defendant with a view to eventually acquiring the suit property. This can be evidenced by the presence of Harris Horn (deceased) in the directorship of all the three companies. He also held shares in all the three companies. Harris Horn, Harris Horn Jr. Ruel Kachula and Ol-Leila Holdings became additional shareholders and directors incorporated into the 3rd Plaintiff company without a properly convened members meeting and resolution.

19. It was further submitted that there is no documented evidence of the procedure used to admit these four members. Furthermore, there is no evidence of a member's resolution authorizing the issuance of shares, nor is there any evidence indicating that the members extended an invitation for these four individuals to join the company. Additionally, there was no evidence of any valuable consideration given for the purchase of allotted shares and it is very



evident that all these were done without the knowledge of Mr. Haji Mohamed Adam, the main shareholder and in essence the owner and founder of the 3rd Plaintiff Company and a Director thereof. According to the Affidavit of Mr. Haji Mohamed Adam sworn on the 25th of October, 1993 he neither attended the meetings that made the resolution to appoint additional directors, if at all they were held, nor was he informed of the said changes. This is despite the fact that Mr. Haji Mohamed was the major shareholder of the company. Moreover, there is no available documentation on any of the aforementioned transactions. (refer to pages 1 – 4 of the list and bundle of documents dated 1st December, 2022).

20. Citing Section 77 of the Repealed Companies Act which was in force by then and the case of Manchester Outfitters Limited =Versus= Pravin Galot & 4 Others Civil Suit No. 55 of 2012 it was argued that the registration of a transfer of shares without production of an instrument of a transfer of shares was prohibited. It was also argued that in the instant case, there was no such instrument of transfer registered by the 2nd Defendant and the other new members who joined the 3rd Plaintiff as Directors/Shareholders and as such their membership remains tainted with fraud and illegality.

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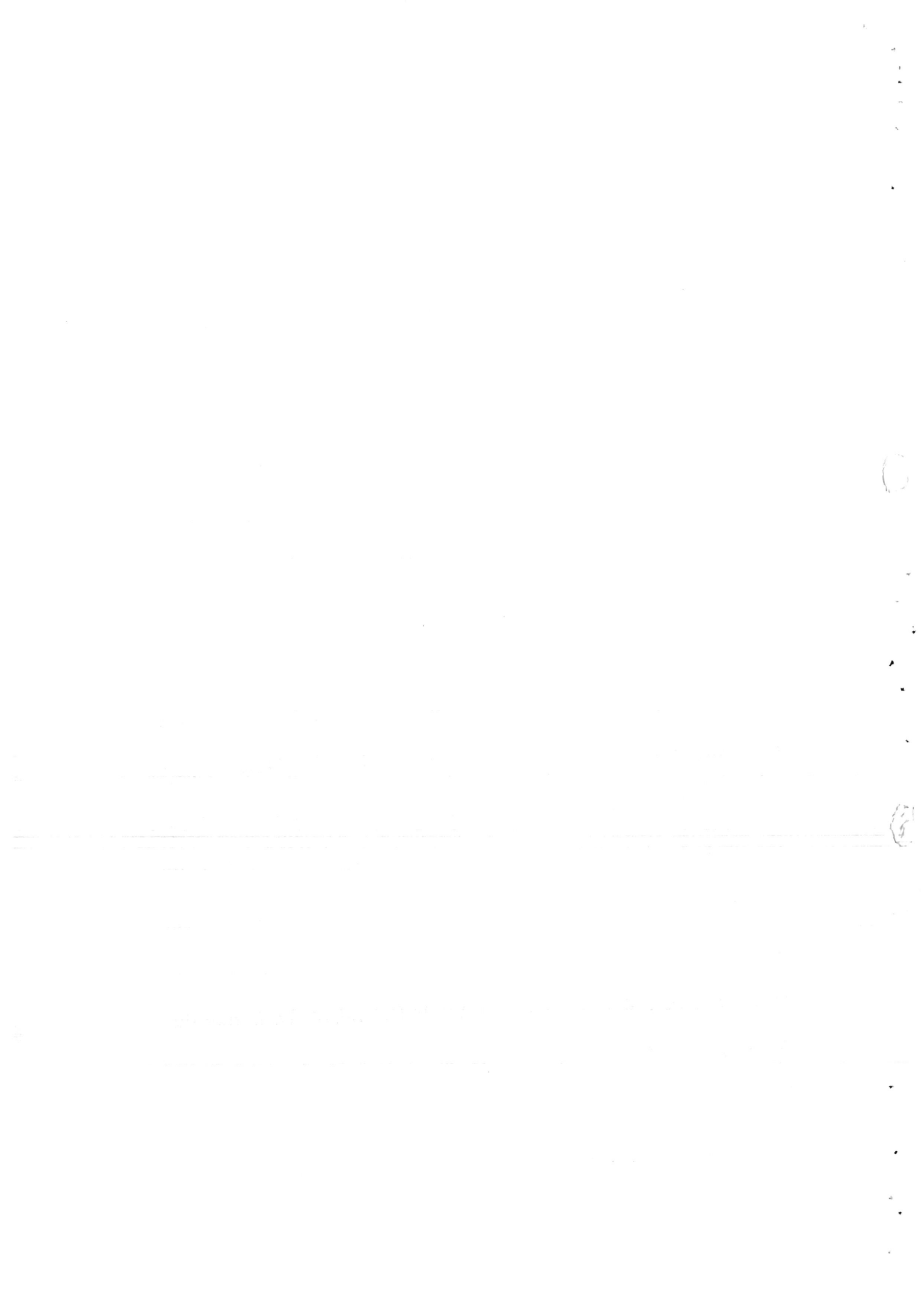
21. It was further submitted that on 7th November 1991, the 1st Defendant purportedly transferred L.R. No. 12924 the property of the 3rd Plaintiff to itself. The said action was taken in total disregard to the directors' duties to the company as outlined under the Companies act, without any resolution from the members of the 3rd Plaintiff and in complete non-compliance with the 3rd Plaintiffs Articles of Association. The Plaintiffs further cited the case of Ardhi Highway Developers Limited =Versus= West End Butchery Limited & 6 Others (2015) in support of this issue.

22. It was also submitted that pursuant to Section 26(1) of the Land Registration Act, a certificate of title shall not be taken as conclusive evidence of ownership if procured by fraud, omission or mistake. It was submitted that the transfer of the suit property from the 3rd Plaintiff to the 1st Defendant was irregular, unlawful and fraudulent and there are no conveyancing documents to demonstrate that the transfer occurred and no company resolution was ever passed allowing the company or its directors to sell the land or transfer the same to Wananchi Estates Limited.

23. As to whether the titles generated fraudulently ought to be cancelled, it was submitted that after fraudulently taking over the operations of the 3rd Plaintiff, the 2nd Defendant proceeded to form

another shadow company called Project Advisory Services Ltd which company was totally unrelated to Wananchi Ranches. Through the 1st Defendant, the 2nd Defendant purported to enter a negotiation with the 3rd Defendant on the sale of LR. 12924 comprising 9070 hectares in Voi, a property owned by the 3rd Plaintiff. The 1st Defendant entered into the Sale Agreement over LR No. 12924 comprising 9070 hectares in Voi with the 3rd Defendant for Kenya Shillings Forty Million (Kshs. 40,000,000/=) (refer to pages 29 – 54 of the bundle of documents dated 1st December 2022).

24. The Plaintiffs also submitted that the 2nd Defendant, acting as a director of the 1st Defendant, signed the sale agreement and received Kenya Shillings Forty Million (Kshs. 40,000,000/-) through another company known as Project Advisory Services Limited. However, the proceeds of the sale were not deposited into the account of either the 1st Defendant or the 3rd Plaintiff. Instead, the funds were deposited to the bank account of Project Advisory Services Limited, a shell company established by the 2nd defendant which purportedly claimed to be a sister company of the 1st Defendant. To further the fraud, the 2nd Defendant colluded with Senior Lands Officials and hence the reason the 3rd to 6th Defendants were sued for being responsible for the acts of their staff members. Before the Sale



Agreement was signed, the 2nd Defendant was in several meetings with Ministry of Lands officials, especially Mr. Tomno, Director, Land Adjudication and Settlement. The meetings were private and confidential, and their proceedings were to be kept top secret.

25. It was also submitted that the 3rd to 6th Defendants never conducted proper professional due diligence on the property as they were complicit in the fraudulent activities since the search conducted indicated that the property belonged to the 3rd Plaintiff.

26. The Plaintiffs further submitted that the 3rd Defendant is not a bonafide purchaser since it did not acquire a valid and legal title and it did not carry out the necessary due diligence to determine the lawful owner from whom they acquired a legitimate title. The case of Dina Management Limited =Versus= County Government of Mombasa & 2 Others (2023) eKLR was cited in support.

27. The Plaintiffs concluded their submissions by urging the court to grant the reliefs sought together with costs of the suit.

The submissions of the Interested Party

28. The Interested Party filed written submissions dated 21st June 2024 in support of the Plaintiff's case. Counsel for the Interested Party submitted on the following issues:-

- (i) *Whether the Plaintiffs are entitled to the reliefs sought.*

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THE UNIVERSITY OF CHICAGO
DEPARTMENT OF CHEMISTRY
5780 SOUTH CAMPUS DRIVE
CHICAGO, ILLINOIS 60637

Issue No. (i)

Whether the Plaintiffs are the legitimate owners of the suit property

32. It is the Plaintiffs case that the 3rd Plaintiff was at material times the registered owner of the suit property comprising of 9070 hectares in Voi, Taita Taveta which the late Haji Mohamed Adan had the majority shares together with his family and others and that the 1st and 2nd Defendants fraudulently sold the same to other persons for Kshs. 40 Million.
33. During trial the Plaintiffs adduced evidence and produced a copy of the Certificate of Title for L.R No. 12924 dated 1st February 1975 confirming ownership of the suit property by the 3rd Plaintiff. The Plaintiffs also adduced evidence of an Affidavit by Haji Mohamed Adam (Deceased) sworn on the 25th of October 1993, Grant of Probate and Written Will of Haji Mohamed Adam (Deceased) which administrator of all his estate devolves to and vests in his personal representative Fatuma Mohamed and Asha Mohamed, copy of CR 12 for the 3rd Plaintiff among other documents.
34. Article 40 of the Constitution of Kenya, 2010, elaborates on the right to own property in Kenya. It provides as follows; -



"(1) Subject to Article 65, every person has the right, either individually or in association with others, to acquire and own property—

(a) of any description; and

(b) in any part of Kenya.

(2) Parliament shall not enact a law that permits the State or any person--

(a) to arbitrarily deprive a person of property of any description or of any interest in, or right over, any property of any description; or

(b) to limit, or in any way restrict the enjoyment of any right under this Article on the basis of any of the grounds specified or contemplated in Article 27 (4).

(3) The State shall not deprive a person of property of any description, or of any interest in, or right over, property of any description, unless the deprivation-

(a) results from an acquisition of land or an interest in land or a conversion of an interest in land, or title to land, in accordance with Chapter Five; or

(b) is for a public purpose or in the public interest and is carried out in accordance with this Constitution and any Act of Parliament that

(i) requires prompt payment in full, of just compensation to the person; and

(ii) allows any person who has an interest in, or right over, that property a right of access to a Court of law.”

35. Indefeasibility of the title is provided for in Section 26 (1) (b) of the Land Registration Act which states;

“The certificate of title issued by the Registrar upon registration or to a purchaser of land upon a transfer ... shall be taken by all Courts as prima facie evidence that the person named as proprietor of the land is the absolute and indefeasible owner ... and the title of that proprietor shall not be subject to challenge, except –

(a) on the ground of fraud or misrepresentation to which the person is proved to be a party; or

(b) where the certificate of title has been acquired illegally, unprocedurally or through a corrupt scheme.”

... and the ...
... the ...
... the ...

(b) where the ... of the ...

36. It is trite law that It is trite law that he who alleges must prove. This is set out under Section 107(1)(2) of the Evidence Act, which provides as follows:

“(1) Whoever desires any court to give judgment as to any legal right or liability dependent on the existence of facts which he asserts must prove that those facts exist.

(2) When a person is bound to prove the existence of any fact it is said that the burden of proof lies on that person.”

37. The evidence before court shows that the Plaintiffs have been able to prove and demonstrate that the 3rd Plaintiff was the registered proprietor of the suit property before the same was fraudulently transferred to other parties without their consent and knowledge and in the absence of any evidence to the contrary, it is the finding of this court that the 3rd Plaintiff is the bonafide and legitimate owner of the suit property.

Issue No. (ii)

Whether the Plaintiffs have proved fraud as against the Defendants

38. Fraud is defined under the Black’s Law Dictionary 10th Edition as *“A knowing misrepresentation or knowing concealment of a material fact made to induce another to act to his or her detriment”*.

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39. How then can fraud be proved? The Court of Appeal in Mombasa Civil Appeal No. 312 of 2012 Emfil Limited v Registrar of Titles Mombasa & 2 others [2014] eKLR held:

“Allegations of fraud are allegations of a serious nature normally required to be strictly pleaded and proved on a higher standard than the ordinary standard of balance of probabilities”.

Similarly, the Court of Appeal decision in the case of John Kamunya & Another v John Nginyi Muchiri & 3 Others [2015] eKLR held that:

“We find that the law is clear as put by Mr. Karanja that matters of “fraud” must be strictly and specifically pleaded before these can be interrogated by a court of law. Alternatively, even though not pleaded, these may be raised in the cause of the trial, evidence tendered on them, submission made on them and then left for the court to determine.

40. To succeed in claiming fraud the Plaintiffs not only need to plead but also particularized it by laying out water tight evidence which the Court would consider. It is therefore trite law that any allegations of fraud must be pleaded and strictly proved.

41. The Plaintiffs pleaded particulars of fraud as against the Defendants at paragraph 7(a) of their amended plaint. In demonstrating fraud on the part of the Defendants the Plaintiffs witness Fatuma

Mohamed who testified as PW1 testified that the 1st and 2nd Defendants surrendered the suit land without their consent for allocation by the Government and received Kshs. 40,000,000/= as payment for the same. There was no sale agreement executed by the Plaintiffs nor any transfer in respect to the same that had equally been executed by the Plaintiffs. The 1st Defendant never purchased the suit land from the 3rd Plaintiff nor was it authorised to sell or receive payment for the land on its behalf. The said testimony was equally corroborated by the testimony adduced by PW2.

42. It was evident from the evidence adduced herein that the 1st Defendant fraudulently transferred the suit property without the consent and or approval of the 3rd Plaintiff and the Estate of Haji Mohamed Adam was not a party to the said sale and or transfer.

43. Upon analysing the evidence that was tendered herein and in the absence of any evidence controverting the same, it is the finding of this court that the Plaintiffs have been able to prove the particulars of fraud as pleaded as against the Defendants herein.

Issue No. (iii)

What are the appropriate reliefs to grant herein

44. The Plaintiffs sought for several reliefs including a permanent injunction against the Defendants, an order declaring the transfer to

the 3rd Defendant as null and void among other reliefs. The Plaintiffs have also sought for a declaration that the 3rd Plaintiff is the lawful owner and proprietor of the suit property. This court having already held that the 3rd Plaintiff is the legal and bonafide owner of the suit property it will proceed to grant the said relief.

45. In respect to the subsequent transfer of the suit property to the 3rd Defendant, the court in the case of Kassim Ahmed Omar & Another vs. Anwar Ahmed Abed & Others, Malindi ELC No. 18 of 2015 the Court held that;

“A certificate of title is an end process. If the process that followed in issuing the title did not comply with the law, then such a title can be cancelled by the Court.”

46. Ultimately the court finds that the transfer of the suit property to the 3rd Defendant was unlawful and hence null and void and the same is amenable for cancellation. Section 80(1) of the Land Registration Act comes into play. It provides: -

“Subject to subsection (2), the Court may order the rectification of the register by directing that any registration be cancelled or amended if it is satisfied that any registration was obtained, made or omitted by fraud or mistake.”

47. This Court is satisfied that the Certificate of title held by the Defendants was procured illegally and as such it is impeachable and ought to be cancelled. Further this Court has already held and found that the 3rd Plaintiff is the legal owner of the suit property and it is only fair that the register be rectified to cure the illegality perpetrated by the Defendants. See also the Supreme Court case of Dina Management Limited vs County Government of Mombasa & 2 Others (2023) eKLR

48. In respect to costs, as a general rule, costs follow the event unless the court for good reasons orders otherwise. In the present case the Plaintiffs have succeeded in their claim as against the Defendants. However the court notes that the dispute that led to the institution of this suit was initiated by the actions of the 1st and 2nd Defendants and as such only the 1st and 2nd Defendants shall bear the costs of the suit payable to the Plaintiffs.

Final orders

49. In conclusion, based on the totality of the evidence tendered herein, the Plaintiffs have been able to prove their case to the required standard as against the Defendants. The court hereby enters judgment in favour of the Plaintiffs as follows: -

(a) A declaration be and is hereby issued that L.R No. 1294 - CR 20403 situated in Mwatate belongs to Wananchi Ranching (Directed Agricultural) Limited.

(b) A permanent injunction be and is hereby issued restraining the Defendants by themselves, their agents, servants, employees, attorneys, assigns and/or any other of their representatives from selling, disposing, evicting, alienating, demarcating, issuing of titles and interfering with the Plaintiffs quiet possession or in any way dealing with L.R. No. 12924 CR 20403.

(c) An order is hereby issued declaring the transfer of the suit property to the 3rd Defendant and all consequential transfers are null and void.

(d) The 1st and 2nd Defendants shall bear the costs of the suit.

Judgment accordingly.

Dated, Signed and Delivered virtually at Voi this 18th day of October, 2024.

E. K. WABWOTO
JUDGE

ANNEX 2



REPUBLIC OF KENYA

THE LAND REGISTRATION ACT

(No. 3 of 2012, section 108)

THE REGISTERED LAND ACT

(Chapter 300) (REPEALED)

Title Deed

Title Number **TAITA-TAVETA/MWATATE WANANCHI/664**

Approximate Area **3.8 Ha.**

Registry Map Sheet No. **2**

This is to certify that

RONALD MZAME MWAKIO

ID NO. 154445

is (are) now registered as the absolute proprietor(s) of the land comprised in the above-mentioned title, subject to the entries in the register relating to the land and to such of the overriding interests set out in section 28 of the Land Registration Act (No. 3 of 2012) as may for the time being subsist and affect the land.

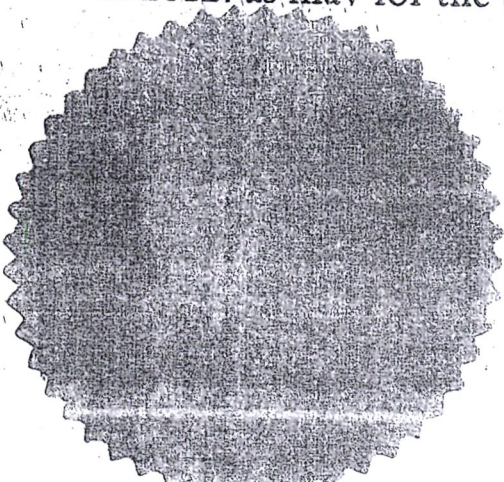
GIVEN under my hand and the seal of the

TAITA/TAVETA District Land Registry

this **8th** day of **August** 20 **13**

P. V. Leitch 216

Land Registrar





REPUBLIC OF KENYA

THE LAND REGISTRATION ACT

(No. 3 of 2012, section 108)

THE REGISTERED LAND ACT

(Chapter 300) (REPEALED)

Title Deed

MLS/TD/02/A2/02

No

0430373



REPUBLIC OF KENYA

THE LAND REGISTRATION ACT

(No. 3 of 2012, section 108)

THE REGISTERED LAND ACT

(Chapter 300) (REPEALED)

Title Deed

TAITA-TAVETA/MWATATE WANANCHI/1025

Title Number

3.8 Ha.

Approximate Area

3

Registry Map Sheet No.

This is to certify that

BAKARI KALEMA ID NO. 10395418

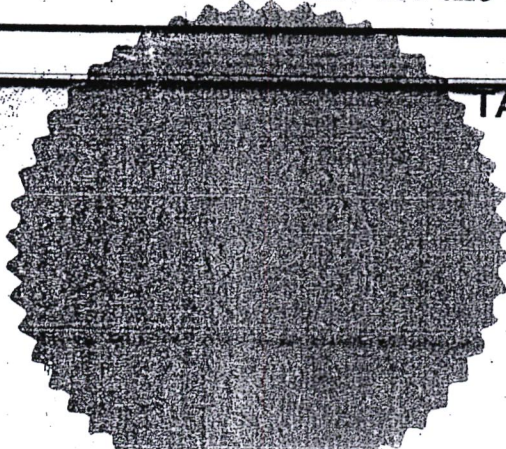
is (are) now registered as the absolute proprietor(s) of the land comprised in the above-mentioned title, subject to the entries in the register relating to the land and to such of the overriding interests set out in section 28 of the Land Registration Act (No. 3 of 2012) as may for the time being subsist and affect the land.

GIVEN under my hand and the seal of the

TAITA-TAVETA

..... District Land Registry

this ^{8th} day of **August** 20**13**



E. N. Marwanga
District Registrar



REPUBLIC OF KENYA

THE LAND REGISTRATION ACT

(No. 3 of 2012, section 108)

THE REGISTERED LAND ACT

(Chapter 300) (REPEALED)

Title Deed

Title Number TAITA TAVETA/MWATATE WANANCHI/1319

Approximate Area - 3.8 - Ha

Registry Map Sheet No. 3

This is to certify that JOSEPH MWAMBURI MWANGUWE

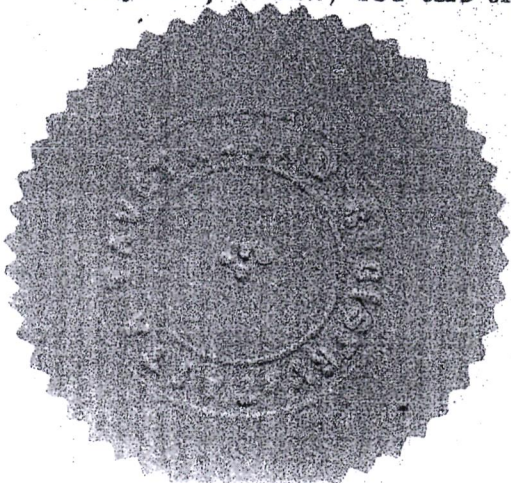
ID/NO.4856825

is (are) now registered as the absolute proprietor(s) of the land comprised in the above-mentioned title, subject to the entries in the register relating to the land and to such of the overriding interests set out in section 28 of the Land Registration Act (No. 3 of 2012) as may for the time being subsist and affect the land.

GIVEN under my hand and the seal of the

TAITA/TAVETA District Land Registry

this 23RD day of MARCH 20 15



Donald O. Ombaka
Land Registrar



REPUBLIC OF KENYA

THE LAND REGISTRATION ACT

(No. 3 of 2012, section 108)

THE REGISTERED LAND ACT

(Chapter 300) (REPEALED)

Title Deed

MLS/TD/02/A2/02

No 0562166



REPUBLIC OF KENYA

THE LAND REGISTRATION ACT

(No. 3 of 2012; section 108)

THE REGISTERED LAND ACT

(Chapter 300) (REPEALED)

Title Deed

MLS/TD/02/A2/02

No 0427866



REPUBLIC OF KENYA

THE LAND REGISTRATION ACT

(No. 3 of 2012, section 103)

THE REGISTERED LAND ACT

(Chapter 300) (REPEALED)

Title Deed

Title Number TAITA-TAVETA/MWATATE WANANCHI/813

Approximate Area 3.8 Ha.

Registry Map Sheet No. _____

This is to certify that

IRINE WAKESHO MJOMBA

ID NO. 14510216

is (are) now registered as the absolute proprietor(s) of the land comprised in the above-mentioned title, subject to the entries in the register relating to the land and to such of the overriding interests set out in section 28 of the Land Registration Act (No. 3 of 2012) as may for the time being subsist and affect the land.

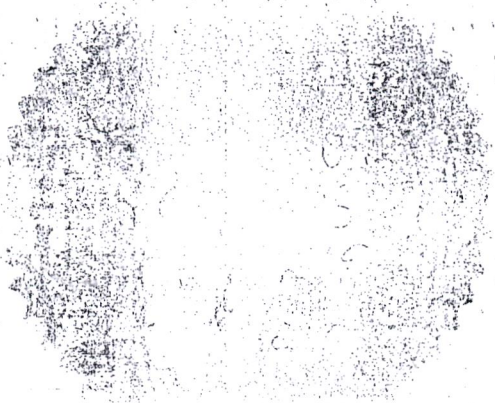
GIVEN under my hand and the seal of the

TAITA/TAVETA District Land Registry

this 8th day of August 2013

B. V. Lwiza 216

Land Registrar





REPUBLIC OF KENYA

THE LAND REGISTRATION ACT

(No. 3 of 2012, section 108)

THE REGISTERED LAND ACT

(Chapter 300) (REPEALED)

Title Deed

MLS/TD/02/A2/02

No

0430307



REPUBLIC OF KENYA

THE LAND REGISTRATION ACT

(No. 3 of 2012, section 108)

THE REGISTERED LAND ACT

(Chapter 300) (REPEALED)

Title Deed

TAITA TAVETA/MWATATE WANANCHI/880

Title Number

3.8 Ha.

Approximate Area

3

Registry Map Sheet No.

This is to certify that

DONALD BONGOSA MCHARO, ID NO.0028023

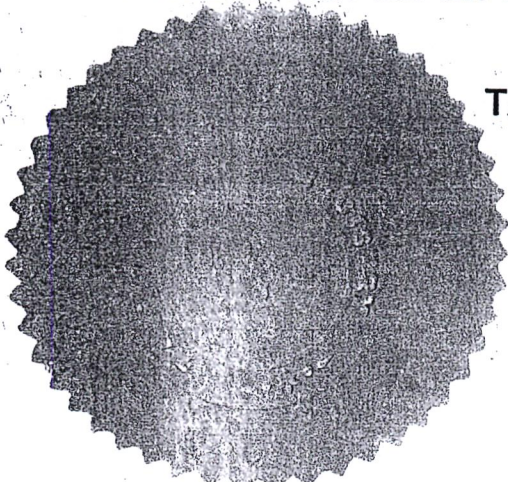
is (are) now registered as the absolute proprietor(s) of the land comprised in the above-mentioned title, subject to the entries in the register relating to the land and to such of the overriding interests set out in section 28 of the Land Registration Act (No. 3 of 2012) as may for the time being subsist and affect the land.

GIVEN under my hand and the seal of the

TAITA-TAVETA

..... District Land Registry

this **8th** day of **August** 20 **13**



[Signature]

C. K. Ngetich 212



REPUBLIC OF KENYA

THE LAND REGISTRATION ACT

(No. 3 of 2012; section 108)

THE REGISTERED LAND ACT

(Chapter 300) (REPEALED)

Title Deed

MLS/TD/02/A2/02

No

0427972

ANNEX 2



REPUBLIC OF KENYA

THE LAND REGISTRATION ACT

(No. 3 of 2012, section 108)

THE REGISTERED LAND ACT

(Chapter 300) (REPEALED)

Title Deed

TAITA TAVETA/ MWATATE WANANCHI/342

Title Number

3.8 Ha.

Approximate Area

1

Registry Map Sheet No.

This is to certify that

RONALD M. SHAKE

ID/NO.2258181

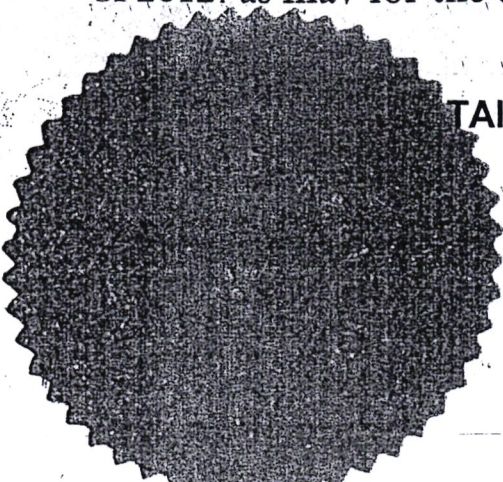
is (are) now registered as the absolute proprietor(s) of the land comprised in the above-mentioned title, subject to the entries in the register relating to the land and to such of the overriding interests set out in section 28 of the Land Registration Act (No. 3 of 2012) as may for the time being subsist and affect the land.

GIVEN under my hand and the seal of the

TAITA-TAVETA

District Land Registry

8th day of **August** 20**13**



Land Registrar

F. Akinyi 0281



REPUBLIC OF KENYA

THE LAND REGISTRATION ACT

(No. 3 of 2012; section 108)

THE REGISTERED LAND ACT

(Chapter 300) (REPEALED)

Title Deed

MLS/TD/02/A2/02

No 0426044



REPUBLIC OF KENYA

THE LAND REGISTRATION ACT

(No. 3 of 2012, section 108)

THE REGISTERED LAND ACT

(Chapter 300) (REPEALED)

Title Deed

Title Number **TAITA TAVETA/MWATATE WANANCHI/1300**

Approximate Area **4.75 Ha.**

Registry Map Sheet No. **3**

This is to certify that

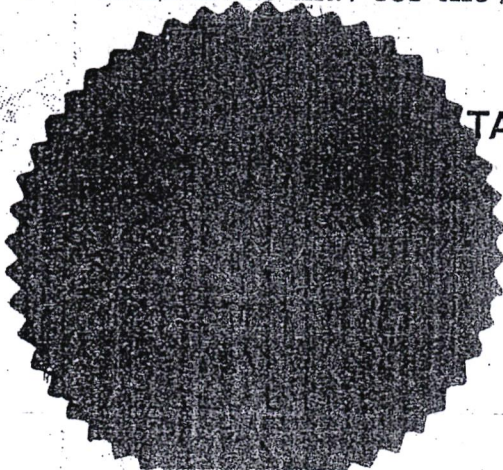
MARSDEEN KIMBIO MBOGHO ID. NO. **0154185**

is (are) now registered as the absolute proprietor(s) of the land comprised in the above-mentioned title, subject to the entries in the register relating to the land and to such of the overriding interests set out in section 28 of the Land Registration Act (No. 3 of 2012) as may for the time being subsist and affect the land.

GIVEN under my hand and the seal of the

TAITA-TAVETA District Land Registry

18th day of **August** 20**13**



[Signature]
Land Registrar
Wanjuki 291



REPUBLIC OF KENYA

THE LAND REGISTRATION ACT

(No. 3 of 2012; section 108)

THE REGISTERED LAND ACT

(Chapter 300) (REPEALED)

Title Deed

MLS/TD/02/A2/02

No

0428477



REPUBLIC OF KENYA

THE LAND REGISTRATION ACT

(No. 3 of 2012, section 108)

THE REGISTERED LAND ACT

(Chapter 300) (REPEALED)

Title Deed

Title Number **TAVETA-TAVETA/MWATATE WANANCHI/207**

Approximate Area **3.8 Ha.**

Registry Map Sheet No. **1**

This is to certify that

MATILDA SHARIFF

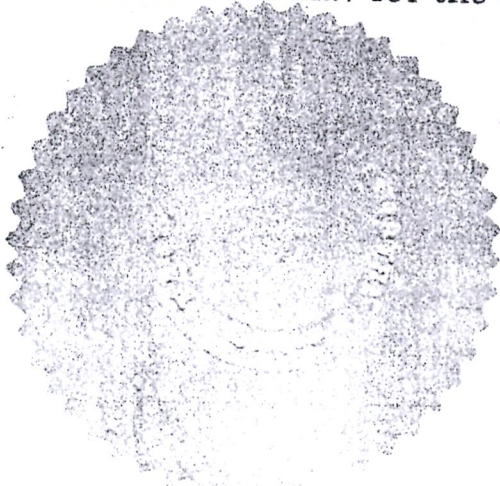
ID NO.769851

is (are) now registered as the absolute proprietor(s) of the land comprised in the above-mentioned title, subject to the entries in the register relating to the land and to such of the overriding interests set out in section 28 of the Land Registration Act (No. 3 of 2012) as may for the time being subsist and affect the land.

GIVEN under my hand and the seal of the

TAITA-TAVETA District Land Registry

this **8th** day of **August** 20 **13**



[Signature]
7 August 2013
Land Registrar



REPUBLIC OF KENYA

THE LAND REGISTRATION ACT

(No. 3 of 2012; section 108)

THE REGISTERED LAND ACT

(Chapter 300) (REPEALED)

Title Deed

MLS/TD/02/A2/02

No 0430241



REPUBLIC OF KENYA

THE LAND REGISTRATION ACT

(No. 3 of 2012, section 108)

THE REGISTERED LAND ACT

(Chapter 300) (REPEALED)

Title Deed

Title Number TAITA TAVETA/MWATATE WANANCHI/1276

Approximate Area 3.8 Ha.

Registry Map Sheet No. 3

This is to certify that

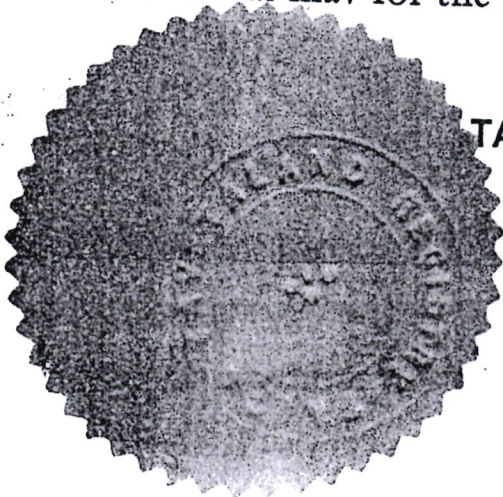
ARNOLD JOHN M. MWEMBA ID. NO. 25068119

is (are) now registered as the absolute proprietor(s) of the land comprised in the above-mentioned title, subject to the entries in the register relating to the land and to such of the overriding interests set out in section 28 of the Land Registration Act (No. 3 of 2012) as may for the time being subsist and affect the land.

GIVEN under my hand and the seal of the

TAITA-TAVETA District Land Registry

the 18th day of May 2013



[Signature]
Land Registrar
Y. G. Wanjoki 241



REPUBLIC OF KENYA

THE LAND REGISTRATION ACT

(No. 3 of 2012; section 108)

THE REGISTERED LAND ACT

(Chapter 300) (REPEALED)

Title Deed

MLS/TD/02/A2/02

No 0428500



REPUBLIC OF KENYA

THE LAND REGISTRATION ACT

(No. 3 of 2012, section 108)

THE REGISTERED LAND ACT

(Chapter 300) (REPEALED)

Title Deed

Title Number **TAVETA-TAVETA/MWATATE WANANCHI/161**

Approximate Area **3.8 Ha.**

Registry Map Sheet No. **1**

This is to certify that

JUDITH WAKIO MZEE

ID NO.3930420

is (are) now registered as the absolute proprietor(s) of the land comprised in the above-mentioned title, subject to the entries in the register relating to the land and to such of the overriding interests set out in section 28 of the Land Registration Act (No. 3 of 2012) as may for the time being subsist and affect the land.

GIVEN under my hand and the seal of the

TAITA-TAVETA District Land Registry

this **8th** day of **August** 20 **13**

Land Registrar



REPUBLIC OF KENYA

THE LAND REGISTRATION ACT

(No. 3 of 2012, section 108)

THE REGISTERED LAND ACT

(Chapter 300) (REPEALED)

Title Deed

Title Number TAITA-TAVETA/MWATATE WANANCHI/1036

Approximate Area 3.8 Ha.

Registry Map Sheet No. 3

This is to certify that

GETRUDE MBASHU NGIMA ID NO. 2527361

is (are) now registered as the absolute proprietor(s) of the land comprised in the above-mentioned title, subject to the entries in the register relating to the land and to such of the overriding interests set out in section 28 of the Land Registration Act (No. 3 of 2012) as may for the time being subsist and affect the land.

GIVEN under my hand and the seal of the

TAITA-TAVETA District Land Registry

18th day of **August** 20**13**

E. Mwangi
Land Registrar



REPUBLIC OF KENYA

THE LAND REGISTRATION ACT

(No. 3 of 2012, section 108)

THE REGISTERED LAND ACT

(Chapter 300) (REPEALED)

Title Deed

MLS/TD/02/A2/02

No 0427857



REPUBLIC OF KENYA

THE LAND REGISTRATION ACT

(No. 3 of 2012, section 108)

THE REGISTERED LAND ACT

(Chapter 300) (REPEALED)

Title Deed

TAITA TAVETA/MWATATE WANANCHI/18

Title Number **3.8 Ha.**

Approximate Area **1**

Registry Map Sheet No.

This is to certify that

RIZIKI M. MOHAMED

ID NO. 6700849

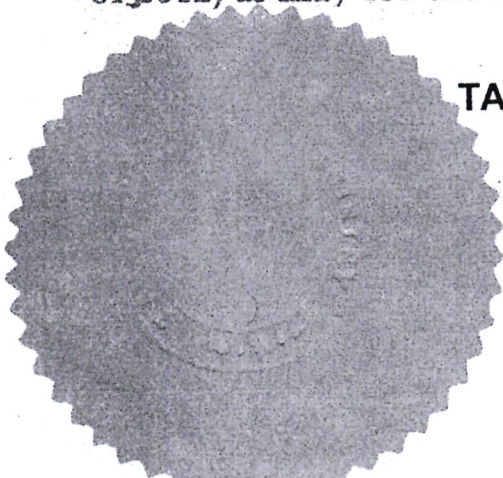
is (are) now registered as the absolute proprietor(s) of the land comprised in the above-mentioned title, subject to the entries in the register relating to the land and to such of the overriding interests set out in section 28 of the Land Registration Act (No. 3 of 2012) as may for the time being subsist and affect the land.

GIVEN under my hand and the seal of the

TAITA TAVETA

..... District Land Registry

this **8th** day of **August** 20**13**



Land Registrar



REPUBLIC OF KENYA

THE LAND REGISTRATION ACT

(No. 3 of 2012, section 108)

THE REGISTERED LAND ACT

(Chapter 300) (REPEALED)

Title Deed

MLS/TD/02/A2/02

0438066
No

JAMHURIYA KENYA

REPUBLIC OF KENYA

SERIAL NUMBER: 248093691

ID NUMBER: 6705478

FULL NAMES

FRIDAH NGELE MWARIGA

DATE OF BIRTH

01.01.1964

SEX

FEMALE

DISTRICT OF BIRTH

TAITA

PLACE OF ISSUE

MWATATE

DATE OF ISSUE

14.09.2021

HOLDER'S SIGN



(Handwritten signature)

DISTRICT
MWATATE
DIVISION
MWATATE
LOCATION
KISHAMBA
SUB-LOCATION
KISHAMBA



PRINCIPAL REGISTRAR'S SIGN

A handwritten signature in black ink is written over the printed text 'PRINCIPAL REGISTRAR'S SIGN'.

T0337258992

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6401012F2109147<B006705478P<<0
FRIDAH<NGELE<MWARIGA<<<<<<<<<<<



REPUBLIC OF KENYA

THE LAND REGISTRATION ACT

(No. 3 of 2012, section 107)

THE REGISTERED LAND ACT

(Chapter 300) (REVISED)

Title Deed

Title Number **TAITA TAVETA/ MWATATE WANANCHI/428**

Approximate Area **3.8 Ha.**

Registry Map Sheet No. **1**

This is to certify that

ANASTANZIA W. MWALENGU

ID/NO.10234224

is (are) now registered as the absolute proprietor(s) of the land comprised in the above-mentioned title, subject to the entries in the register relating to the land and to such of the overriding interests set out in section 28 of the Land Registration Act (No. 3 of 2012) as may for the time being subsist and affect the land.

GIVEN under my hand and the seal of the

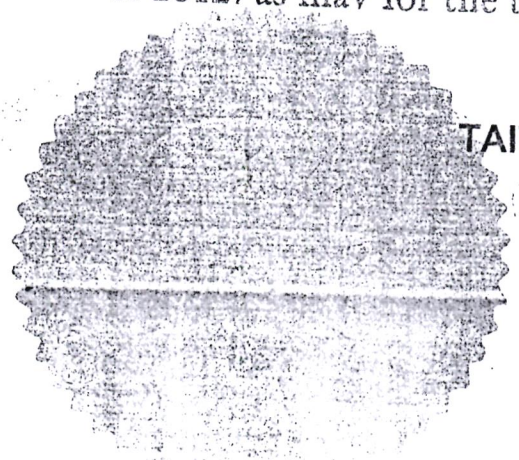
TAITA-TAVETA

District Land Registry

18th

day of **August**

20**13**



[Signature]
Land Registrar

1
8/8/13

TAITA TAVETA/
MWATATE WANANCHI

428

3.8

MAP SHEET NO.

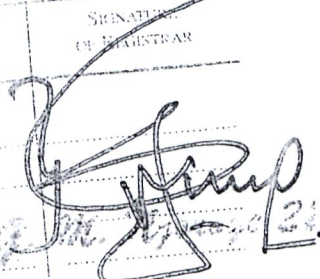
1

TYPE OF TITLE

Absolute

ABSOLUTE

PART B - PROPRIETORSHIP SECTION

	NAME OF REGISTRAR	ADDRESS AND PHONE NO. OF REGISTRAR	CLASSIFICATION AND REMARKS	SIGNATURE OF REGISTRAR
1	8/8/13			
2	8/8/13	ANASTANZIA W. MWALENGU, ID/NO.10234224 TITLE DEED	ISSUED	

REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT

AT VOI

ELC CASE NO. 007 OF 2024

(FORMERLY MSA ELC NO. 40 OF 2017)

(FORMERLY NAIROBI CIVIL CASE NO. 1663 OF 2000)

FATUMA MOHAMED.....1ST

PLAINTIFF/RESPONDENT

ASHA MOHAMED.....2ND

PLAINTIFF/RESPONDENT

**WANANCHI RANCHING (DIRECTED AGRICULTURAL)
COMPANY LTD.....3RD**

PLAINTIFF/RESPONDENT

=VERSUS=

WANANCHI ESTATES LIMITED.....1ST

DEFENDANT

HARRIS HORN ALIAS HARRY HORN.....2ND

DEFENDANT

SETTLEMENT FUND TRUSTEES.....3RD

DEFENDANT

COMMISSIONER OF LANDS.....4TH

DEFENDANT

HON. ATTORNEY GENERAL.....5TH

DEFENDANT

NATIONAL LAND COMMISSION.....6TH

DEFENDANT

RESTUTA MKOWAOGANGA.....INTENDED

APPLICANT

ANDERSON MOMBO MTOTO.....INTENDED

APPLICANT

**GEOFFREY SHUMA MSAGHA..... INTENDED
APPLICANT**

**LUCY WANDOE MWAMBURI.....INTENDED
APPLICANT**

**LIVERSON MWALIMU MKOLE.....INTENDED
APPLICANT**

**HEBRON MWANDE KIZONGONA.....INTENDED
APPLICANT**

**ROBERT MWACHOFI LENJO.....INTENDED
APPLICANT**

**JOHNSON NYAMBU MWAKIO.....INTENDED
APPLICANT**

AND

**LEILA ZAMZAM MUHAMMED.....INTERESTED
PARTY**

RULING

1. This Ruling is in respect to the application dated **17th September 2024** wherein the Applicants are seeking inter alia to set aside the orders of this court closing the Defendants case, joinder of the applicants to the proceedings and injunctive orders against the Plaintiffs restraining them from interfering with their quiet possession and occupation of the parcel known as **Taita Taveta/Mwatate Wananchi/1 to Taita Taveta/Mwatate Wananchi/1322.**

2. The application was supported by the affidavit sworn by **Restuta Mkawoganga on 17th September 2024**. The application was premised on several grounds on the face of the application.
3. The application was supported by the 3rd, 4th and 5th Defendants who made oral submissions in support of the same.
4. The Plaintiffs opposed the said application vide the Grounds of Opposition dated 25th September 2024 and Replying Affidavit sworn by **Abdi Satar Haji on 25th September 2024**. The Interested Party equally filed a Replying Affidavit dated **24th September 2024** sworn in opposition to the said application.
5. During the plenary hearing of the application **Learned Counsel Ms. Muhia** submitted on behalf of the Applicants, **Learned Counsel Mr. Penda** made oral submission on behalf of the 3rd to 5th Defendants while **Learned Counsel Mr. Kurgat and Mr. Mwazighe** submitted on behalf of the Plaintiffs and Interested Party respectively.
6. It was the Applicants case that they are beneficiaries of the Wananchi Settlement Scheme and owners of parcels of land namely:
 - (i) TAITA TAVETA/MWATATE WANANCHI/1196
 - (ii) TAVETA/MWATATE WANANCHI/1277
 - (iii) TAVETA/MWATATE WANANCHI/900
 - (iv) TAVETA/MWATATE WANANCHI/1320

- (v) TAVETA/MWATATE WANANCHI/1301
- (vi) TAVETA/MWATATE WANANCHI/1274
- (vii) TAVETA/MWATATE WANANCHI/1272
- (viii) TAITA TAVETA/MWATATE WANANCHI/247

7. It was averred that Wananchi Settlement Scheme is a conventional settlement scheme registered in May 2010, whereby LR No. 12924 comprising 9,070 Hectares was subdivided by the Government to settle 1,322 beneficiaries among of whom are the Applicants herein. L.R. No. 12924 was previously owned by Wananchi Ranching (Directed Agricultural) Company Limited for a term of 45 years from 1st February 1975 and was later extended on 18th February 1991 for another term of 54 years beginning 1st February 2020.

8. It was contended that on 28th March 1991, a company known as Wananchi estates Limited was incorporated with Wananchi Ranching (Directed Agricultural) Company Limited as one of its directors and shareholders holding 6,000 shares.

9. It was further contended that on 7th November 1991, the Wananchi Ranching (Directed Agricultural) Company Limited transferred LR No. 12924 to Wananchi Estates Limited at a consideration of Kshs. 2,000,000/=. On 9th March 1992, Wananchi Estates Limited charged LR No. 12924 to Standard Chartered Estate Management

Limited for Kshs. 25,000,000 which was discharged on 21st February 1997.

10. The Applicants averred that LR No. 12924 was transferred to Settlement Fund Trustees on 21st February 1997 at a consideration of Kshs. 40 Million and subsequently subjected to a settlement scheme. The Applicants were issued with Title Deeds for the subdivided parcels of land after payment of requisite fees.
11. The Applicants averred that the Plaintiffs have threatened to evict the Applicants from their parcels of land, disregarding the fact that the Applicants hold valid title deeds and that they were bona fide occupiers and owners of the parcels of land.
12. The Applicants also averred that they were not aware of the current case before the Court and that their presence is necessary for the Court to adjudicate all questions involved in the suit effectively and completely. The Applicants also averred that they would be gravely affected by the final orders that may be made by the Court.
13. **Learned Counsel Mr. Penda** arguing in support of the application submitted that matters of Settlement Scheme are emotive in nature and there is need for the Defendants to adduce evidence and hence the court needs to re-open the defence case.
14. The Plaintiffs in opposition to the said application argued that the Applicants do not have a cause of action against the Plaintiffs

and that the Applicants remedy lies in filing a fresh suit against the Defendants. It was contended that the Defendants despite service did not file any defence and further that the Applicants still have a cause of action against the 3rd to 5th Defendants.

15. It was further contended that the suit was instituted way back in 2000 and the 3rd to 5th Defendants never filed any defence despite service and hence they cannot purport to say that they were not aware of these proceedings. It was also argued that the application was an attempt to delay the conclusion of the matter and the court was urged to dismiss the application.

16. **Learned Counsel Mr. Mwazighe** in opposing the application submitted that the Applicants are busy bodies in view of the fact that the matter has been litigated for years. The Applicants slept on their rights and the said application is an afterthought. The application has been made late in the day.

17. The court has considered the application, affidavits and grounds of opposition filed together with oral submissions of the counsel of the parties and is of the view that the following are key issues for determination herein:-

- (i) ***Whether this court should set aside its orders closing the Defendants case.***
- (ii) ***Whether the Applicants should be joined to these proceedings.***

(iii) Whether the Applicants have made a case for grant of the injunctive orders sought against the Plaintiffs.

18. The court shall now proceed to address the said issues sequentially.

Issue No. (i)

Whether this court should set aside its orders closing the Defendants case.

19. In considering whether or not to set aside its orders, the court has to consider the matter in the light of all the facts and circumstances both prior and subsequent and of the respective merits of the parties before it would be just and reasonable to set aside or vary the said orders.

20. In Patriotic Guards Ltd v. James Kipchirchir Sambu [2018]eKLR the court stated as follows:

"It is settled law that whenever a court is called upon to exercise its discretion, it must do so judiciously and not on caprice, whim, likes or dislikes. Judicious because the discretion to be exercised is judicial power derived from the law and as opposed to a judge's private affection or will. Being so, it must be exercised upon certain legal principles and according to the circumstances of each case and the paramount need by

court to do real and substantial justice to the parties in a suit."

21. In Shah v. Mbogo [1967] EA 116 the court stated that:

"This discretion is intended so to be exercised to avoid injustice or hardship resulting from accident, inadvertence, or excusable mistake or error, but is not designed to assist the person who has deliberately sought, whether by evasion or otherwise, to obstruct or delay the course of justice."

22. The Applicants had a duty to persuade the court that it deserved the exercise of court's discretion in reopening of the Defendants case. From the perusal of the record of the court it is evident that the matter came up for hearing several times and the same proceeded and the defence case was closed. The record of the court also confirms that the Defendants were always notified but chose not to participate. The Applicants on the other hand contend ed that they were not aware of the said matter and hence the need to re-open the defence case so that they can be allowed to file their defence and participate in the same.

23. In considering this issue, the court notes that the Applicants in their affidavit have not stated when they became aware of suit considering that the same was filed way back in the year 2000. As

such the said application is an afterthought and an abuse of the court process having been made late in the day.

24. Sequence of events in this litigation does not inspire confidence for the court to exercise discretion to re-open the proceedings as urged by the Applicants and the 3rd to 5th Defendants. In the circumstances it is the finding of this court that no compelling reasons have been made to warrant this court to re-open the defence case.

Issue No. (ii)

Whether the Applicants should be joined to these proceedings as Defendants

25. With regard to joinder, Order 1 Rule 10, (2) of the Civil Procedure Rules, outlines that:

“The court may at any stage of the proceedings, either upon or without the application of either party, and on such terms as may appear to the court to be just, order ...that the name of any person who ought to have been joined, whether as plaintiff or defendant, or whose presence before the court may be necessary in order to enable the court effectually and completely to adjudicate upon and settle all questions involved in the suit, be added.”

26. The principles for joinder are well outlined in in **Meme v Republic (2004)1 124, eKLR** which are:

- a) *Joinder of a person because his presence will result in the complete settlement of all questions involved in the proceedings;*
- b) *Joinder to provide a protection of a party who would otherwise be adversely affected in law;*
- c) *Joinder to prevent a likely course of proliferated litigation.*

27. The Applicants seeks to be joined to these proceedings as Defendants on the reasons that they were settled on the parcels known as **Taita Taveta/Mwatate Wananchi/1196, 1277, 900, 1320, 1301, 1274, 1272 and 247** by the 3rd Defendant. However, a perusal of the record confirms they have not demonstrated any cause of action against the Plaintiffs and further no statement of defence had been filed by the 3rd Defendant confirming the averments made by the Applicants and as such this court is unable to accede to the Applicants request for joinder to the proceedings.

Issue No. (iii)

Whether the Applicants have made out a case for grant of the injunctive orders sought against the Plaintiffs

28. This court having addressed itself on the aforementioned issues, it is evident that the Applicants have not demonstrated any cause of action against the Plaintiffs on the matter and as such no prima facie case has been established by the applicant herein to warrant the grant of the injunctive orders sought. The said relief is equally declined.

29. In conclusion, it is the finding of this court that the application is not merited and the same is dismissed in its entirety. Each party is directed to bear own costs of the said application.

Dated, Signed and Delivered virtually at Voi this 16th day of October 2024.

**E.K. WABWOTO
JUDGE**

In the presence of:-

Ms. Muhia for the Applicants.

Ms. Chepkirui holding brief for Mr. Kurgat for Plaintiffs.

Mr. Mwazighe for the Interested Party.

N/A for the other parties.

Court Assistant: Mary Ngoira.

Christian Names in full or Name	Surname or Father's Name	Identity Certificate No.	Sex	Nationality or Tribe	Apparent Age	Address (District and Location where applicable)
1. MUKTAR	ADEN		M	MALI	A	C/O Mwatate
2. IBRAHIM	HASSAN					

CHARGE
 ASSAULT CAUSING ACTUAL BODILY HARM CONTRARY TO SECTION 251 OF THE PENAL CODE

PARTICULARS OF OFFENCE (See Second Schedule of C.P.C.)
 1. MUKTAR ADEN 2. IBRAHIM HASSAN : On the 14th day of August 2009 at Mwananchi Ranch, Mwatate Location in Taita Taveta District within Coast Province jointly, unlawfully and unlawfully assaulted ISMAEL JELO ABDI thereby occasioning him actual bodily harm.

Handwritten signature and date
 18/8/09

RESIDENT MAGISTRATE
 WUNDANYI
 COURT II SEE OVERLEAF

RESIDENT MAGISTRATE
 WUNDANYI

If Accused Arrested	Date of Arrest	Without or with Warrant	Date Apprehension Report to Court	Bond or Bail and Amount	Is Application made for Summons to Issue
YES	16/8/09	W/O	18/8/009	IN CUSTODY	//////////

Remanded or Adjourned to

Complainant and Address
 Ismael Jelo Abdi c/o Mwananch Ranch *Handwritten signature and date*

Witnesses ..

1. Ismael Jelo Abdi	6.
2. Yusuf Abdi	7.
3. S/SGT Murage	8.
4.	9.
5.	10.

Sentence ..
 ..
Court and date ..
 Before RM's Court Wundanyi on 18/8/09 If fine paid

CERTIFIED TRUE COPY OF ORIGINAL.

OFFICER-IN-CHARGE
 WUNDANYI POLICE STATION
 Officer in Charge DATE ..

Handwritten signature
 Magistrate

POLICE ACTION	Date	Time	Initials of Recording Officer
Accused informed of charge, searched and placed in cell by			
Prisoners' Property Book No.			
Bail Book No.			
Fingerprints taken by			
Fingerprints to Bureau			
Fingerprints from Bureau			
Completed certificate of previous convictions to Bureau			
First interview and Progress Report to Commissioner of Police			
Final Report to Commissioner of Police			
Charge Register completed and case closed			
HOLLERITH STATE			
HOLLERITH STATE			
HOLLERITH STATE			
HOLLERITH STATE			

2. ANECDOTES OF ACCUSED (as given by Investigating Officer).

COUNT II

MALICIOUS DAMAGE TO PROPERTY CONTRARY TO SECTION 339 OF THE PENAL CODE

3. BRIEF CIRCUMSTANCES OF CASE (Evidence of Arrest, etc.) (For use in Summary P.C.R. Offences only):—

1. MUKTAR ADEN 2. IBRAHIM HASSAN : On the 14th day of August 2009 at Mwananchi Ranch, Mwatate Location in Taita Taveta District within Coast Province wilfully and unlawfully destroyed ~~xxxxx~~ one Lister engine, one Honda Engine and one generator all valued at Ksh 176,000/- the property of YUSUF ABDI ISAAC .

eo\

OFFICER IN CHARGE
 WUNDUJI POLICE STATION
 DATE: _____

REPUBLIC OF KENYA
IN THE RESIDENT MAGISTRATE'S COURT
AT WUNDANYI

CRIMINAL CASE NO. 468 OF 2009

PROSECUTOR ----- REPUBLIC

VERSUS

ACCUSED ----- 1. MUKTAR ADEN
2. IBRAHIM HASSAN

18/8/09

Before : F. Munyi – Resident Magistrate

Prosecutor : CI Ombogo for state

Court clerk : Josephat

Accused : Present

Interpretation : English/Swahili

Charge read over to the accused and every element explained in Kiswahili which they understand to which each states in Kiswahili

Count I :

Accused 1 : Si kweli – not true

Accused 2 : Si kweli – not true

Court : Plea of not guilty is entered for both accused persons.

Count II

Accused 1 : Si kweli – not true

Accused 2 : Hiyo ni mambo yao – not true

Court : Plea of not guilty is entered for both accused persons.

Mr. Mogaka advocate : I am holding brief for Mr. Mogikuyu advocate who wishes to be placed on record on behalf of the accused.

1. My instructions are that the accused persons be released on bond or cash bail pending hearing of their case.
2. I pray that we be supplied with copies of witness statements and any other document that the prosecution is relying on to enable him prepare for their defence.

Court :

1. **Order** : Hearing on 6/11/09. Mention on 1/9/09.
2. Each accused may be released on a bond of Kshs.100,000 with surety of similar amount or cash bail of Kshs.50,000.
3. The defence to be supplied with copies of witness statements and any other document that the prosecution is relying on. The defence to cater for copying charges.

F. Munyi – Resident Magistrate

18/8/09

1/9/09

Before : F. Munyi – Resident Magistrate

Prosecutor : CI Ombogo for state

Court clerk : Josephat

Accused 1 : Bond – present

Accused 2 : Bond – present

Interpretation : English/Swahili

Court : Case for mention. Hearing on 6/11/09. Further mention on 1/10/09. Accused 1 and 2 bond extended

F. Munyi – Resident Magistrate

1/9/09

1/10/09

Before : F. Munyi – Resident Magistrate

Prosecutor : CI Ombogo

Court clerk : Mnjala

Accused 1 : Bond – absent

Accused 2 : Bond – present

Interpretation : English/Swahili

Court : Hearing on 6/11/09. Further mention on 15/10/09. Accused 1 bond extended. Accused 2 – bond extended.

Prosecutor : I wish to apply for warrant of arrest against the 1st accused and cash bail to be forfeited to the state.

Court : Application is granted. Further mention on 15/10/09.

F. Munyi – Resident Magistrate

1/10/09

12/10/09

Before : F. Munyi – Resident Magistrate

Prosecutor : CI Ombogo

Court clerk : Victor

Accused 1 : Present

Interpretation : English/Swahili

Court : Case for mention

Mr. Mogaka holding brief for Mr. Mugikuyu for the accused persons

Mr. Mogaka : I pray that the warrant of arrest be lifted. The accused travelled to Nairobi but he fell sick. He had medical notes dated 29/9/09.

Prosecutor : I have seen the medical notes. The accused was arrested within the court's premises.

Court : I have seen medical notes dated 29/9/09. Therefore the reason given for non-attendance is reasonable. Therefore the warrant of arrest is discharged and cash bail is reinstated. Hearing on 6/11/09. Further mention on 15/10/09.

F. Munyi – Resident Magistrate

12/10/09

15/10/09

Before : F. Munyi – Resident

Prosecutor : CI Ombogo

Court clerk : Victor

Accused 1 : Bond – present

Accused 2 : Bond – present

Interpretation : English/Swahili

Court : Case for mention. Hearing on 6/11/09. Accused 1 and 2 bonds extended.

F. Munyi – Resident Magistrate

15/10/09

6/11/09

Before : F. Munyi – Resident Magistrate

Prosecutor : CI Ombogo for state

Court clerk : Mnjala

Accused 1 : Bond – present

Accused 2 : Bond – present

Interpretation : English/Swahili

Case for hearing

Mr. Mogaka advocate watching brief for Mr. Mugikuyu for the accused persons

Ms. Shariff advocate watching brief for the complainants

Mr. Mogaka : I am ready to proceed.

Prosecutor : I am ready to proceed with 3 witnesses.

Court : Hearing on proceed.

F. Munyi – Resident Magistrate

6/11/09

PW1 : I can only understand Somali language

Court : PW1 is stood down so that we can avail a Somali interpreter

PW2 : Adult male sworn states in Kiswahili

I am Yusuf Abdi Isaka. I live at Mwatate. I work at a community ranch. I am supervisor. On 14/8/09 at around 10.30pm, I was at Mwatate with the chief Mzabe. I received a call from Mohamed and informed that my son had called him. Omar is a machine operator phase II. It is a water pump. He is a guard of that machine. He told me that Ismael Abdi had been beaten by people who had damaged two Honda machines and they had disconnected all the wires. Ismael was a guard of another machine. I called the chairman of the farm and chief Mwamkono and Mwambai, the owners of the farm and gave them the information. On 15th they asked me to meet them. We boarded a vehicle and went there with chief Mkono, chief Wambai. We saw how the machine had been destroyed. Some sufurias had been broken, an electric wire had been cut, these water pipes which were taking water to the tank had been destroyed. This is the pipe which was taking water to the tank. This item gets water from the well. These pipes were broken. 2 pieces of pipes are identified as MFI.1 (a) and (b). This is a water pump. It is identified as MFI.2. 2 generator machines had been broken. They poured 20 liters of diesel. One engine lister had been broken, the wire box was broken and all electric wires were cut. The chief decided to go and report the matter to the elders. We were left with Wambai. We followed some foot prints for 1 ½ miles and we saw where one piece of this water pump. The foot prints led us to a home which belonged to the accused persons. We did not find anyone there. We returned and met a KWS vehicle and we boarded it. It took us to Mkuki. We boarded another vehicle which led us to where we found the elders. We reported to them about what we had found. We took a report to the D.O's office where we were referred to Wundanyi. We came to Wundanyi and recorded our statements. In the morning we went there with police officer. A photograph of the scene was taken. We informed them that we knew the people who had done that. We were called on phone and informed that they were on their way to Mwatate. We waited for them. We kept on checking on all on coming vehicles. We saw them in the third vehicle. One of them was at the front part of the vehicle while the other one had hidden himself inside the vehicle. They are the accused persons in the dock. There were many homesteads nearby but the foot prints led us to the homestead of the accused persons. I have no grudge against the accused persons. Even before there was no grudge. Ismael was beaten while his jacket was torn. I do not know the person who bit him. I cannot know the value of property destroyed.

Cross-examination by the defence counsel

Those who bit Ismael were the accused persons. Ismael mentioned them and still we followed their footprints. The footprints were visible as they had worn Maasai like shoes which are worn

by ranches. Those footprints led us to their home. They are not the only ones who live there. There are about 40 people there. Ismael was injured on his right hand. The shoulder was swollen. The value of property destroyed was very high. The water officer estimated the damage at Kshs.170,000. He did not see the damage the property. The metallic equipments were mentioned to him. A water expert was called. He saw the damage and went to Mombasa.

Re-examination

The footprints led us into a home.

F. Munyi – Resident Magistrate

Court : Due to pressure of work, the matter cannot proceed further.

Mr. Mogaka : I can avail myself on 5/3/2010.

Court : Further hearing on 5/3/2010. Further mention on 4/12/09.

F. Munyi - Resident Magistrate

6/11/09

4/12/09

Before : P. Ndwiga – Senior Resident Magistrate

Prosecutor : CI Kituku for state

Court clerk : Josephat

Accused 1 : Bond – present

Accused 2 : Bond – present

Interpretation : English/Swahili

Court : Case for mention. Hearing on 5/3/2010. Further mention on 4/1/2010. Accused 1 and 2 bonds extended.

F. Munyi – Resident Magistrate

4/12/09

4/01/2010

Before : F. Munyi – Resident Magistrate

Prosecutor : CI Ombogo for state

Court clerk : Josephat
Accused 1 : Bond – present
Accused 2 : Bond – present
Interpretation : English/Swahili

Court : Case for mention. Hearing on 5/3/2010. Further mention on 4/02/2010. Accused 1 and 2 bonds extended.

F. Munyi – Resident Magistrate

4/1/10

4/2/2010

Before : F. Munyi – Resident Magistrate
Prosecutor : CI Ombogo for state
Court clerk : Josephat
Accused 1 : Bond – present
Accused 2 : Bond - present
Interpretation : English/Swahili

Court : Case for mention. Hearing on 5/3/2010. Bond extended (accused 1 and 2).

F. Munyi – Resident Magistrate

4/2/10

5/3/2010

Before : F. Munyi – Resident Magistrate
Prosecutor : CI Ombogo for state
Court clerk : Josephat
Accused 1 : Bond – present
Accused 2 : Bond – present
Interpretation : English/Swahili

Mr. Mogaka advocate present for accused

Court : Case for hearing

Mr. Mogaka : I am ready to proceed.

Prosecutor : I am not ready to proceed. I indicated that the matter was to come for hearing on 12/3/10. My witnesses are not present. I pray for adjournment.

Mr. Mogaka : I object the application. We took a date in court and I heard it clear and I have travelled from Nairobi. We were in court on 6/11/09.

Prosecutor : This is my first request to this court. I pray for another date to bond my witnesses.

Court : Application for adjournment is denied. Since 6/11/09, there is a four months difference within which the prosecution had time to countercheck the file and bond its witnesses. I find that this is not a good reason to warrant the application for adjournment. The hearing will proceed.

F. Munyi – Resident Magistrate

5/3/10

Later at 1.00pm

Before : F. K. Munyi – Resident Magistrate

Prosecutor : CI Ombogo

Court clerk : Pauline

Accused 1&2: Present

Mr. Mogaka advocate present

Prosecutor : I have 2 witnesses

PW2 – Adult male sworn states in Kiswahili

I am Luka Nyange. I live at Mwatate. I am a farmer cum businessman. I am a chairman mwananchi settlement scheme. On 15/8/09 at around 2.00am I was asleep at home. I was called on phone by chief Mwazame of Mwachabo location and informed that he had received a report that a water pump had been damaged and the watchman had been injured. At around 6.00am Yusuf came to my home and gave me the same report. Chief of Mwatate Mwamkono made a report to the District officer and then proceeded to the scene. They found the injured watchman there and took him to Mwatate dispensary. On 17/8/09 at around 9.00am we came to Wundanyi police station. We were given the company of 3 police officers. We proceeded to the scene. We were with the watchman as he is the one who could identified those who had attached him. when we reached at Mwandisha, we started stopping the motor vehicles as we knew that those people were heading towards Mwatate to fetch water. The watchman then

identified Ibrahim. The door of the vehicle was opened and he was asked to alight. Ibrahim was sitting at the front part of the lorry. He searched the other section of the lorry and saw the 2nd person. He was asked to alight and he obeyed. They were handcuffed and we proceeded to the scene. On arrival, we saw that a small generator and a big generator which had been donated by the government had been damaged. The police then recorded their reports and we went back. I can identify the broken parts. This is a pipe that takes water from the well. This a water pump. The other one was not recovered {MFI.2}. I saw Ibrahim. He is the first accused. The other one who was inside the vehicle was the 2nd accused. I used to see Ibrahim before. I saw the 2nd accused on that day. The property destroyed was worth Kshs.170,000.

Cross-examination by the defence counsel

I am the chairman of wananchi settlement scheme. I use Mwananchi and wananchi interchangeably. I have been the chairman for more than 4 years. Chief Mzame was telling me about the report which he had received of what had happened in his area. He had received the report from Yusuf. Yusuf is our herdsman and a guard of the farm. He mentioned that 2 generators had been destroyed and a person had been injured. He had worked for us for about one year. He had a Somali name which I cannot remember now. I know him well by his appearance. He was stabbed by a knife on his hand. It was his right hand. He said that he had been stabbed with a knife. It was on his arm above the elbow. The cut run vertically. Chief Mzame of Mwachabo and chief Mwamkono of Mwatae visited the scene. The injured watchman was taken to Mwatate dispensary. We were referred to the police. When we went there, we were given the company of 3 police officers. We were on our way to Mwananchi when our workers, one of them Omar told us that those people had boarded their vehicle as they were going to fetch water. I cannot remember its registration number but I can identify it. We stopped a pick-up. We stopped those vehicles which passed by because there was likelihood that their vehicle could breakdown and could board another vehicle. When the vehicle came, the injured man is the one who identified them. Yusuf did not identify any them. I usually meet Ibrahim at Mwatate. We greet each other. There is no grudge I saw the extent of damage. Everything was damaged. For this pump, the other part is missing. Even the fuel tank was destroyed. The small generator was destroyed completely. 2 machines were destroyed. The footprints led people to the homestead of Ibrahim. The one who was injured identified Ibrahim as the one who had injured him.

Re-examination – None

PW3 – Adult male sworn states in English

I am No.91461 PC Clement Kiarahu of Wundanyi police station. On 16/8/09 at around 10.30am when senior sergeant Murage called me with PC Mikaye. He informed us that some water pumps had been destroyed at Mwananchi ranch. He requested us to go and confirm. We accompanied the manager for the ranch and boarded his vehicle. On arrival at Mwatate, we met Yusuf and a watchman who had been beaten when the water pumps were being destroyed. Yusuf Abdi was called on his phone and informed that the people who had injured the watchman and had destroyed the water pumps were on their way to Mwatate in a blue lorry. We proceeded there through sisal estate. We reached near Mwandisha primary school and met the lorry. The watchman identified Ibrahim Hassan and Muktar Aden as those who were involved in the destruction of the water pipes. We ordered them to alight and arrested them. We proceeded to Mwananchi ranch, where the water pump was. The fuel tank had holes and there were pieces of pipes around. Later we returned to Wundanyi and they were charged with assault and damage to property. The watchman of Mwananchi Ranch had been assaulted. The injured man was taken to hospital. A P3 form was issued and filled. It belongs to Ismael Abdi (MFI.3). These are plastic pipes. This is a water pump. I wish to produce them as exhibit 1 and 2 respectively. The accused persons are in the dock. They did not misbehave during the arrest.

Cross-examination by the defence counsel

I can investigate any case. I can do anything as far as there is a complaint. Before I was called by senior sergeant Murage, I did not know that a crime had been committed. I boarded the vehicle provided by the manager, Mwananchi Ranch, Mr. Lukas Nyage. He was at the police station. Senior sergeant Murage briefed me on what to do. I cannot check the registration number of the vehicle. It was blue in color. I was at my house before I was called. I found PC Mikaye there. From the police station, I was with PC Mikaye, the driver Bukan Nyange and senior sergeant Murage. We met the blue lorry at Mwandisha. The watchman boarded the vehicle at Mwatate. I saw his jacket but I cannot remember its color. The tear was on its right hand. The cut was running horizontally to the forearm past upper part of the elbow. I saw 3 generators. They were not working. The first two had holes on the fuel tank. The string that is pulled to start the engine of the 3rd generators were on the ground. The water pump and the pipes outside the generator room. The watchman identified the suspects since he had identified them as the place where there was damage. He saw them on the very day. I did not see any injuries on the watchman.

Re-examination – None

F. Munyi – Resident Magistrate

Prosecutor : I pray for adjournment to call other witnesses who include the clinical officer who is attending to a relative patient at her rural home.

Mr. Mogaka : No objection

Court : Application for adjournment is allowed. The reasons given are reasonable. The remaining witnesses to be bonded.

F. Munyi – Resident Magistrate

Mr. Mogaka : I can come back on 11/6/10 for further hearing.

Court : Further hearing on 11/6/10. Mentions are dispensed with due to pressure of work.

F. Munyi – Resident Magistrate

5/3/10

11/6/10

Before : F. Munyi – Resident Magistrate

Prosecutor : CI Ombogo

Court clerk : Josephat

Accused 1 : Bond – present

Accused 2 : Bond – present

Interpretation : English/Swahili

Ms. Shariff : Watching brief for the complainant

Court : Case for hearing

Mr. Mogaka advocate present for the accused

Mr. Mogaka : I am ready to proceed.

Prosecutor : I have 3 witnesses. I am ready to proceed.

Court : The hearing to proceed.

F. Munyi – Resident Magistrate

11/6/10

PW4 – I do not understand Kiswahili

Court : The court to proceed with the witness who can understand Kiswahili. An interpreter to be availed on the next day.

F. Munyi – Resident Magistrate

11/6/10

Prosecutor : The store is locked and the store man is not present. I pray for adjournment.

Mr. Mogaka : I have no objection because we are also waiting to get an interpreter. I am ready to come back on 17/9/10.

Court

1. Due to the circumstances mentioned above, the matter is adjourned. Further hearing on 17/9/100
2. A Somali interpreter to be availed.

F. Munyi – Resident Magistrate

11/6/10

17/9/10

Before : F. Munyi – Resident Magistrate

Prosecutor : CI Ombogo for state

Court clerk : Mwemba

Accused 1 : Bond – present

Accused 2 : Bond – present

Interpretation : English/Swahili/Somali (6th witness)

Interpreter Mariam Abdi duly sworn

Case for hearing

Mr. Mogaka advocate present for accused

Prosecutor : I am ready to proceed with 3 witnesses.

Mr. Mogaka : I am ready

Court : The hearing to proceed.

F. Munyi – Resident Magistrate

17/9/10

Ms. Shariff watching brief for complainant

PW4 – Adult male sworn states in Kiswahili

I am Omar Mohamed. I live at mwananchi ranch. I am a herdsman. I used to graze cows belonging to Yusuf Abdi. I stopped working there in July 2010. On 14/8/09 at 10.00m, there is nothing that I saw. I was at wananchi ranch. I was asleep at 10.00pm. Someone told me that he was beaten. I was not there. Yusuf told me what to write/record a statement. He directed me on what to write. I know Ismaili Abdi. At that time he used to work at the area where wananchi water machine was. He told me that there were some people who bit him while at the machine area. I did not ask him regarding the person who bit him. He mentioned that three people had assaulted him. He said that he was assaulted on his hand with a stick. I only saw some injuries here (points at the back of his head). Then Yusuf told me to go and work at the machine area. I remained there until morning. On 15th, I met the chief and elders. On 17th, police appeared there. Then I was directed to appear at Wundanyi and record a statement. Isamel said that the machine was broken. I went there and saw that the tank had been destroyed. It had a hole. I did not know how the machine appeared before. It was not in use. This area of the machine was broken. Photographs of broken machines {MFI.4(a) – (k). I do not know the one who broke the machines. Ismail said that he was assaulted by Ibrahim. I do not know Ibrahim. I know the physical appearance of the 1st accused. I do not know how he is linked in this case. I do not know the 2nd accused.

Cross-examination by the defence counsel

I had worked at Mwananchi ranch for a period of 8 months before I left. I used to work there before I left. I used to live near the livestock shed. Ismael used to live near the machine, a kilometer away. The event occurred at around 10.00pm. I saw an injury on his head. There was an injury which appeared swollen as if a stick had been used. We were asleep but we could have heard screams. We did not hear any screams. He met me at around 10.00pm. I was deep asleep. It is not true that he was not beaten. Yusuf came on the following morning. He only told me how to record a statement. I accepted because he was my boss. Ismail said that he was beaten by three people and Ibrahim was among them. The time I knew about the machine prior to this event, only one of the machine was in use. One of them was out of order. Before this event I had not gone to where the machine was. I cannot confirm if these iron rods were there or not. I cannot tell if the machine had been like this or not. I did not watch as Ismael was being assaulted. The case was brought to oppress the accused persons.

Re-examination

Ismael came to where I used to sleep. I did not see any blood on him. I told the police what I knew about this case. I was sacked. I have sworn before the God whom I fear. I was looking for a way to get my money so that I could leave.

F. Munyi – Resident Magistrate

PW5- Adult male sworn states in Kiswahili

I am Mwambae Makau. I live at Mwatate. I am a herdsman. I take care of my livestock at Mwananchi settlement scheme. On 15/8/09 at around 6.00am, I was at home when I received a phone call and informed that our water pump machine had been destroyed. Jeremia our secretary is the one who gave me this information. I met Yusuf and we proceeded to the farm. On arrival, we confirmed that the machine had been destroyed. We went to the home of the accused persons in the dock. We followed the marks made by the metallic part of the machine which led us to that home. There were also footprints. Then we proceeded back to Mwatate and started following up the issue with the police. Later, I recorded my statement. This machine was destroyed at night of the same day. The one who was beaten, is the one who had been employed to guard the machine. He mentioned that he knew those who had assaulted him. I am not able to keep the names of Somali people. They are in the dock. He knows them. I do know their physical appearance. The piston of the machine was broken. These metallic rods were obtained from the machine. Even this container {MFI.4(a) – (k)}. They destroyed the machine so that we do not get water for our animals.

Cross-examination by Mr. Mogaka

I have been there for a period of two years. Jeremia is the one who gave me the information. I cannot remember the date. I was informed that the destruction took place on a Saturday. About two days. It was on the following day. I visited Mr. Yusuf at Mwatate in his house. We proceeded to the farm. I gave him the report of what had happened. He was already aware of what had happened. We went to the area where the machine was kept. We noted that the machine was broken and the guard had been beaten. We walked and followed their shoe prints which led us to a home. Our home has a fence. That metallic piece had been dragged. We did not see the metallic piece. The marks that were made by the metallic piece could not be seen after cows had passed by. He had an injury on his left hand. He had injuries on the lower part of the body. This machine had been working earlier. It used to pump water. On that day, I had seen it working. According to what Ismail said, the machine was destroyed by the accused

persons. I can identify their appearance. Ismail said that he was assaulted by 2 people. We have no conflict amongst ourselves. This container was destroyed on that day. These wires did not destroy themselves.

Re-examination

This container was destroyed on this lower end. I followed the shoe prints to the home of the accused persons. We followed the scratch marks of the metallic parts of the machine which was being pulled. If it was light, it could have been carried. We did not get it.

F. Munyi – Resident Magistrate

PW6 – Adult male sworn states in Somali – interpreted to English by Mariam Abdi duly sworn

I am Ismail Jacloo, Jale. I live at wananchi. Sometimes I guard a machine, on other times I take care of animals. It is a water pump. On 14/8/09 at around 9.00pm, I was at the machine area where I was putting water in the tanks where cows take water. I was attacked I wanted to turn to see who was doing it, I was hit on my hand. They removed a knife and tore the coat which I was wearing. I ran to seek help. They did not follow me. They were left at the machine area and they broke it. They were two of them. I knew them. They are in the dock. It was at night. I saw the tall one well. He is a neighbor and they knew each other. The 1st accused is the one who hit me with a stick and used the knife. He hit me on the hand and at the back. When I returned, I noted that the containers had been cut, the electric wires had also been cut and a metallic piece had been cut and carried away. The 2nd accused was with the 1st accused. He is the one who hit me on the back with a stick as I was running away. He also destroyed the machine. I ran to the home of a friend known as Omar and we started making phone calls. On the following day, the owner of the cows came. Yusuf and Mwambai came and followed the footprints which led them to the home of a person known as Mr. Noor. I was not among them. I was brought to hospital. My friend is Omar Mohamed. I informed him about how I had been attacked. I told him of the people who had attacked me. I did not mention their names. We made calls and proceeded to the machine area where we found that many items had been destroyed. Power cable wires had been cut, a container and a water pipe had been cut. It was in a good working condition. This end was cut. This container was damaged with a knife and diesel poured on the ground. This wire was cut and knocked this machine twice {MFI.4(a) – (k)}. I was issued with a P3 form. I do not know how to read. I am Ismail Abdi P3 form {MFI.3}.

Cross-examination by the defence counsel

I was injured on my left hand on my head. I was hit on the back and the head with a stick at the same time. The one who injured me was known to me because they are neighbours. I had known them for a period of more than a year. There was no conflict except this one. There was no electric power around. We use a torch. There was darkness when I was beaten. I am able to identify them. You cannot fail to know a person whom you have known for long. Even if it is in the dark, one can be able to know a person who is near. On that day I was at the machine area but Omar was at the cow shed which is not far. Even if I scream Omar would not hear. I did not scream. I just escaped. Even if I screamt no one was near who could heard the scream. Wires were not cut and a container was damaged. No one can work for a person without being paid for all those years. It is not true that the accused persons are being oppressed. I was able to identify them.

Re-examination

For two years, the accused persons were neighbours. We did not talk. I cannot know the period during which they assaulted me.

F. Munyi – Resident Magistrate

PW7 – Adult female sworn states in Kiswahili

I am Charity Mwabota. I am a clinical officer at Mwatate sub-district hospital. I have a diploma in clinical medicine and surgery. This is a P3 form filled on 17/8/09 in respect of Ismael Abdi who claimed of having been assaulted by a person known to him. I examined him. He had a torn Jacket on the left hand side. He claimed that it had been torn using a knife. There were no bloodstains. He was in a fair general condition on head and neck, he had a minor shallow cut on the left temporal region on the scalp which had minimal bleeding. There were no injuries on the thorax and abdomen. On the upper limbs, he had a swelling on the left hand region. There were no injuries on the lower limbs. The age of injuries was two days. The probable type of weapon used was a wooden stick and knife. No treatment had been given prior to examination. The degree of injury was assessed to be harm. I signed it. I wish to produce it as an exhibit.

Cross-examination by Mr. Mogaka

The injuries had taken 2 days prior to the date of examination. The duration was long overdue. We are guided that examination ought to be done within 2 hours. He claimed to have been assaulted and I confirmed it. The knife did not harm the body. There was a swelling on the

hand. There was a cut near the left ear. There was no swelling. In this case club could not have been used.

Re-examination

I indicated a wooden stick as a probable type of weapon used due to the swelling on the left hand.

F. Munyi – Resident Magistrate

Prosecutor : I wish to apply for adjournment to bond the scenes of crime officer based at Voi who traveled to Nairobi to process other photographs.

Mr. Mogaka : No objection

Court : Application is granted.

F. Munyi – Resident Magistrate

17/9/10

Mr. Mogaka : I can come back on 21/1/10.

Court : Further hearing on 21/1/10.

F. Munyi – Resident Magistrate

17/9/10

21/1/11

Before : Orengo K. I. – Resident Magistrate

Prosecutor : CI Ombogo for state

Court clerk : Victor

Accused 1 : Bond – present

Accused 2 : Bond – present

Interpretation : English/Swahili

Prosecutor : I have one witness ready to proceed.

1st accused : I am ready

2nd accused : I am ready



REPUBLIC OF KENYA

THE LAND REGISTRATION ACT

(No. 3 of 2012, section 108)

THE REGISTERED LAND ACT

(Chapter 300) (REPEALED)

Title Deed

Cymaza

MLS/TD/02/A.2/02

0438057
No



REPUBLIC OF KENYA

THE LAND REGISTRATION ACT

(No. 3 of 2012, section 108)

THE REGISTERED LAND ACT

(Chapter 300) (REPEALED)

Title Deed

TAITA TAVETA/MWATATE WANANCHI/29

Title Number 3.8 Ha.

Approximate Area 1

Registry Map Sheet No.

This is to certify that

JASPER M. AMBI

ID NO. 16041777

is (are) now registered as the absolute proprietor(s) of the land comprised in the above-mentioned title, subject to the entries in the register relating to the land and to such of the overriding interests set out in section 28 of the Land Registration Act (No. 3 of 2012) as may for the time being subsist and affect the land.

GIVEN under my hand and the seal of the

TAITA TAVETA

..... District Land Registry

this ^{8th} day of **August** 20 ¹³

Land Registrar



REPUBLIC OF KENYA

THE LAND REGISTRATION ACT

(No. 3 of 2012, section 108)

THE REGISTERED LAND ACT

(Chapter 300) (REPEALED)

Title Deed

Title Number **TAVETA-TAVETA/MWATATE WANANCHI/217**

Approximate Area **3.8 Ha.**

Registry Map Sheet No. _____

This is to certify that _____

NOEL MWANYASI _____

ID NO.21863388 _____

is (are) now registered as the absolute proprietor(s) of the land comprised in the above-mentioned title, subject to the entries in the register relating to the land and to such of the overriding interests set out in section 28 of the Land Registration Act (No. 3 of 2012) as may for the time being subsist and affect the land.

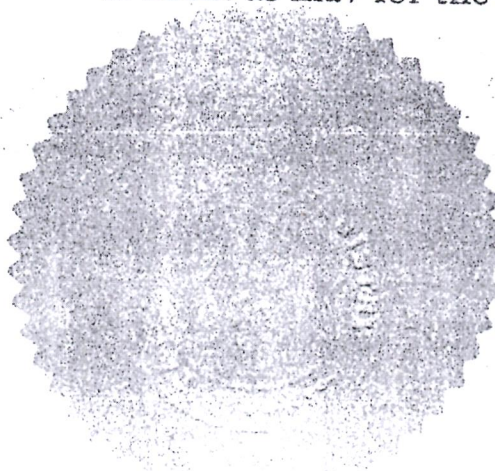
GIVEN under my hand and the seal of the

TAITA-TAVETA District Land Registry

this **8th** day of **August** 20**13**

[Signature]

Land Registrar **0281**





REPUBLIC OF KENYA

THE LAND REGISTRATION ACT

(No. 3 of 2012, section 108)

THE REGISTERED LAND ACT

(Chapter 300) (REPEALED)

Title Deed

MLS/TD/02/4 2/02

No

0430231



REPUBLIC OF KENYA

LAND INFORMATION ACT

(No. 102)

LAND INFORMATION ACT

(No. 102)

Title Deed

MLS/TD/02/A2/02

0426226

196



REPUBLIC OF KENYA

THE LAND REGISTRATION ACT

(No. 3 of 2012, section 108)

THE REGISTERED LAND ACT

(Chapter 309) (REPEALED)

Title Deed

Title Number **TAITA TAVETA/MWATATE WANANCHI/450**

Approximate Area **3.8 Ha.**

Registry Map Sheet No. **1**

This is to certify that

COLLINS MZEE MWAKIO ID NO. 26373881

is (are) now registered as the absolute proprietor(s) of the land comprised in the above-mentioned title, subject to the entries in the register relating to the land and to such of the overriding interests set out in section 28 of the Land Registration Act (No. 3 of 2012) as may for the time being subsist and affect the land.

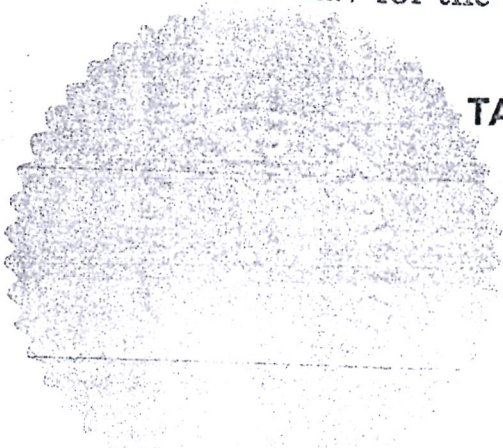
GIVEN under my hand and the seal of the

TAITA TAVETA

District Land Registry

this **8th** day of **August** 20**13**

[Signature]
Land Registrar





REPUBLIC OF KENYA

THE LAND REGISTRATION ACT

(No. 3 of 2012; section 108)

THE REGISTERED LAND ACT

(Chapter 300) (REPEALED)

Title Deed

MLS/TD/02/A2/02

No

0427558

Court : Section 200 of the criminal procedure code complied with in Kiswahili the language of the accused

1st accused : To proceed from where it had reached

2nd accused :

Mogaka for the accused : I am ready to proceed. I wish the case proceed from where it had reached.

Orengi K. I. – Resident Magistrate

21/1/10

Court : To proceed from where it had reached.

Orengi K. I. – Resident Magistrate

21/1/10

Prosecutor : I have one witness. I am ready.

Mogaka : I am ready to proceed. Sheriff watching brief.

Court : To proceed with hearing.

Orengi K. I. – Resident Magistrate

21/1/10

PWVIII male adult duly sworn states in English/Kiswahili

Number 40390 senior sergeant Duncan Murage station at CID Voi. I was previously at Wundanyi police station. On 16/08/09 at 10.06am I was at the station and the complainant reported that on 14/08/09 at 10pm they were at Mwananchi ranch there people came armed with rufus and knives and threatened to beat them. When they ray away one complainant was attacked and was injured on the left hand he was Abdijebo Ismail his jacket was damaged. He ran away and when he went back he found the generators damaged. The matter was reported to the owner Yusuf Abdi and Wananchi ranch member. I took statements and issued P3 form and it was duly filled. I went to scene with the complainant Ismail Jelo to Mwatate. We found the committee members of the ranch and went to the ranch and found their generators were destroyed. I took two pieces of destroyed pump, two immersion pump destroyed. On 16/08/2009 the accused were arrested and brought to Wundanyi and were brought to court on 18/08/09. On 23/08/09 I called sergeant Chege who came to the scene and we took

photographs of the destroyed machinery. We took eleven photographs showing the destroyed machinery and pipes. The jerrican is for fuel. The accused are before court. The accused were identified by the complainant. They were arrested on 16/08/2009.

Oreng K. I. – Resident Magistrate

21/1/10

Cross-examination by Mogaka for the accused

The complainant was attacked on 14/08/2009 at 10pm. They made a report on 16/08/2009. The complainant stayed at Mwananchi ranch. They did not have means of transport. They had mobile phone although we have network problem. The complainants are Ismael Jelo and Yusuf Abdi. Jelo is the watchman and Jelo is the watchman. Only one person was attacked. Jelo sustained injury and his jacket was torn. I did not see the jacket. I was informed the person who attacked by Ibrahim Hassan and Muktar Aden. The accused were known to the complainant. A member of the Mwananchi ranch was informed. I went to Mwananchi ranch found a crowd of people on 23/08/09 in the company of the complainant. I went to the station motor vehicle on 16/08/09. I did not interrogate any of the people at the scene. Three machines had been damaged valued at kshs.176,000/-. A lister engine damaged at fuel tank chamber head, silencer valued at Kshs.3000/-, cable wire Kshs.6000/- total Kshs.117,000/-. Hand engine it had damaged estimated at Kshs.20,000/-, serial generator estimated loss at Kshs.27000/- total damage was kshs.176,000/-. The damage was assessed by the team that brought the machine along with the members. The machine was destroyed using the sharp object. The damage was done in recent times not long time ago, the photographs were taken after two weeks. The damage was done on 14/08/09. I went to the D.O's office to inquire about the ranch. I was told the second complainant had been given to graze his animals. The ranch has its owners Lucas Nyange. I have an allotment letter.

Oreng K. I. – Resident Magistrate

21/11/10

Re-examination

There was damage to property and the 1st complainant was injured. Yusuf was the proprietor at the time. The property damaged belonged to Yusuf for use. They had been given to 2nd complainant. The jerrican had the diesel for the engines.

Oreng K. I. – Resident Magistrate

21/1/11

Court : Adjournment for want of court time 07/03/11 for scene of crime.

Oreng K. I. – Resident Magistrate

21/1/11

7/3/11

Before : Oreng K. I. – Resident Magistrate

Prosecutor : CI Ombogo

Court clerk : Victor

Accused : Present

Interpretation : English/Swahili

Sharrif watching brief for the complainant

Prosecutor : I apply that the file be kept aside.

Court : File kept aside.

Oreng K. I. – Resident Magistrate

7/3/11

Prosecutor : I have the scene of crime officer ready.

Mogaka for the accused

Sharrif watching brief for the complainant.

Oreng K. I. – Resident Magistrate

7/3/11

PWIX male adult duly sworn states in English

Number 61751 sergeant David Chege CID Voi scene of crime section. On 22/08/09 at around 11.30am I was at Wananchi ranch within Wundanyi area. I was to take photographs of Lista machine I was in the company of sergeant Murage. I took photographs. 1st long shot of the scene, 2nd medium close up shot showing destroyed electric cables. 3rd closed up shot of damaged plastic pipes, 4th damage plastic jericin and split diesel oil, 5th close up shot of

damaged Rista machine, 6th close up shot showing serial number of the Rista machine., 7th damaged fuel tank, 8th damaged part of the Rista machine tagged '2', 9th damaged power cable tagged '3', 10th damaged sign post and 11th position of the sign board. I prepared the report dated 9/04/10. I wish to produce the report with the photographs. Photographs PEXH4 (11) and report PEXH.5

Oreng K. I. – Resident Magistrate

7/3/11

Cross-examination by the defence counsel

I took the photographs later after the alleged offence. I was called by the investigating officer. I did not see who committed the offence. The jerrican had a cut and diesel got spilled. It was alleged that it had diesel. I do not know whether the diesel jerrican was planted at the scene. There was smell of diesel. There was a sign post at the road. There were concrete stones. I did not find any numbers of the sign post. The tank had some holes. The pipes had been uprooted from the ranch.

Oreng K. I – Resident Magistrate

7/3/11

Re-examination

I went to the scene and took the photographs. The fuel tank had two holes. Plastic water pipes had been uprooted from the scene. The electric cable was damaged. It was alleged that there was a sign post on the road. The plastic jerrican had diesel. I smelt diesel when I visited the scene.

Oreng K. I. – Resident Magistrate

7/3/11

Prosecutor : That is the close of the prosecution case.

Mogaka : I wish to submit on 19/04/11.

Court :Mention for submisslons on 19/04/11.

Oreng K. I. – Resident Magistrate

7/3/11

19/4/11

Before : Orengo K. I. – Resident Magistrate

Prosecutor : CI Ombogo

Court clerk : Victor

Accused 1 : Present

Accused 2 : Present

Interpretation : English/Swahili

Prosecutor : Oral submissions

1st accused : I am ready

2nd accused : I am ready

Court : Placed aside.

Orengo K. I. – Resident Magistrate

19/4/11

Mogaka for the accused : I pray for another date I do not have my notes.

Prosecutor : I have no objection

Court : Mention on 9/5/11 for oral submissions.

Orengo K. I. – Resident Magistrate

19/4/11

9/5/11

Before : Orengo K. I. – Resident Magistrate

Prosecutor : CI Ombogo

Court clerk : Victor

Accused 1 : Present

Accused 2 : Present

Interpretation : English/Swahili

Prosecutor : For oral submissions

2nd accused : My advocate is indisposed will not be able to attend court today.

Prosecutor : I have no objection

Court : Adjourned and stood over to the 25/05/11 for oral submissions.

Oreng K. I. – Resident Magistrate
09/05/11

25/5/11

Before : Oreng K. I – Resident Magistrate

Prosecutor : CI Ombogo

Court clerk : Victor

Accused 1 : Present

Accused 2 : Present

Interpretation : English/Swahili

Mogaka for the accused : I will be ready

Prosecutor : I am ready

Court : To proceed with submissions.

Oreng K. I. – Resident Magistrate
25/5/11

Oral submissions

The accused were charged of assault causing actual bodily harm and malicious damage to property at Mwananchi ranch. Nine witnesses were called. PWI told the court that he was informed by Mohamed that the complainant had been beaten and the accused destroyed machinery. PWI did not know the attackers. PWII was called at 2.00am from the area chief that he had received a report that the water pump had been destroyed. PWI knew the accused he did not see accused destroy the pump. PWIII was called by sergeant Murage informing him of the damage at Mwananchi Ranch. PWIII was the arresting officer. I submit that no case has been made out. The evidence given does not link the accused to the commission of the offence. There was no eye witness to who saw the accused commit the offence. The offence was committed at night. They relied on the voice which was not sufficient. I pray that the accused be acquitted under section 210 of the criminal procedure code.

Oreng K. I. – Resident Magistrate
25/05/11



Prosecutor

I have established a prima facie case has been established. I rely entirely on the evidence on record and the exhibits in record. PWVI's evidence was clear he was attached and saw the accused destroy the pump. I pray that the accused be placed on their defence.

Oreng K. I. – Resident Magistrate

25/05/11

Mogaka

I have nothing to say.

Oreng K. I. – Resident Magistrate

25/05/11

Court : Ruling on 30/05/11

Oreng K. I. – Resident Magistrate

25/05/11

Ruling

I have considered the evidence on record. The court is o the opinion that a prima facie case has been established. The accused persons will be placed on their defence.

Delivered, dated and signed at Wundanyi this 30th day of May 2011. In the open court in the presence of the Mogaka for the accused, court prosecutor and clerk.

Oreng K. I. – Resident Magistrate

30/05/11

Mogaka : I will be ready to proceed. The accused will give sworn evidence. I have no witness to call. I will need an interpreter for the 1st accused.

Oreng K. I. – Resident Magistrate

30/05/11



Prosecutor : The back log is big. I pray for another date. We may not call an interpreter.

Oreng K. I. – Resident Magistrate

30/05/11

Court : Defene hearing

Pressure of work. Defence hearing on 4/07/11.

Oreng K. I. – Resident Magistrate

30/5/11

4/7/2011

Before : Oreng K. I. – Resident Magistrate

Prosecutor : CI Ombogo

Court clerk : Victor

Accused 1 : Present

Accused 2 : Present

Interpretation : English/Swahili

Mogaka for the accused defence hearing I am ready. The 2nd accused is not feeling well he went to hospital for check up.

Prosecutor : I have no objection

Court : Mention at 10.00am

Sharrif watching brief.

Oreng K. I. – Resident Magistrate

4/7/11

DWI male adult duly sworn states in Somali/English

I am Muktar Aden. I come from Mandera. On 14/08/2009 I was at Maungu to see my brother Hassan Aden of Ali Noor. He was sick and slept at there for three days. It was at Wananchi Ranch. I came back after three days and slept at Mkuki. I saw the 2nd accused Ibrahim in a motor vehicle and asked for a lift. The motor vehicle was drawing water from Mwatate. We drew at a school near the sisal. While there a police car came and asked me to alight and I was arrested. I was not told why I was arrested. I was taken to Mwananchi ranch. We were taken

to a machine which I did not know. I was asked whether I knew the machine I said I was new to the area. I was taken to Wundanyi police station and later brought to court. I do not know the complainant. I did not assault the complainant nor did I destroy the alleged pump.

Oreng K. I. – Resident Magistrate

4/7/11

Cross-examination by prosecutor

I was staying at Mkuki. On 14/8/09 I do not know Mwananchi ranch. I had come from maungu. My brother Hassan was working at Mkuki. I do not know Yussuf Abdi. My brother was an employee of Hay Noor. I know about the machine. I have never gone to the scene again. The police had taken me to machine. I had slept at Mwananchi ranch for three days. My brother was not arrested he is at Mombasa. I do not know of the grudge at Mwananchi ranch. I did not assault the complainant. I had not been brought in reinforcement. I did not know whether there machine or not. I only saw the house.

Oreng K. I. – Resident Magistrate

4/7/11

Re-examination

I did not assault Jero Abdi. I did not instruct anybody to injure the complainant.

Oreng K. I. – Resident Magistrate

4/7/11

DWII male adult duly sworn states in Somali/Kiswahili

I am Ibrahim Hassan. I am a harber. I am the supervisor at Ndara ranch between Voi – Maungu. On 14/08/09 I was working at Wananchi ranch. I was taking water for the animals using a motor vehicle. I was going to Mwatate and motor vehicle broke down. I left at Mwatate and I went to Voi to look for a mechanic. The motor vehicle was repaired and I went. I came to Mwatate at sisals estate at the gate. Police stopped me and was arrested. I was handcuffed. I was with the 1st accused. I was taken to Mwananchi ranch to where there was a house and shown pipes. I was at the scene and denied committing any offence. I was later brought to Wundanyi. I knew the machine. The complainant was my neighbour. I had stayed in the ranch

for three years. I do not know whether the machine was working. I did not assault or destroy the machine. The complainant was a good neighbour.

Oreng K. I. – Resident Magistrate

4/7/11

Cross-examination by prosecutor

I knew Yusuf Abdi. They were neighbours. I knew PWI. I saw them in court. I know the machine I do not know whether it was working. We had not requested to water our animals at the said ranch. I do not know whether it was destroyed. I did not assault the complainant nor destroy the machine. The 1st accused had stayed for about three days. He was arrested while going back to Maungu. There was no grudge with the complainant. I was told the machine was put by Constituency Development Fund funds.

Oreng K. I. – Resident Magistrate

4/7/11

Re-examination

The 1st accused slept at Mwananchi ranch for two days. Then Mkuki for one day. He was arrested when he was at Mkuki. We were watering at distant holes or watering points. We had no grudge with the complainants.

Oreng K. I. – Resident Magistrate

4/7/11

Mogaka : I wish to close defence case. I wish to submit

Court : Mention on 01/08/11 for final submissions.

Oreng K. I. – Resident Magistrate

4/7/11

Court : The interpreter to be paid for services rendered to court.

Oreng K. I. – Resident Magistrate

4/7/11

• **01/08/2011**

Before : Orengo K. I. – Resident Magistrate

Prosecutor : CI Ombogo

Court clerk : Victor

Accused 1 : Present

Accused 2 : Present

Interpretation : English/Swahili

Prosecutor : Final submissions

Mogaka : I am ready

Court : To proceed with final submissions

Orengo K. I. – Resident Magistrate

1/8/11

Mogaka for the accused

The accused are charged of assault and malicious damage to property. No single witness testified that he saw the accused commit the offence. There was no sufficient light to identify the accused. The medical report does not indicate the person who committed the offence only a blunt object was used. The prosecution witnesses gave hearsay evidence with unknown source. The accused said they were not at the scene. DWI was not at the scene and DWII had slept at the scene. I pray that there is no sufficient evidence to sustain a conviction. I pray for an acquittal under section 215 of the criminal procedure code.

Orengo K. I. – Resident Magistrate


1/8/11

Court : 18/08/11 for judgment.

Orengo K. I. – Resident Magistrate

1/8/11

CERTIFIED TRUE COPY OF
ORIGINAL.


.....
Magistrate

REPUBLIC OF KENYA
IN THE RESIDENT MAGISTRATE'S COURT
AT WUNDANYI

CRIMINAL CASE NO. 468 OF 2009

PROSECUTOR ----- REPUBLIC

VERSUS

ACCUSED ----- 1. MUKTAR ADEN
2. IBRAHIM HASSAN

J1

JUDGEMENT

The accused are charged of assault causing actual bodily harm contrary to section 251 of the criminal procedure code and on the 2nd count of malicious damage to property contrary to section 339 of the penal code.

Facts are that on the 14th day of August 2009 at Mwananchi Ranch the accused jointly and unlawfully assaulted Ismael Abdi and occasioned him actual bodily harm and on the same date wilfully and unlawfully destroyed one lister engine, one Honda engine and one generator all valued at Kshs.176,000/- property of Yusuf Abdi.

The prosecution called eight (8) witnesses. PWI told the court that he was at Mwatate and was called and informed Ismael Abdi had been beaten and the machines damaged. PWI went to the scene and saw the extent of the damage. The machine was a water pump even the wires were disconnected. The scene of crime visited the scene and took photographs to show the extent of the damage. The matter was reported to the police. PWI had suspects and they were arrested while going to Mwatate.

On cross-examination PWI told the court that they followed foot prints that led to the home of the accused persons. Ismail had been assaulted. The damage was estimated to be at Kshs.170,000/-.

PWII was called by the chief and informed that a watchman had been informed and water pumps damaged. PWII and the complainant visited the scene and found a watchman injured

and was taken to Mwatate dispensary. On the 17th August 2009 the watchman identified the people who attacked him and they were arrested. PWII went to the scene and saw the extent of the damage.

On cross-examination PWII told the court that he was a watchman at Wananchi ranch. The complainant was attacked and that sustained injuries. PWII followed the suspects to Mwatate where they had gone to fetch water. The two accused were identified by the complainant and were arrested. The 2nd accused been positively identified by the complainant.

PWII had been informed that property was destroyed at Mwananchi ranch. PWII went to the scene at Mwandisha primary school they met along the watchman identified the accused as the persons who had destroyed property at the ranch. The two accused persons were arrested and taken to Wundanyi police station and charged of the present offence. The complainant was taken to hospital for treatment. A P3 form was issued and it was duly filled.

On cross-examination PWIII said he was called by senior sergeant Murage and asked to go to the scene. The accused were found aboard a motor vehicle that was blue in colour and were arrested near Mwandisha primary school. The watchman had sustained injuries. Upon visit to the scene PWIII found three generators damaged. The watchman identified the accused persons as the people who attacked him. The accused persons were known to the complainant previously.

PWIV was a worker at the ranch. The complainant informed him that he had been assaulted by three people. PWIV did not see who had damaged the machines.

On cross-examination PWIV said he saw the complainant had injuries to the head. The complainant had mentioned the 2nd accused persons as one of his attackers.

PWV was called by Jeremiah and informed that the water pump had been destroyed. PWV went to the scene and found the pump destroyed. The guard who was guarding the machine was assaulted.

On cross-examination PWV said the complainant Ismael said the accused persons had been seen destroying the said machine. The machines had been in good working condition prior to the damage.

PWVI told the court that on the 14/08/09 he was guarding the machine area when he was attacked. PWVI fled the scene and went to seek help. The attackers then descended on the machine and damaged it. PWVI was able to identify the accused persons as the attackers. The 2nd accused hit PWVI with a stick as he fled the scene. PWVI called the owner of the ranch and they proceeded to the scene where they found the machines destroyed. A P3 form was issued to PWVI and it was dully filled.

On cross-examination PWVI told the court that he sustained injury to the left hand and head. The accused were known to him because they are neighbours. PWVI fled the scene upon attack to look for help.

PWVII the clinical officer who filled the P3 form for PWVI told the court that he had a minor shallow cut on the left temporal region and a swelling on the left hand. The injury was classified as harm.

On cross-examination PWVII said a blunt object was used to inflict the injuries.

PWVIII told the court that he received a complaint and booked the same. The complainant had reported that people had attacked him and destroyed generators. PWVIII visited the scene and saw the extent of the damage. The complainant was issued with a P3 form and was taken to hospital. The complainant had identified his attackers and they were later arrested. A scene of crime officer was called to the scene and took photographs to show the extent of damage of the machine.

On cross-examination PWVIII said that the attackers were known to the complainant. Jelo PWVIII had visited the scene and confirmed the machines had been destroyed and total estimate was valued at Kshs.176,000/-. A scene of crime was brought to the scene and took photographs. The ranch had been given to the second complainant to graze his animals as at the time of commission of the offence.

PWXI the scene of crime officer who visited the scene and took photographs which showed the extent of the damage to the machinery. The photographs were produced as exhibits before court.

On cross-examination PWIX told the court he photographed the scene as it was soon after the offence was committed.

The accused persons were placed on their defence. DWI told the court that he had gone to see his sick brother at Mwananchi ranch and had hired a lift from the 2nd accused to Mwatate and was arrested by the police. DWI said he was new in that area. DWI denied that he destroyed any property nor that he assaulted Isamael Jelo.

On cross-examination DWI denied that he knew Mwananchi ranch and further that he knew the complainants. On the alleged date DWI said that he slept at Mkuki. DWI denied that he had any grudge with the complainants. DWI had not seen any machine.

DWII the supervisor at Ndara ranch. On the alleged date of the offence DWI was on his way to Mwatate when he found police officers who arrested him and took them to the scene. DWII denied that he assaulted Jelo or destroyed the alleged machinery.

On cross-examination DWII said he did not know whether the alleged machined worked. DWII maintained that he did not destroy the said machine nor assaulted Jelo. There was no grudge between DWII and the complainant.

In their final submissions the accused submitted that the prosecution had not proved their case as required in court. Most of the prosecution witnesses had given hearsay evidence with no known source. DWI was not at the scene and prayed that they be acquitted for lack of sufficient evidence.

I have considered the evidence on record, the 1st complainant Jelo Abdi told the court that he was at the ranch putting water to the tanks for cows to take when he was attacked. PWVI knew the accused persons well because they came from the neighbourhood. PWVI fled to seek help. The 1st accused hit Jelo using a stick and used an object to tear his coat. Jelo sustained injury as confirmed by the P3 form which is an exhibit before court. Jelo informed the owners of the

ranch and upon visit to the scene they found the machines were extensively damaged. PWI one of the proprietors, told the court the machine was damaged. The police visited the scene and took photographs. The photographs show the extent of damage. The accused persons denied commission of the offence however the court notes that the accused persons gave contradictory evidence, DWI said he did not know Mwananchi ranch.

On cross-examination he said that he had slept at the ranch for two days a fact that was confirmed by DWII. The court is satisfied that Jelo positively identified the accused persons. PWVI said the 1st accused hit him with a stick and tore his coat. Soon after he fled the scene and informed the proprietors. They returned the machines destroyed as evidence by the photographs produced by scene of crime officer. I find that the conduct of the accused persons was aimed at scaring PWVI away and had a common intention of maliciously destroying the machines for the 2nd complainant. I find that the prosecution was well corroborated and consistent and have proved their case against the accused persons. The 1st accused will be convicted for assaulting Ismael Jelo and both accused will be convicted for malicious damage to property under section 215 of the criminal procedure code.

Delivered, dated and signed at Wundanyi this 19th day of August 2011. In the open court in the presence of Mogaka for the accused, court prosecutor and clerk.

Oreng K. I. – Resident Magistrate

19/08/11

Prosecutor : First offenders

Oreng K. I. – Resident Magistrate

19/08/11

Mitigation : The accused are bread winners of their families and aged parents. The accused are remorseful for the offence. I pray that the accused be given an option for fine which is reasonable they are from poor background.

Oreng K. I. – Resident Magistrate

19/8/11



Court : The mitigation considered. The accused will pay affine of Kshs.15,000/- each on count II and indefault 18 months imprisonment. The 1st accused to pay a fine of Kshs.5,000. In default one year the sentences running concurrently for the 1st accused. 14 days right of appeal explained.

Oreng K. I. – Resident Magistrate

19/8/11

Mogaka : I apply that the cash bail be used to pay this fine and the balance be released to the depositor.

Oreng K. I. – Resident Magistrate

19/8/11

Court : Orders as prayed

Oreng K. I. – Resident Magistrate

19/8/11

19/10/11

Court : Proceedings to issue upon payment of the requisite fees.

Oreng K. I. – Resident Magistrate

19/10/11

**CERTIFIED TRUE COPY OF
ORIGINAL.**

Magistrate



10TH APRIL, 2025

TO THE KENYA SENATE COMMITTEE OF LANDS

CHALLENGES FACED BY LAND OWNERS AT WANANCHI
SETTLEMENT SCHEME

1. THAT Wananchi Settlement Scheme was offered to landless people in Taita Taveta and Kenya at large through Director of Land adjudication and settlement ministry of Lands on the 16th August 2002 and on a separate date at a Baraza conducted by then the area MP Mr. Marsden Madoka and then Minister for lands Mr.Noah Katana Ngala issued letter of offer of approximately 10 acres to the land beneficiaries at the Currently County commissioner podium/compound.
2. THAT In the year 2004 few land owners from Mwatate location started coming together for planning meeting on how to utilize the land offered by the Government at Wananchi settlement scheme and they held monthly meetings at the Mwatate chiefs office compound . Later on they invited other land owners from other locations and the group prioritized water as no.1 before implementing other projects.
3. THAT in 2005 the land owners decided to register the group with social services Registration NO..TTA/CD/2/4630 with approximately 300 members.
4. THAT the group decided to start raising funds and requesting well-wishers to chip in and assist in drilling water
5. THAT in 2006 the group in partnership with ministry of water through Coast water services drilled a borehole in plot no.258 where the then chairman voluntarily donated half an acre of his land to the project.
6. THAT the on 25/2/2007 the group had put a security house to safe guard the borehole and its equipment's and on 25/4/ 2007 started livestock keeping where they kept sheep, goats and cows and employed herders.
7. THAT in the year 2008 we drilled another Bore Hole in Plot No. 181.
8. THAT in 2009 the group in partnership with other well wishers did a road round the settlement boundary for purpose of securing it and at the same time scooped a water pan for the livestock.
9. THAT in 2009 harassment against the group started where our herders were assaulted by herders from Hajis family where the case was reported (CR NO 468 of 2009) where the culprits were punished.
10. THAT in 2009 again due to harassments 9 members of the group were falsely accused by herders leased by the Haji family for arson (Case NO. LUCAS NYANGE and 9 others – CR NO. 599 of 2009) where the court ruled in our favour for lack of evidence.
11. THAT on 15th August, 2009 the group's water generator was destroyed by suspected herders leased by Haji family.

12. THAT on 24th January, 2010 the Project Manager wrote a letter to the MP – Mwatate Hon. Calist Mwatela on harassment at Wananchi Settlement Scheme to assist in taking up the matter but there was no any action taken.
13. THAT on 24th December, 2010 more harassment were witnessed where our herders were attacked and assaulted (OB NO. 38 of 23/12/2010) Wundanyi Police station and no action was taken.
14. THAT in 29th December, 2010 the Project Manager Mr. Mwangi K. Wanjohi wrote a letter to Officer in charge Wundanyi Police station concerning the threats which the member were encountering at **Wananchi Settlement Scheme**. (copied the letter to District Commissioner and Officer of Mwatate Administration Police).
15. THAT on 5th June, 2013 the Project Manager Wananchi Settlement Scheme also wrote a letter to WHOEVER IT MAY CONCER (copied the letter to District Commissioner – Mwatate and Officer Commanding Division – Voi and Officer in-charge of Mwatate Administration Police) by requesting for provision of security of the members and their property.
16. THAT the group had a bigger vision of developing the scheme but due to the mentioned harassments has made the members and plot owners have a very difficult time in settling in the area.
17. THAT currently the scheme has two water pans and two bore holes which are not in good conditions.



JEREMIAH CHEREZUGHA

FOR WANANCHI SELF HELP GROUP

MEDICAL EXAMINATION REPORT

PART I—(To be completed by Police Officer requesting examination)

From OCS. WUNDANI POLICE Ref. 38 of 23/12/2010
STATION 06 1099 WUNDANI Date 24th 12/2010

To the CLINICAL OFFICER MWATARE SUP-DIST Hospital/Dispensary

I have to request the favour of your examination of:—

Name MWAKISAPHU KOLA BONJO Age 22 YEAR (if known)

Address BOY 39 MWATARE Date and time of alleged offence 19/12/10

AT 2-00pm

Sent to you/hospital on the 20th 12/2010 under escort of POLICE OFFICER

and of your furnishing me with a report of the nature and extent of bodily injury sustained by him/her.

Date and time reported to police 23rd Dec 2010 AT 11:30 AM 5:30 PM

Brief details of alleged offence THE COMPLAINANT ALLEGED TO BE ASSAULTED BY ONE KNOWN TO HIM AT MWANANCHI RANCH MWATARE.

OFFICER-IN-CHARGE
WUNDANI POLICE STATION
 Signature of Police Officer
DATE: - - - - -

PART II—MEDICAL DETAILS—(To be completed by Medical Officer or Practitioner carrying out examination)

(Please type four copies from the original manuscript)

SECTION "A"—THIS SECTION MUST BE COMPLETED IN ALL EXAMINATIONS

Medical Officer's Ref. No. 13,804/2010

1. State of clothing including presence of tears, stains (wet or dry) blood, etc.

HIS TROUSER IS TORN (RUGGED) ON BOTH KNEES.
NO PRESENCE OF BLOOD STAINS.

2. General medical history (including details relevant to offence) CLAIMS TO HAVE BEEN

PHYSICALLY ASSAULTED ON 19/12/10 AT 3:00pm BY A MOB OF PEOPLE AT MWANANCHI RANCH. HE SUSTAINED INJURY ON THE LT SHOULDER AND PATELLAR REGION. CAUSE NOT CLEARLY ESTABLISHED.

3. General physical examination (including general appearance, use of drugs or alcohol and demeanour)

1/2 - IN PAIN, UNUSUALLY FEBILE. ORIENTED IN TIME, PLACE, PERSON.

NO ALCOHOLIC SMELL NOTICED.

SECTION "B"—TO BE COMPLETED IN ALL CASES OF ASSAULT, INCLUDING SEXUAL ASSAULTS, AFTER THE COMPLETION OF SECTION "A"

1. Details of site, situation, shape and depth of injuries sustained:—

(a) Head and neck

Has no visible injuries.

(b) Thorax and abdomen

Has RT linear fracture of patellar.

(c) Upper limbs

Has RT shoulder dislocation.

(Reduction done at MCH Hosp under xray findings).

(d) Lower limbs

Has RT knee tenderness, swollen.

No limitation in movement.

2. Approximate age of injuries (hours, days, weeks)

1 day.

3. Probable type of weapon(s) causing injury

Fists, blows, wooden bars.

4. Treatment, if any, received prior to examination

None.

5. What were the immediate clinical results of the injury sustained and the assessed degree, i.e. "harm", "main", or "grievous harm" *

*DEFINITIONS—

"Harm" means any bodily hurt, disease or disorder whether permanent or temporary.

"Maim" means the destruction or permanent disabling of any external or internal organ, member or sense.

"Grievous Harm" means any harm which amounts to maim, or endangers life, or seriously or permanently injures health, or which is likely so to injure health, or which extends to permanent disfigurement, or to any permanent or serious injury to any external or internal organ.

MW-A [Signature] of Medical Officer/Practitioner
P.O. Box 149 MW
Date 2/11/11

SECTION "C"—TO BE COMPLETED IN ALLEGED SEXUAL OFFENCES AFTER THE COMPLETION OF SECTIONS "A" AND "B"

1. Nature of offence..... Estimated age of person examined.....

2. FEMALE COMPLAINANT

(a) Describe in detail the physical state of and any injuries to genitalia with especial reference to labia majora, labia minora, vagina and cervix and conclusion.....

(b) Note presence of discharge, blood or venereal infection, from genitalia or on body externally.....

3. MALE COMPLAINANT

(a) Describe in detail the physical state of and any injuries to genitalia.....

(b) Describe in detail injuries to anus.....

(c) Note presence of discharge around anus, on thighs, etc; whether recent or of long standing.....

4. MALE ACCUSED OF ANY SEXUAL OFFENCE

(a) Describe in detail the physical state of and any injuries to genitalia especially penis.....

.....
.....
.....

(b) Describe in detail any injuries around penis and whether recent or of long standing.....

.....
.....

5. Details of specimens or smears collected in examinations 2, 3, or 4 of Section 20 including pubic hairs and vaginal hairs.....

.....
.....

6. Any additional remarks by the doctor.....

.....
.....
.....

MWATATE SUB DISTRICT HOSPITAL
Signature of Medical Officer/Practitioner
DATE
P.O. BOX 149 MWATATE
Date 27/12/10

MINISTRY OF LANDS

Telephone: Mwatate 043 – 36115
When replying please Quote



WANANCHI SETTLEMENT PROJECT
P.O. BOX 242
MWATATE

Ref No. PM/WNCH/CON/Vol.1/124

Date: 24TH January , 2010

Hon. CALYST MWATELA
MP. MWATATE CONSTITUENCY
P.O BOX
MWATATE

Dear Sir,

RE: HARASSMENT AT WANANCHI SETTLEMENT SCHEME

I refer to the above. This is in response to a letter addressed to you from MWANANCHI SELF GROUP on 8/01/2011.

Sir, I would wish to clarify some issues contained in that letter. As the members would have liked to inform the readers that they have been receiving confrontation from the Haji family, this is quite true. However, about your intervention as to the owner of the land after having sought assistance in vain is not well intentioned. The group members have always received answers and assistance from my office as they require.

Here below are some of the incidences to explain the same. The Settlement Fund Trustee is a G.O.K. body mandated to offer Agricultural Land to landless Kenyans. This is through issuance of Letters of Offer from the Director of Land Adjudication and Settlement. This is testimony enough that the Land belongs to the members.

Last year the group opened a road in the scheme with no hindrances and my office provided them (the group) with personnel to show the location of the road. Last year the same group scooped a water pan in the scheme without any hitch. However, late last month there erupted some criminal activities in the scheme where am sorry that ended in actual bodily harm and arrests.

The case was reported to the Officer Commanding Wundanyi Police Station. I took action and convened a meeting in my office with the stakeholders (group) and later went to consult with the OCS Wundanyi and concurred that they will take action. I have written to the security organs of the country to seek security to the legal settlers (see copies).

Sir, my observation is that the issue might not be land but by competing over pasture and outright criminology. This should be well handled by the security organs. I once retaliate that the land in question is a Settlement Fund Trustee (MINISTRY OF LANDS) property but offered to landless Kenyans.

I request that we all join hands to rid the area of the criminals through the right G.O.K. channels instead of running off the mark.
The group should appreciate that a lot is being done for them in my office.



MWANGI K. WANJOHI
PROJECT MANAGER

c.c.

The District Commissioner
P O Box 1
MWATATE

The Officer Commanding Police Division
P O Box
VOI

The Officer In Charge
Administration Police
P O Box
MWATATE

✓ Lucas Nyange
Chairperson
Mwananchi Self Help Group

Jeremiah Cherezugha
Secretary
Mwananchi Self Help Group

Mary Kazungu
Treasurer
Mwananchi Self Help Group

Encls.

121

MINISTRY OF LANDS

Telephone: Mwatate 043 – 36115
When replying please Quote



WANANCHI SETTLEMENT PROJECT
P.O. BOX 242
MWATATE

Ref No.PM/WNCH/CON/Vol.1/102

Date: December 29, 2010

**TO:THE OFFICER IN
CHARGE OF POLICE
STATION
WUNDANYI**

WANANCHI SETTLEMENT PROJECT

Following our verbal discussion in your office I herein wish to write a brief on the Project for your reference.

PROJECT HISTORY

The Project is in a Government Land measuring 25,000 acres lies in the Mwatate District of Coast Province.

The Project is registered as L.R No.12924 under the Settlement Fund Trustee (SFT)

The Land was purchased by the SFT in 1994 from the Wananchi Ranch at Kshs. 40,000,000/= for the purpose of offering it Landless Kenyans.

This was to foster development in the area and alleviate poverty as well increase food security for the households.

Survey and demarcation of ten acre plots was commenced unhindered in 1998 and in 2002, 2004 and 2010 some settlers were offered land via the District Settlers Selection committee(see attached copies of minutes).A total of 1,297 benefitted from the offers.

THREATS

It has come to my notice that there are some herders are threatening the legal Settlers in the Project.

Despite the ongoing noble exercise a party entered into a lease agreement on the piece land (see attached copy)

After the letters of offer my officer showed the new settlers their boundaries with no hitch (see sample copy).

An unknown family has been claiming of a court case since 2004 but unfortunately we (Ministry of Lands) have never been served with summons.

It is my sincere brief that the family is just out to frustrate the noble Government intentions as it continues to illegally reap from the unsuspecting leasee.

I am thus requesting you to offer the settlers maximum assistance to settle and utilize the Land and realize the noble intention of food security and poverty alleviation as enshrined in the vision 2030.

I brief it is quite unfair for an individual to hold 1,300 poor Kenyans at ransom and the Government at large.

Please use your esteemed office to offer the needy settlers security.


NOTE:

1. Legal settlers MUST have a letter of offer from the Director of Land Adjudication and Settlement
2. Any other claimant on the land must produce either legal documents or court orders restraining the settlers or their agents from developing their Land

CC:

1. DISRICT COMMISSIONER
MWATATE

2. Officer in Charge
Administration Police
Mwatate District


MWANGI K. WANJOHI
PROJECT MANAGER

120

MINISTRY OF LANDS

Telephone: Mwatate 043 – 36115
When replying please Quote



WANANCHI SETTLEMENT PROJECT
P.O. BOX 242
MWATATE

Ref No. PM/WNCH/CON/Vol.1/102

Date: December 28, 2010

TO: DISTRICT COMMISSIONER
MWATATE DISTRICT

PROJECT STATUS

The project which comprises of 25,000 acres lies in the Mwatate District of Coast Province.

The Project is registered as L.R No.12924 under the Settlement Fund Trustee.

The Project is in Government Land under the Settlement Fund Trustee, which in 2002, 2004 and 2010 was allocated to Settlers.

To date a total of 1,297 Kenyans have been allocated the land parcels of 10 acres each.

Upon the offer in accordance with the provisions of the Section 174(3) of the agricultural act (Chapter 318) of the laws of Kenya, the allottee is supposed to:

Pay for the land deposit and other charges therein, after paying the land deposit the new settler is supposed to occupy the land within 6 months and engage in agricultural activities and alleviate the poverty levels, and also raise funds to clear her/his land loans.

Upon clearing the outstanding arrears the settlers are issued with discharge of charge and there after a title deed.

THREATS

It has come to my notice that there are some herders who are threatening the legal Settlers in the Project.

I am hereby requesting you to offer them (legal settlers) security and any assistance that may assist them settle and realize the intended results.

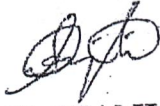
NOTE:

Legal settler must have a letter of offer from the Director of Settlement and Land Adjudication.

CC:

1. Officer in Charge of Security
Taita/Taveta

2. Officer in Charge
Administration Police
Mwatate District



MWANGI K. WANJOHI
PROJECT MANAGER



MINISTRY OF LANDS



Telephone: Mwatate 043 – 36115

When replying please Quote

Ref No. PM/WNCH/CON/Vol.I/128

WANANCHI SETTLEMENT PROJECT

P.O. BOX 242

MWATATE

Date: 5 June 2013

TO WHOEVER IT MAY CONCERN

RE: OWNERSHIP OF WANANCHI SETTLEMENT PROJECT

The Project is Mwatate District of Taita Taveta County.

The project consists of 23,000 acres.

It boundaries Mwasui ranch, Mkuki ranch, Lualenyi ranch, Maungu ranch, Kasigau ranch amongst others.

The project is a property of Settlement Fund Trustee; however the project was demarcated and allocated to settlers in 2002.

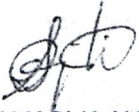
The settlers are bound to pay some land rates to the fund before we issue them with title deeds which is ongoing.

This is in line with government effort to tackle landlessness and improve on food security.

The settlers are supposed to occupy the land and produce both crops and animals to enable them pay the land loans and improve their living and enable Kenyans achieve the Millennium goals on food security.

By copy of this letter am requesting you provide them with security for both the human and property to achieve the goal.

A copy of the settlers list can be availed from my office if deemed necessary.



MWANGI K. WANJOHI

PROJECT MANAGER

WANANCHI SETTLEMENT SCHEME

CC.

District Commissioner

Mwatate

Officer Commanding Division

Voi

Officer in Charge

Administration Police

Mwatate