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PARLIAMENT OF KENYA

THE NATIONAL ASSEMBLY

TWELFTH PARLIAMENT – FIFTH SESSION – 2021

DEPARTMENTAL COMMITTEE ON LANDS

REPORT ON-
(PUBLIC PETITION No 38 OF 2020)

BY RESIDENTS OF DINDIRI - MAKATA AND KAOLE VILLAGES IN CHASIMBA WARD, KILIFI SOUTH CONSTITUENCY REGARDING DISPOSSESSION OF LAND BELONGING TO RESIDENTS OF DINDIRI–MAKATA AND KAOLE VILLAGES

DIRECTORATE OF DEPARTMENTAL COMMITTEES
CLERK'S CHAMBERS
PARLIAMENT BUILDINGS
NAIROBI

AUGUST 2021

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CHAIRPERSON'S FOREWORD

The Petition No. 38 of 2020 by residents of Dindiri - Makata and Kaole villages in Chasimba Ward, Kilifi South Constituency regarding dispossession on land belonging to the residents of Dindiri - Makata and Kaole village was presented to the House through the Hon. Ken Kiti Chonga, MP (Kilifi South Constituency) on 3rd December 2020.

In considering the Petition the Committee met the Petitioners during a field visit to Kilifi County on 19th March 2021 and the Chief Administrative Secretary, Ministry of Lands and Physical Planning on 21st April 2021. The Committee also met the Senior Registrar Titles, Mombasa, and the representatives of the registered owners of the land in question on Tuesday 27th July 2021. The Committee also received written submissions from the Chairperson, National Land Commission dated 15th April 2021.

The Petitioners prayed that the National Assembly through the Departmental Committee on Lands enquires into the matter with a view to securing the revocation of the title deed irregularly issued to Mr. Mbarak Islam Abeid to facilitate subdivision of the land and to recommend the issuance of title deeds to the residents of Dindiri- Makata and Kaole villages.

The Committee observed that the submissions made by the Ministry of Physical Planning and the National Land Commission indicated that a certificate of ownership No. CR. 13774 in respect of Plot No. MN/IV/152 originally issued by the colonial government through the 1908 Ordinance is valid.

The Committee noted that the land in question covers three villages in Kilifi South Constituency: namely Dindiri Makata and Kaole and the residents of the said villages have lived in the area undisturbed for many years and considered the land in question as their home.

The Committee also observed that the land in question is developed with several public utilities in place, including Dindiri Primary School that was established in 1951, Dindiri Secondary School which was established in 2009, Kaole Primary School that was established in 2009 and Makata Primary School which was established in 1961. There were also ten (10) churches, two (2) mosques and two trading centres on the land. In this regard, the Committee observed that it could be difficult to relocate the residents from the said land.

The Committee further noted that the land in question was first registered on May 11, 1970, in the following names:

- Ali Rashid Mathri as administrator of the Estate of Rashid Ali Manthri (1/4 undivided).
- Khamis Mohamed El – Basami as administrator of the Estate of Mohamed Khamis El – Basami (1/4 undivided share).
- Muarabu Salim (1/16 undivided share)

- Islam Ali (3/32 undivided share)
- Ahmed Ali (3/32 undivided share).

In terms of current ownership, the Committee observed the initial submissions made by the Ministry of Lands and Physical Planning, indicating that the title to Plot No. MN/IV/152, measuring 1776 acres was currently registered in the names of Mbarak Islam Abeid (3/6 undivided share), Salim Mohamed Basami (1/6 undivided share), Haidar Mohamed Rashid Basami (1/6 undivided share) and Ahmed Mohamed Rashid (1/6 undivided share was erroneous and only involved the heirs of the 1/6 share of the land in question registered in the name of Muarabu Salim (deceased) in 1970.

The Committee noted that the Senior Registrar of Titles, Mombasa submitted that the correct current registration record for the said parcel of land as evidenced by a postal search dated 27th July 2021 is as follows:

a. Ali Rashid Manthri as the Administrator of the Estate of Rashid Ali Manthri
b. Mohamed El Basami as the Administrator of the Estate of Mohamed Khamis El- Basami
c. Mohamed Rashid El- Basami
d. Islam Ali
e. Ahmed Ali
f. Mohamed Rashid Basami
g. Haidar Mohamed Rashid Basami
h. Ahmed Mohamed Rashid Basami
i. Mbarak Islam Abeid

The Committee observed that Mbarak Islam Abeid only acquired a portion of the land in question measuring approximately 55.5 acres from Omar Ali Said, one the heir to the estate Muarabu Salim (deceased) in 1995. In this regard the Committee further noted that Mbarak Islam Abeid does not hold a title for the entire land in question as alluded to in the Petition.

The original title for the land in question LR 152/IV /MN issued in 1970, in the custody of heirs to the current registered owners, which was submitted to the Committee for perusal on 27th July 2021, should be surrendered to the Mombasa Land Registry. Since a provisional certificate for the same issued and the original title cancelled.

Although Mbarak Islam Abeid subdivided the land in question into two portions and obtained a certificate of title for his share measuring 55.5 acres The submissions made by the Senior Registrar of Titles, Mombasa indicated that the remaining portion was deemed to be legally registered to the other eight proprietors even if they had not obtained individual titles.

The Committee recommends that the Cabinet Secretary, Ministry of Lands and Physical Planning in collaboration with the relevant stakeholders through the Land Settlement Fund does acquire alternative land in the financial year 2022/2023 for settlement of the residents of Dindiri, Makata and Kaole villages located on Plot No. MN/IV/152.

The Committee also recommends that the registered owners and holders of the original title for the land Plot No. MN/IV/152, measuring 1776 acres that was first registered on 11th May, 1970, surrender the original title to the Registrar of Titles, at the Mombasa Land Registry for custody.

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

1.0 PREFACE

1.1 Mandate of the Committee

2. The Departmental Committee on Lands is established pursuant to the provisions of Standing Order No. 216 (1) and (5) with the following terms of reference: -

   (i) make reports and recommendations to the House as often as possible, including recommendation of proposed legislation;

   (ii) investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned Ministries and departments;

   (iii) study the programmes and policy objectives of Ministries and departments and the effectiveness of the implementation;

   (iv) study, access and analyze the relative success of the Ministries and departments as measured by the results obtained as compared with their stated objectives;

   (v) investigate and inquire into all matters relating to the assigned Ministries and departments as they may deem necessary, and as may be referred to them by the House or a Minister.

   (vi) study and review all legislation referred to it.

1.2 Committee subjects

3. The Committee is mandated to consider the following subjects:

   a) Lands
   b) Settlement

1.3 Oversight

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

1.4 Committee Membership

5. The Committee membership comprises:

Chairperson
Hon. Dr. Rachael Nyamai, CBS, MP
Kitui South Constituency
Jubilee Party

Vice Chairperson
Hon. Khatib Mwashetani, MP
Lunga Lunga Constituency
Jubilee Party

Hon. Benjamin Washiali, CBS, MP
Mumias East Constituency
Jubilee Party

Hon Joshua Kutuny Serem, MP
Cherangany Constituency
Jubilee Party

Hon. Mishi Mboko, MP
Likoni Constituency
Orange Democratic Movement (ODM)

Hon. Omar Mwinyi, MP
Changamwe Constituency
Orange Democratic Movement (ODM)

Hon. Ahmed Kolosh, MP
Wajir West Constituency
Jubilee Party

Hon. Ali Mbogo, MP
Kisauni Constituency
Wiper Democratic Movement (WDM)

Hon. Babu Owino, MP
Embakasi East Constituency
Orange Democratic Movement (ODM)

Hon. Caleb Kipkemei Kositany, MP
Soy Constituency
Jubilee Party

Hon George Aladwa, MP
Makadara Constituency
Orange Democratic Movement (ODM)

Hon George Risa Sunkuyia, MP
Kajiado West Constituency
Jubilee Party

Hon. John Muchiri Nyaga, MP
Manyatta Constituency
Jubilee Party

Hon. Josphat Gichunge Kabeabea, MP
Tigania East Constituency
Party of National Unity (PNU)

Hon. Lilian Tomitom, MP
West Pokot County
Jubilee Party

Hon. Owen Yaa Baya, MP
Kilifi North Constituency
Orange Democratic Movement (ODM)

Hon. Patrick Munene Ntwiga, MP
Chuka/Igambangombe Constituency
Jubilee Party

Hon. Samuel Kinuthia Gachobe, MP
Subukia Constituency
Jubilee Party

Hon. Teddy Mwambire, MP
Ganze Constituency
Orange Democratic Movement (ODM)

1.5 Committee Secretariat

6. The Committee secretariat comprises: -

Lead Clerk
Mr. Leonard Machira
Senior Clerk Assistant

Mr. Ahmad Guliye
Second Clerk Assistant

Mr. Adan Abdi
Fiscal Analyst II

Dr. Kefa Omoti
Principal Researcher

Mr. Joseph Okongo
Media Relations Officer

Ms. Jemimah Waigwa
Legal Counsel

2.0 INTRODUCTION

7. The Petition No. 38 of 2021 by residents of Dindiri – Makata and Kaole Villages of Kilifi South Constituency regarding dispossession of land belonging to residents of Dindiri – Makata and Kaole Villages was presented to the House through the Hon. Ken Kiti Chonga, MP (Kilifi South Constituency) on 3rd November 2020.

8. The Petitioners wished to draw the attention of the House to the following, that:

    a. The residents of Dindiri- Makata and Kaole villages in Kilifi South Constituency comprising over 65,000 persons reside on plot No. MN/IV/152, measuring 1776 acres, which they consider to be their ancestral home.

    b. The residents recently discovered the existence of a title deed that allegedly assigns ownership of the said land to an absentee individual by the name Mbarak Islam Abeid.

    c. The alleged subdivision and issuance of a title deed to Mbarak Islam Abeid was irregular in view of, among other reasons, the fact that it was issued over 110 years ago during the British colonial era, yet at independence in 1963 all Kenyan land was freed from colonial oversight and transferred to the Government to safeguard the welfare of indigenous people occupying their respective land.

    d. The Wachonyi and Giriama ancestors settled in the Dindiri- Makata – Kaole forest area over 100 years ago without any dispute or opposition, and built houses, grew crops, such as coconut palms, cashew nuts, maize, cassava, and mangoes and practiced cattle rearing.

    e. The community expanded exponentially over the decades and set up numerous social infrastructure such as Dindiri Nursery School, Makata Primary School, Kaole Primary School, Dindiri Secondary School, churches, restaurants, salons, shops, and other commercial establishments.

    f. Graveyards that are almost 100n years old as well as mango trees are a testament to the fact that the residents have lived on this ancestral land for decades.

    g. The residents are the legitimate owners of the land in question as a community by virtue of being occupants of the land for centuries.

h. Efforts to address the matter with the relevant authorities have not borne fruit.

i. The matters in respect of which this petition is made are not pending before any court of law or constitutional commission.

9. Therefore, the Petitioners prayed that the National Assembly, through the Departmental Committee on Lands enquires into the matter with a view to securing the revocation of the title deed irregularly issued to Mr. Mbarak Islam Abeid to facilitate subdivision of the land and to recommend the issuance of title deeds to the legitimate and bonafide residents of Dindiri- Makata and Kaole villages.

3.0 SUBMISSIONS

3.1 Submissions by the Petitioners

10. The Committee met the Petitioners during a field visit to Kilifi South Constituency on 19th March 2021. During the meeting, the Petitioners through four representatives, the Chairperson Makao CBO and the area Member of County Assembly (MCA) informed the Committee as follows:

11. The land in question covers three villages in Kilifi South Constituency: namely Dindiri Makata and Kaole.

12. The residents of the said villages have lived in the area undisturbed for many years and considered the land in question as their home, but they had not been issued with title deeds for the land they occupy.

13. The area is heavily settled with several public utilities in place, including Dindiri Primary School that was established in 1951, Dindiri Secondary School which was established in 2009, Kaole Primary School that was established in 2009 and Makata Primary School which was established in 1961. There are also ten (10) churches, two (2) mosques and two trading centres on the land.

14. The existence of the said facilities proved that the Petitioners had lived in the area for many years.

15. They questioned the legality of a title issued in 1908, held by Mabrak Islam Abeid and argued that the said title was issued during the colonial administration and was currently invalid. Consequently, they prayed that the land in question be allocated to the residents according to current occupancy.

16. However, the Ministry of Lands and Physical Planning and the National Land Commission officials clarified to the petitioners that title documents issued by the colonial government through the 1908 Ordinance were still valid and any measures to address the plight of the petitioners should acknowledge that the title issued for the land under the said legal framework was still valid.

3.2 Submissions by the Chief Administrative Secretary, Ministry of Lands and Physical Planning

17. The Committee met the Chief Administrative Secretary Ministry of Lands and Physical Planning on 21st April 2021. During the meeting, the Chief Administrative Secretary stated the following regarding the issues raised in the Petition, that:

18. According to records held by the Ministry of Lands and Physical Planning the title to Plot No. MN/IV/152, measuring 1776 acres was first registered on May 11, 1970, in the following names:

    a) Ali Rashid Mathri as administrator of the Estate of Rashid Ali Manthri (1/4 undivided)
    b) Khamis Mohamed El – Basami as administrator of the Estate of Mohamed Khamis El – Basami (1/4 undivided share).
    c) Muarabu Salim (1/16 undivided share)
    d) Islam Ali (3/32 undivided share)
    e) Ahmed Ali (3/32 undivided share)

19. A certificate of ownership No. CR. 13774 was issued under the Land Titles Ordinance (1908) in respect of the parcel.

20. The current registered proprietors of the Plot No. MN/1V/152 are:
    a) Mbarak Islam Abeid (3/6 undivided share)
    b) Salim Mohamed Basami (1/6 undivided share)
    c) Haidar Mohamed Rashid Basami (1/6 undivided share)
    d) Ahmed Mohamed Rashid (1/6 undivided share)

21. Mbarak Islam Abeid obtained a title for the portion of his share which was registered as C.R 35178 on November 11, 2002 (being a subdivision of Plot No. MN/IV/152.

22. The Petition raises a historical land injustice claim as defined under section 15 (2) of the National Land Commission Act 2021 and recommended that the appropriate redress for the issues raised in the Petition would be lodging a historical land injustice claim with the National Land Commission for consideration.

3.3 Submissions by the National Land Commission

3.3.1 Brief by the National Land Commission Coordinator, Kilifi County

23. The National Land Commission (NLC) Coordinator, Kilifi County briefed the Committee as follows on the issues raised in the Petition during a field visit to Kilifi County on 19th March 2021:

24. The land in question LR 152/42/MN CR 13472/4 covers three villages in Kilifi South Constituency: namely Dindiri, Makata and Kaole.

25. The NLC Kilifi County Office received a copy of a claim by Makao Community Based O on behalf of the residents of the three villages dated 20th November 2019 addressed to the National Assembly Departmental Committee on Lands regarding the ownership of the said land.

26. The NLC office undertook due diligence on the matter and found out that the land was first registered to the Mazrui family under the 1908 Ordinance.

27. A provisional certificate of title for the said land was issued in 1985 and thereafter the land was subdivided and transferred to the following heirs: Mabrak Islam Abeid, Rashid Ali, Mohamed Hamisi, Mohamed Rashid, Islam Ali, and Ahmed Ali.

28. The Kilifi County Office also undertook a site visit to the land in question and found out that the area was heavily settled with several public utilities in place, including Dindiri Primary School Dindiri Secondary School Kaole Primary School and Makata Primary School. There are also 10 churches, 2 mosques and two trading centres.

29. During the site visit the NLC officers observed that the residents of the three villages acknowledged that the title for the land was held by Mabrak Islam Abeid and that the said owner had approached the residents seeking them to purchase the land.

30. The National Land Commission official also stated that the commission had not considered any Historical Land injustice claim regarding the said land.

3.3.2 Submissions by the Chairperson National Land Commission

31. The Committee received written submission from the Chairperson, National Land Commission dated 15th April 2021. The Chairperson stated that:

32. The said plot had a title Ordinance for 1908 registered under Mbarak Islam Abed and other who are believed to be of Mazrui descent.

33. On 8th May 1985, a provisional certificate of the title was issued and then a transfer was done to heirs of the original title holder.

34. Later plot No. MN/IV/152, CR 13774/1 was subdivided into 2 plots No. MN/IV/660 measuring approximately 55.49 acres and was registered under Mbarak Islam Abeid and plot No. MN/IV/661 under Rashid Ali, 444 acres, Mohamed Khamis, 444 acres, Mohamed Rashid 444 acres, Islam Ali 166.5 acres and Ahmed Ali 166.5 acres.

35. The Commission undertook a site visit to the said land and found out that:

    i. The land was heavily squatted with mixed development of permanent, semi – permanent and temporary houses owned by the local community; and

    ii. The land is developed with public utilities including Dindiri Primary School Dindiri Secondary School Kaole Primary School and Makata Primary School. There are also 10 churches, 2 mosques and two (2) trading centres.

36. The residents claimed that they had lived on the land for over 100 years. However, the residents recognized that the said parcel of land was registered under Mbarak Islam Abeid and others.

37. The Commission recommended that the Ministry of Lands and Physical Planning in collaboration with the relevant stakeholders through the Land Settlement Trust Fund

should consider buying the land and settling the squatters who have lived on the land for many years.

3.4 Submissions by Mbarak Islam Abeid and representatives of the heirs of the registered owners of land parcel No. MN/IV/152

38. The Committee met Mbarak Islam Abeid and representatives of the heirs of the other eight registered owners of land parcel No MN/IV/152 on Tuesday 27th July 2021. During the meeting, the Committee was informed that:

39. The land in question was first registered in 1970 to six persons as follows:

    a. Ali Rashid Manthri as the Administrator of the Estate of Rashid Ali Manthri
    b. Mohamed El Basami as the Administrator of the Estate of Mohamed Khamis El- Basami
    c. Mohamed Rashid El- Basami
    d. Muarabu Salim
    e. Ahmed Ali
    f. Islam Ali

40. The Committee was informed that currently the land in question is registered to nine (9) Persons) as follows:

    a. Ali Rashid Manthri as the Administrator of the Estate of Rashid Ali Manthri
    b. Mohamed El Basami as the Administrator of the Estate of Mohamed Khamis El- Basami
    c. Mohamed Rashid El- Basami
    d. Haidar Mohamed Rashid Basami
    e. Mohamed Rashid Basami
    f. Ahmed Mohamed Rashid Basami
    g. Ahmed Ali
    h. Islam Ali
    i. Mbarak Islam Abeid

41. The Committee was informed that efforts by the heirs to obtain a current postal search of the land in question at the Land Registry in Mombasa were not successful. However, they stated that the original title for the land in question issued in 1970 that had been reported to have been lost was recently found. The said title was submitted to the Committee for perusal. However, they acknowledged that the said original title had been overtaken by a provisional title issued in 1985 and they promised to surrender it to the Land Registry for cancellation.

42. Mbarak Islam Abeid informed the Committee that:

i. He bought a portion of the land in question measuring approximately 55.49 acres from Omar Ali Said (one of the heirs to the share of Muarabu Salim) The said portion comprised 3/6 of the 1/16 undivided share registered in the name of Muarabu Salim in the first registration of May 1970);

ii. During the said transaction Omar Ali Said, the seller could not trace the original title deed for the land. Consequently, he obtained a provisional certificate of title for the said land through the Public Trustee (the administrator of the estate of Muarabu bint Salim) having issued Kenya Gazette notice No. 2475 of 28th June 1985;

iii. He later subdivided the land in question into two portions and obtained a certificate of title of his share measuring 55.49 acres. The remaining portion is registered to the other eight proprietors although they had not obtained individual titles.

iv. However, he did not take possession of the land as it was already occupied by squatters and attempts to survey the land in 2011 were thwarted by the said squatters. He further stated that efforts to negotiate with the squatters to realize an amicable solution on the matter have been in vain.

43. The Committee was informed that the original provisional title issued to facilitate the sale of the portion held by Omar Ali Said (the heir to the Estate Muarabu Bint Salim Basami) to Islam Mbarak Abeid could not be traced.

Succession of the registered owners of the Property

44. On the issue of the Succession of the registered owners of the Property the Committee was informed as follows:

a. The estate of Rashid Ali Manthri (444 Acres)

45. Rashid Ali Manthri, the registered owner of ¼ share equivalent to 444 acres of land in Plot. MN/IV/152, passed away on 6th February 2002. He is survived by 9 grandsons, and two granddaughters as per a succession petition dated 26th April 2021 filed by Ahmed Salim Mohamed and Hemed Salim Mohamed. The said succession petition was listed for hearing on 29th July 2021.

b. **The estate of Mohamed Khamis El-Basami (444 Acres)**

46. Mohamed Khamis El-Basami, the registered owner of ¼ share equivalent to 444 acres of land in Plot no. MN/IV/152. is deceased. The late Khamis Mohamed El-Basami was appointed as administrator of his estate, and he went on to appoint Hyder Mohamed Rashid El-Basami as his attorney through a Power of Attorney dated 15th April 1988. Hyder and Khamis have since both passed on. Mohamed Khamis El-Basami is now survived by eleven (11) grandsons and (five) 5 granddaughters.

47. The process of succession for the estate of Mohamed Khamis El-Basami had been initiated at the Kadhi's court and the same was listed for hearing on 29th July 2021.

c. The estate of Mohamed Rashid El-Basami (444 Acres)

48. Mohamed Rashid El-Basami, the registered owner of ¼ share of said property, holding an interest of 444 acres, passed away on 28th September 1945. Grant of letters of Administration were issued on 31st January 1989 appointing Hyder Mohamed Rashid El-Bassamy and Salim Mohamed Rashid El-Bassamy as the administrators of his estate. The deceased was survived by three sons, namely Salim Mohamed Rashid El-Bassamy, Hyder Mohamed Rashid El-Bassamy and Ahmed Mohamed Rashid Bassami, all of whom have passed.

49. Although the deceased's sons' names were spelt as "Basamy" in the said Grant of Letters of Administration, as opposed to "Basami", the proposed administrators of the three deceased (Salim, Hyder and Ahmed) have sworn affidavits confirming that they are one and the same person.

50. The administration of the estate of the late Salim Mohamed Bassamy was applied for in the High Court (Succession Cause no. HC 55 of 1997, and the Grant of Letters of Administration Intestate were issued on 5th January 1998) and a Certificate of Confirmation of Grant was issued on 29th May, 1998 appointing two of the deceased sons, namely: Ahmed Salim Mohamed Bassamy and Amur Salim Mohamed Bassamy as the current administrators of the deceased's estate.

51. With respect to the estates of Hyder Mohamed Rashid Basami and Ahmed Mohamed Rashid Basami, a succession petition was filed at the Kadhi's Court (Succession case no. E 239 of 2021), seeking to appoint Ahmed Salim Mohamed and Hemed Salim Mohamed as the administrators of the deceased's estates. The said application was listed for hearing on 29th July 2021.

d. The estate of Muarabu Salim (111 Acres)

52. Muarabu Salim, the registered owner of 1/16th interest in the said property is deceased. The estate was administered by a Public Trustee by virtue of Grant of Letters of Administration – Probate and Administration cause No .76 of 1983 issued on 14th October 1983. The beneficiaries of the estate were her late husband Omar Ali Said (erroneously referred to in said document as Omar Ali Salim) and three grandsons namely Salim Mohamed Rashid Basami, Haidar Mohamed Rashid Basami and Ahmed Mohamed Rashid Basami.

53. The estate was later transferred to the said beneficiaries in the following shares: Omar Ali Said – 3/6th share, Salim Mohamed Rashid Basami – 1/6th share, Haidar Mohamed Rashid Basami – 1/6th share and Ahmed Mohamed Rashid Basami – 1/6th share.

54. In 1985, Omar Ali Said sold his 3/6th interest in Mbarak Islam Abeid. The said transfer was registered against the Provisional Title on 24th March 1987 and Mbarak Islam Abeid was issued with a title deed pertaining to his 55 acres. He was also issued with a Deed plan reflecting his subdivided plot.

55. Therefore, the legal owners of the remaining portion belonging to the late Muarabu Salim are the administrators of the estates of the late Salim Mohamed Rashid Basami, Haidar Mohamed Rashid Basami and Ahmed Mohamed Rashid Basami , namely Ahmed Salim Mohamed Basami, Amur Salim Mohamed Basami and Hemed Salim Mohamed Basami.

e. The estate of Islam Ali (166.5 Acres)

56. Islam Ali, the registered owner of 3/32nds share of the said Plot, measuring approximately 166.5 acres. Islam Ali, also referred to as Yeslam Ali Bashamkh, passed away on 26th May 1999 and the process of administration was undertaken in High Court, Succession cause no. 147 of 2000, wherein Ali Islam Ali and Mohamed Islam Ali were appointed as administrators of the deceased's estate by virtue of a Certificate of Confirmation of Grant dated 22nd May 2002.

f. The estate of Ahmed Ali (166.5 Acres)

57. Ahmed Ali the registered owner of 3/32nds share of the said Plot, measuring approximately 166.5 acres. Ahmed Ali, also referred to as Ahmed Ali Yeslam, passed away on 6th October, 2012 and the process of administration was undertaken in the High Court, Succession cause no. 73 of 2013, wherein Haji Awadh Omar, Ali Ahmed Alo, Hashim Ahmed Ali, Mohamed Ahmed Ali and Ramla Ahmed Ali were appointed as the Administrators of the deceased's estate by virtue of Certificate of Confirmation of Grant dated 24th October, 2014.

3.5 Submissions by the Land Registrar, Mombasa Land Registry

58. The Committee held a meeting with Mr. S.K. Mwangi, Senior Registrar of Titles, Mombasa Land Registry on Tuesday 27th May 2021. He informed the Committee, that:

59. The land in question LR. No. MN/IV/152, Tile Number CR. 13774, measuring 1776 acres was first registered to the following names on 11th May 1970:
    a. Ali Rashid Manthri as the Administrator of the Estate of Rashid Ali Manthri (1/4 = 444acres)
    b. Mohamed El Basami as the Administrator of the Estate of Mohamed Khamis El-Basami(1/4-= 444 acres)

c. Mohamed Rashid El- Basami (¼ - 444acres)
d. Muarabu Saliim (1/6 =111 acres)
e. Islam Ali (2/32 =166 acres)
f. Ahmed Ali (2/32 =166 acres)

60. A provisional title was issued to the Public Trustee on 8th May 1985, following the reported loss of the original title, to facilitate the succession of the estate of Muarabu Salim.

61. Previous postal searches at the Mombasa Land Registry had erroneous indicated that Mbarak Islam Abeid acquired the entire share (1/6) of the parcel of land in question registered to Muarabu Salim. However, the said transaction involved only 55.5 acres inherited by Omar Ali Salim which constituted 3/6 of the said 1/6 share. The rest of the deceased's estate was shared by the other three heirs as follows:

a. Mohamed Rashid Basami (1/6 share / 18.5acres)
b. Haidar Mohamed Rashid Basami (1/6 share / 18.5acres)
c. Ahmed Mohamed Rashid Basami (1/6 share / 18.5acres)

62. Consequently, the initial submissions made to the Committee by the Ministry of Lands and Physical Planning, indicating that the title to Plot No. MN/IV/152, measuring 1776 acres was currently registered in the names of Mbarak Islam Abeid (3/6 undivided share), Salim Mohamed Basami (1/6 undivided share), Haidar Mohamed Rashid Basami (1/6 undivided share) and Ahmed Mohamed Rashid (1/6 undivided share was erroneous.

63. The current registration record for the said parcel of land as evidenced by a postal search dated 27th July 2021 was as follows:

a. Ali Rashid Manthri as the Administrator of the Estate of Rashid Ali Manthri
b. Mohamed El Basami as the Administrator of the Estate of Mohamed Khamis El- Basami
c. Mohamed Rashid El- Basami
d. Islam Ali
e. Ahmed Ali
f. Mohamed Rashid Basami
g. Haidar Mohamed Rashid Basami
h. Ahmed Mohamed Rashid Basami
i. Mbarak Islam Abeid

64. The original title for the land in question LR 152/IV /MN issued in 1970 in the custody of heirs to the current registered owners should be surrendered to the Mombasa Land Registry, as it had been reported to have been lost and a provisional certificate for the same was issued. Consequently, the original title was deemed to have been cancelled.

65. Although Mbarak Islam Abeid subdivided the land in question into two portions and obtained a certificate of title a No CR. 35178 in respect of the share in 2002 measuring 55. 5 acres. The remaining portion was deemed to be legally registered to the other eight proprietors.

66. Finally, the Registrar noted that the registered owners of the land in question apart from Mbarak Islam Abeid are deceased, and the entitled estates need to submit the succession documents for transmissions of the shares to the surviving heirs.

4.0 OBSERVATIONS / FINDINGS

The Committee made the following observations and findings:

1. The submissions made to the Committee by both the Ministry of Lands and Physical Planning and the National Land Commission indicated that a certificate of ownership No. CR. 13774 in respect of Plot No. MN/IV/152 was originally issued by the colonial government through the 1908 Ordinance is valid.

2. The land in question covers three villages in Kilifi South Constituency: namely Dindiri, Makata and Kaole and the residents of the said villages have lived in the area undisturbed for many years and considered the land in question as their home.

3. The Committee observed that the land in question is developed with several public utilities in place, including Dindiri Primary School that was established in 1951, Dindiri Secondary School which was established in 2009, Kaole Primary School that was established in 2009 and Makata Primary School which was established in 1961. There were also ten (10) churches, two (2) mosques and two trading centres on the land. In this regard, the Committee observed that it could be difficult to relocate the residents from the said land.

4. The Committee noted that the land in question was first registered on May 11, 1970, in the following names:

    a) Ali Rashid Mathri as administrator of the Estate of Rashid Ali Manthri (1/4 undivided).
    b) Khamis Mohamed El – Basami as administrator of the Estate of Mohamed Khamis El – Basami (1/4 undivided share).
    c) Muarabu Salim (1/16 undivided share)
    d) Islam Ali (3/32 undivided share)
    e) Ahmed Ali (3/32 undivided share).

5. In terms of current ownership, the Committee observed that the initial submissions made to the Committee by the Ministry of Lands and Physical Planning, indicating that the title to Plot No. MN/IV/152, measuring 1776 acres was currently registered in the names of Mbarak Islam Abeid (3/6 undivided share), Salim Mohamed Basami (1/6 undivided share), Haidar Mohamed Rashid Basami (1/6 undivided share) and Ahmed Mohamed Rashid (1/6 undivided share was erroneous and only involved the heirs to the 1/6 share of the land in question registered the name of Muarabu Salim(deceased) in 1970.

6. In light of paragraph 5 above, the Committee noted that the Senior Registrar of Titles, Mombasa submitted that the current registration record for the said parcel of land as evidenced by a postal search dated 27th July 2021 was as follows:

a) Ali Rashid Manthri as the Administrator of the Estate of Rashid Ali Manthri
b) Mohamed El Basami as the Administrator of the Estate of Mohamed Khamis El- Basami
c) Mohamed Rashid El- Basami
d) Islam Ali
e) Ahmed Ali
f) Mohamed Rashid Basami
g) Haidar Mohamed Rashid Basami
h) Ahmed Mohamed Rashid Basami
i) Mbarak Islam Abeid

7. The Committee observed that Mbarak Islam Abeid only acquired a portion of the land in question measuring approximately 55.5 acres held by Omar Ali Said, one the heir to the estate Muarabu Salim (deceased) in 1995. In this regard the Committee noted that Mbarak Islam Abeid does not hold a title for the entire land in question as alluded to in the Petition.

8. The Committee further observed that the original title for the land in question LR 152/IV /MN issued in 1970 in the custody of heirs to the current registered owners, which was submitted to the Committee for perusal on 27th July 2021 should be surrendered to the Mombasa Land Registry as it had been reported to have been lost and a provisional certificate for the same issued. Consequently, the original title was cancelled.

9. The Committee also noted that although Mbarak Islam Abeid had **subdivided** the land in question into two portions and obtained a certificate of title for his share measuring 55.5 acres. The Senior Registrar of Titles, Mombasa clarified that the remaining portion was deemed to be legally registered to the other eight proprietors even if they had not obtained individual titles.

10. The Committee further noted that the registered owners of the land in question, apart from Mbarak Islam Abeid, are deceased, and the entitled estates need to submit the succession documents for transmissions of the shares to the surviving heirs.

5. COMMITTEE RECOMMENDATIONS

Pursuant to Standing Order 227, the Committee recommends as follows:

1. **The Cabinet Secretary, Ministry of Lands and Physical Planning in collaboration with the relevant stakeholders through the Land Settlement Fund does acquire alternative land in the Financial Year 2022/2023 for settlement of the residents of Dindiri, Makata and Kaole villages located on Plot No. MN/IV/152.**

2. **The registered owners and holders of the original title for the land Plot No. MN/IV/152, measuring 1776 acres that was first registered on 11th May, 1970 surrender the original title to the Registrar of Titles, at the Mombasa Land Registry for custody.**

Sign_____ **Date** 10/8/2021

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

THE NATIONAL ASSEMBLY
PAPERS LAID
DAY.
DATE: 10 AUG 2021
TABLED BY:
CLERK-AT THE-TABLE:

REPUBLIC OF KENYA
KENYA NATIONAL ASSEMBLY
TWELFTH PARLIAMENT

DEPARTMENTAL COMMITTEE ON LANDS

Adoption List

Report on the Petition regarding dispossession of land belonging to Dindiri-Makata & Kaole Villages in Chasimba Ward, Kilifi South Constituency

Date: 28/07/2025

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

MINUTES OF THE 10TH SITTING OF THE DEPARTMENTAL COMMITTEE ON LANDS HELD ON FRIDAY 19 TH MARCH, 2021 AT COUNTY COMMISIONER KILIFI OFFICE AT 10.00 A.M

PRESENT

1. Hon. Dr. Rachael Nyamai, CBS, M.P - **Chairperson**
2. Hon. Khatib Mwashetani, M. P - **Vice Chairperson**
3. Hon. Omar Mwinyi Shimbwa, M.P
4. Hon. Ali Mbogo, M.P
5. Hon. Caleb Kositany, M.P
6. Hon. Owen Yaa Baya, M.P
7. Hon. Teddy Mwambire, M.P
8. Hon. Patrick Munene Ntwiga, MP

IN ATTENDANCE

NATIONAL ASSEMBLY

Hon. Ken Kiti Chonga, MP

MINISTRY OF LANDS AND PHYSICAL PLANNING

1. Hon. Alex Mwiru - Chief Administrative Secretary
2. Mr. Michael Kinyua - Surveyor
3. Mr. Gabriel Kondeh - Surveyor
4. Mr. Michael Wanyoike - Valuer

NATIONAL LAND COMMISION

1. Mr. Reginald Okumu - Commissioner
2. Mr. Samuel Odari - Deputy Director
3. Mr. Leonard Mwangala - NLC, Kilifi

KILIFI SOUTH COMMUNITY

1. Hon. Ronald Mbura - MCA, Chasimba Ward
2. Mr. Said Juma Iddi - MCA, Junju
3. Mr. Rimba Mwachiru - Kilifi South Constituency Office
4. Mr. Richard Mwambura - Chairman, Makata Village
5. Mr. Alex Nyingei - Secretary

6. Mr. Mathias Gambo - Representative
7. Mr. Joseph Baragwe - Representative
8. Ms. Kusha Mwangale - Representative

THE NATIONAL ASSEMBLY SECRETARIAT

1. Mr. Leonard Machira - Senior Clerk Assistant
2. Mr. Ahmad Guliye - Second Clerk Assistant
3. Ms. Maureen Kweyu - Audio Officer
4. Ms. Peris Kaburi - Serjeant At Arms

MIN. NO. NA/DCS/LANDS/2021/033: PRELIMINARIES

The meeting was called to order at twenty-seven minutes past ten o'clock with a word of prayer.

MIN. NO. NA/DCS/LANDS/2021/034: FIELD VISIT TO KILIFI COUNTY ON THE CONSIDERATION OF THE FOLLOWING PETITIONS

i. **Petition by residents of Dindiri , Makata and Kaole villages, Chasimba Ward in Kilifi South Constituency regarding dispossession of land**
ii. **Petition by residents of Chidongo, Junju, Mirima Mine and Bodoi villigses regarding resettlement of the residents of the villages**

Brief by the relevant State Departments and Agencies

The Chief Administrative Secretary Ministry of Lands and Physical Planning requested that the ministry be allowed to make a comprehensive report on the issues raised in the petition later through the Cabinet Secretary.

Thereafter the Committee was briefed on the National Land Commission Coordinator, Kilifi County on the two petitions as follows:

a) **Petition by residents of Dindiri , Makata and Kaole villages, Chasimba Ward in Kilifi South Constituency regarding dispossession of land**

i. The land in question LR 152/42/MN CR 13472/4 covers three villages in Kilifi South Constituency; namely Dindiri Makata and Kaole;
ii. The NLC Kilifi County Office received a copy of a claim by Makao CBO on behalf of the residents of the three villages dated 20th November 2019 addressed to the

National Assembly Departmental Committee on Lands regarding the ownership of the said land

iii. The NLC office undertook due diligence and established that the land was first registered to the Mazrui family under the 1908 Ordinance;

iv. A professional certificate of title for the said land was issued in 1985 and thereafter the land was subdivided and transferred to the following heirs; Mabrak Islam Abeid, Rashid Ali, Mohamed Hamisi, Mohamed Rashid, Islam Ali and Ahmed Ali;

v. The Kilifi County Office also undertook a site visit to the land in question and found out that the area was heavily settled with several public utilities in place, including Dindiri Primary School Dindiri Secondary School Kaole Primary School and Makata Primary School. There are also 10 churches, 2 mosques and two trading centres on the land;

vi. During the site visit the NLC officers observed that the residents of the three villages acknowledged that the title for the land was held by Mabrak Islam Abeid and that the said owner had approached the residents seeking them to purchase the land; and

vii. The National Land official also stated that the commission had not considered any Historical Land injustice claim regarding the said land.

The Committee resolved to seek additional information from the Ministry of Lands and Physical Planning on

i. Whether the land was registered to the Mazrui family; and

ii. The legality of the issuance of a professional certificate of title for the land in question the subsequent subdivision and transfer of the land in 1985.

b) Petition by residents of Chidongo, Junju, Mirima Mine and Bodoi villigses regarding resettlement of the residents of the villages

i. The NLC Kilifi County office received letter from Chijumibo CBO on behalf of the residents of the four villages seeking regularization of the land in question for allocation to the residents;

ii. The claim by the Community Based Organization indicated that the area was inhabited by approximately 1300 household and that the residents had lived on the land undisturbed for many year;

iii. Consequently, the office wrote to the Chief Land Officer Kilifi and the Registrar of Titles, Mombasa office seeking information and records regarding the land in question on 20th February 2015 and only received response from the Chief Land Office while the did not respond to the request for information despite follow-up by the NLC Kilifi office;

iv. The matter was later escalated to the NLC headquarters and the commission through the chairperson issued an advert requesting any person holding title documents for the land to present the same to the commission for verification

failure to which the land would be declared public land and therefore available for allocation. Nobody responded to the advert ;

v. However, it was later realized that the said advert had indicated the land in question as LR 71/4/MN instead of LR 71/1/4/MN but the commission did not readvertise a notice containing the correct land registration number;

vi. The NLC Kilifi office later obtained a copy of the minutes of the commission meeting held on 26 February 2018 indicating that two groups had presented documents claiming ownership of the land in question as follows:

- Certificate of grant issued to Suleiman Ali and his successors.
- An allotment issued to four individuals namely: Daniel Kimeu Muhia, Lucas Chimera Kenga, Francis Kipkosgei Kemboi, Christopher Tuitoek Kiplagat in 1995.

v. The NLC Coordinator later advise the petitioners to seek redress through the court due to emerging ownership claims.

Suspect insertion in the area survey map: The surveyor who had accompanied the delegation from the Ministry of Lands and Physical Planning informed the Committee that an amendment had been made to the survey map for the area in question that appeared to have been by free hand writing that inserted /1 and /2 in two parcels of land originally indicated in the map as LR 71 registered in the name of Suleiman Ali. The said insertion appeared to have been fraudulent.

The Committee resolved to seek clarification from the Ministry of Lands and Physical Planning on the following

i. The issuance of the original certificate of title;

ii. The circumstance under which the land was allocated to four individuals in 1995 and whether a title had been issued to the said persons; and

iii. The authenticity of an amendment made to the survey map for the area that appeared to have been by free handwriting that inserted /1 and /2 in two parcels of land originally indicated in the map as LR 71 registered in the name of Suleiman Ali.

MIN. NO. NA/DCS/LANDS/2021/035: ADJOURNMENT

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

Signature .....

HON. DR. RACHAEL KAKI NYAMAI, CBS, M.P.
(Chairperson)

Date.....20-4-2021.....

MINUTES OF THE 11TH SITTING OF THE DEPARTMENTAL COMMITTEE ON LANDS HELD ON FRIDAY 19 TH MARCH, 2021 AT DINDIRI, KILIFI SOUTH CONSTITUENCY AT 1.00 P.M

PRESENT

1. Hon. Dr. Rachael Nyamai, CBS, M.P - **Chairperson**
2. Hon. Khatib Mwashetani, M. P - **Vice Chairperson**
3. Hon. Omar Mwinyi Shimbwa, M.P
4. Hon. Ali Mbogo, M.P
5. Hon. Caleb Kositany, M.P
6. Hon. Owen Yaa Baya, M.P
7. Hon. Teddy Mwambire, M.P
8. Hon. Patrick Munene Ntwiga, MP

IN ATTENDANCE

NATIONAL ASSEMBLY

Hon. Ken Kiti Chonga, MP

MINISTRY OF LANDS AND PHYSICAL PLANNING

1. Hon. Alex Mwiru - Chief Administrative Secretary
2. Mr. Michael Kinyua - Surveyor
3. Mr. Gabriel Kondeh - Surveyor
4. Mr. Michael Wanyoike - Valuer

NATIONAL LAND COMMISION

1. Mr. Reginald Okumu - Commissioner
2. Mr. Samuel Odari - Deputy Director
3. Mr. Leonard Mwangala - NLC, Kilifi

KILIFI SOUTH COMMUNITY

1. Hon. Ronald Mbura - MCA, Chasimba Ward
2. Mr. Said Juma Iddi - MCA, Junju
3. Mr. Rimba Mwachiru - Kilifi South Constituency Office
4. Mr. Richard Mwambura - Chairman, Makata Village
5. Mr. Alex Nyingei - Secretary

6. Mr. Mathias Gambo - Representative
7. Mr. Joseph Baragwe - Representative
8. Ms. Kusha Mwangale - Representative

THE NATIONAL ASSEMBLY SECRETARIAT

1. Mr. Leonard Machira - Senior Clerk Assistant
2. Mr. Ahmad Guliye - Second Clerk Assistant
3. Ms. Maureen Kweyu - Audio Officer
4. Ms. Peris Kaburi - Serjeant At Arms

MIN. NO. NA/DCS/LANDS/2021/036: PRELIMINARIES

The meeting was called to order at twenty-seven minutes past ten o'clock with a word of prayer.

MIN. NO. NA/DCS/LANDS/2021/037: FIELD VISIT TO KILIFI COUNTY ON THE CONSIDERATION OF THE FOLLOWING PETITIONS

i. **Petition by residents of Dindiri , Makata and Kaole villages, Chasimba Ward in Kilifi South Constituency regarding dispossession of land**
ii. **Petition by residents of Chidongo, Junju, Mirima Mine and Bodoi villigses regarding resettlement of the residents of the villages**

:

a) **Petition by residents of Dindiri , Makata and Kaole villages, Chasimba Ward in Kilifi South Constituency regarding dispossession of land**

The petitioners through four representatives the Chairperson Makao CBO and the area Member of County Assembly (MCA) informed the Committee as follows

i. The land in question covers three villages in Kilifi South Constituency; namely Dindiri Makata and Kaole;
ii. The residents of the said villages had lived in the area undisturbed for many years and considered the land in question as their home but they had not been issued with title deeds
iii. The area was heavily settled with several public utilities in place, including Dindiri Primary School that was established in 1951, Dindiri Secondary School established in 2009 , Kaole Primary School established in 2009 and Makata Primary School established in 1961 There are also 10 churches, 2 mosques and two trading centres on the land;

iv. They argued the said facilities demonstrated that the petitioners had lived in the area for many years;

v. They questioned the legality of a title issued in 1908, held by Mabrak Islam Abeid and argued that the said title was issued during the colonial administration and was currently invalid. Consequently, they prayed that the land in question be allocated to the residents according to current occupancy.

The Ministry of Lands and Physical Planning and the National Land Commission officials however clarified to the petitioners that title documents issued by the colonial government through the 1908 Ordinance were still valid and any measures to address the plight of the petitioners should be made based on the fact any title issued for the land under the said legal framework was still valid.

b) Petition by residents of Chidongo, Junju, Mirima Mine and Bodoi villigses regarding resettlement of the residents of the villages

The representative of the four villages, the Chairperson Chijumibo CBO and the area Member of County Assembly on behalf of the residents informed the Committee that:

i. They stated that the area was inhabited by approximately 1300 households

ii. The residents had lived on the land undisturbed for many year and believed that the land was government land;

iii. They residents had made many attempts through the area District Commissioner to have the land allocated to them in vain;

iv. The petitioners carried out a postal search for the land in question and established that the land did not have any register owner;

v. Consequently, they wrote to the National Commission seeking to be allocated the land and the commission through the chairperson issued an advert on 2017 requesting any person holding title documents for the land to present the same to the commission for verification failure to which the land would be declared public land and therefore available for allocation. Nobody responded to the advert

vi. However, it the said advert had indicated the land in question as LR 71/4/MN instead of LR 71/1/4/MN but the commission did not readvertise a notice containing the correct land registration number despite the efforts of the petitioners to have the same corrected;

vii. They later found out that an allotment had been issued to four individuals namely: Daniel Kimeu Muhia, Lucas Chimera Kenga, Francis Kipkosgei Kemboi, Christopher Tuitoek Kiplagat in 1995. However, none of the said persons had ever been in occupation of the said land;

viii. The Petitioners prayed that the government through the Ministry of Lands and Physical Planning and other relevant agencies initiates measures to have the land

in question by allocated to the residents. The added that any such allocation be implemented according to current occupancy to avoid displacement from their current homes; and

ix. They also requested that in order to realize a comprehensive solution to the land problem in the area another 72acre piece of government land adjacent to the land in question be subdivided and issued to the residents of the four villages as some of the residents also live on the land. The also justified the request on the basis that part of the land was currently occupied by a school.

MIN. NO. NA/DCS/LANDS/2021/038: ADJOURNMENT

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

Signature .....

HON. DR. RACHAEL KAKI NYAMAI, CBS, M.P.
(Chairperson)

Date.....20-4-2021.....

MINUTES OF THE 33RD SITTING OF THE DEPARTMENTAL COMMITTEE ON LANDS HELD ON TUESDAY, 27TH JULY, 2021 AT ENGLISH POINT, MARINA – MOMBASA AT 2.30 P.M

PRESENT

1. Hon. Dr. Rachael Nyamai, CBS, M.P - **Chairperson**
2. Hon. Khatib Mwashetani, M. P - **Vice Chairperson**
3. Hon. Benjamin Washiali, CBS, MP
4. Hon. Omar Mwinyi Shimbwa, M.P
5. Hon. Ahmed Kolosh, MP
6. Hon. Ali Mbogo, M.P
7. Hon. George Risa Sunkuyia, M.P
8. Hon. Owen Yaa Baya, M.P
9. Hon. Samuel Kinuthia Gachobe, MP
10. Hon. Teddy Mwambire, M.P

APOLOGIES

1. Hon. Mishi Mboko, M.P
2. Hon. Joshua Kutuny, MP
3. Hon. Babu Owino, MP
4. Hon. Caleb Kositany, MP
5. Hon. George Aladwa, M.P
6. Hon. John Muchiri Nyaga, MP
7. Hon. Josphat Gichunge Kabeabea, M.P
8. Hon. Lilian Tomitom, MP
9. Hon. Patrick Munene Ntwiga, MP

WAKF COMMISSIONERS OF KENYA

1. Dr. Ibrahim Bulushi - Secretary
2. Mr. Mohamed Swali - Administrative Assistant
3. Mr. Samuel K Mwangi - Registrar of Titles, Mombasa Registry

THE NATIONAL ASSEMBLY SECRETARIAT

1. Mr. Leonard Machira - Senior Clerk Assistant
2. Mr. Ahmad Guliye - Second Clerk Assistant
3. Dr. Kefa Omoti - Principal Research Officer
4. Ms. Christine Maeri - Audio Officer
5. Ms. Peris Kaburi - Serjeant At Arms

MIN. NO. NA/DDC/LANDS/2021/106: PRELIMINARIES

The meeting was called to order at seven minutes past ten o'clock with a word of prayer and thereafter introductions were made.

MIN. NO. NA/DCS/LANDS/2021/109: MEETING WITH THE REGISTRAR, MOMBASA REGISTRY ON THE PETITIONs REGARDING DISPOSSESSION OF LAND BELONGING TO DINDIRI – MAKATA & KAOLE VILLAGES IN CHASIMBA WARD, KILIFI SOUTH CONSTITUENCY

The Senior Registrar of Titles, Mombasa Land Registry informed the Committee as follows:

i. The land in question LR. No. MN/IV/152, Tile Number CR. 13774, measuring 1776 acres was first registered to the following names on 11th May 1970:
   a. Ali Rashid Manthri as the Administrator of the Estate of Rashid Ali Manthri (1/4 = 444acres)
   b. Mohamed El Basami as the Administrator of the Estate of Mohamed Khamis El-Basami(1/4-= 444 acres)
   c. Mohamed Rashid El- Basami (¼ - 444acres)
   d. Muarabu Saliim (1/6 =111 acres)
   e. Islam Ali (2/32 =166 acres)
   f. Ahmed Ali (2/32 =166 acres)

ii. A provisional title was issued to the Public Trustee on 8th May 1985, following the reported loss of the original title, to facilitate the succession of the estate of Muarabu Salim.

iii. The current registration record for the said parcel of land as evidenced by a postal search dated 27th July 2021 was as follows:
   a. Ali Rashid Manthri as the Administrator of the Estate of Rashid Ali Manthri
   b. Mohamed El Basami as the Administrator of the Estate of Mohamed Khamis El- Basami
   c. Mohamed Rashid El- Basami
   d. Islam Ali
   e. Ahmed Ali
   f. Mohamed Rashid Basami
   g. Haidar Mohamed Rashid Basami
   h. Ahmed Mohamed Rashid Basami
   i. Mbarak Islam Abeid

iv. The original title for the land in question LR 152/IV /MN issued in 1970 in the custody of heirs to the current registered owners should be surrendered to the Mombasa Land Registry, as it had been reported to have been lost and a provisional certificate for the same was issued. Consequently, the original title was deemed to have been cancelled.

v. Although Mbarak Islam Abeid subdivided the land in question into two portions and obtained a certificate of title a No CR. 35178 in respect of the share in 2002 measuring 55. 5 acres. The remaining portion was deemed to be legally registered to the other eight proprietors.

vi. The registered owners of the land in question apart from Mbarak Islam Abeid are deceased, and the entitled estates need to submit the succession documents for transmissions of the shares to the surviving heirs.

MIN. NO. NA/DCS/LANDS/2021/110: MEETING WITH THE REGISTRAR, MOMBASA REGISTRY ON THE PETITION BY RESIDENTS OF CHIDONGO, JUNJU, MRIMA MINE AND BODOI VILLAGES OF KILIFI SOUTH CONSTITUENCY REGARDING RESETTLEMENT OF THE RESIDENTS

The Senior Registrar of Titles, Mombasa Land Registry informed the Committee as follows;

a. The land in question LR No. MN/IV/71/1 was allocated to current registered proprietors;Muhia Daniel Kimeu, Lucas Chimera Kenga, Francis Kipkogei Kemboi and Christopher Tuitoek Kiplagat as afresh allocation of government land and the same was processed by the Land Administration department in the Ministry of Lands and Physical Planning. Subsequently, the documents for the allocation were forward to the Mombasa Land Registry for registration and issuance of a title through a forwarding letter dated 6th March 2018 from the office of the Chief Land Registrar.

b. Records held at the Land Registry in Mombasa indicate that an entry made by the Record of Titles in 1924 indicate that the parcel of land was divided into two portions MN/IV/71/1 and MN/IV/71/2. The first portion MN/IV/71/1 measuring 491.2 acres was reserved as Wakf property to the heirs of Mohamed bin Juma and their children forever while the second portion MN/IV/71/2 measuring 2158 hectares was converted into the Mtwapa Scheme vide a transfer dated 6th August 1976.

c. There are no records indicating that a title was issued in respect of plot No. MN/IV/71/1. However, the registration card clearly indicate that the parcel of land was reserved to the wakf of the heirs of Mohamed Bin Juma and their children forever. Consequently, the said parcel of land would not be availed for allocation unless due process was followed in acquiring the interest from the wakf free of encumbrances.

d. There is need for the ascertainment of the legitimate heirs of Mohamed Bin Juma with the aim of procuring the title document and proper administration of the land as intended.

e. There are no records at the Mombasa Land Registry to confirm whether a ground report was submitted to the Ministry of Lands and Physical Planning to confirm whether the parcel of land was committed to other use before the allocation of the land to the said registered owners was made as required for fresh allocation of government land.

f. The issuance of a 999-year lease for a new grant in respect of the said land to Muhia Daniel Kimeu, Lucas Chimera Kenga, Francis Kipkogei Kemboi and Christopher Tuitoek Kiplagat was irregular as the Ministry had stopped issuing 999-year leases for new grants since the promulgation of the 2010 Constitution.

g. The Ministry of Lands and Physical Planning had commenced internal investigations on the registration of the land in question to Muhia Daniel Kimeu, Lucas Chimera Kenga, Francis Kipkogei Kemboi and Christopher Tuitoek Kiplagat.

MIN. NO. NA/DCS/LANDS/2021/111: MEETING WITH THE SECRETARY WAKF COMMISSIONERS OF KENYA ON THE PETITION BY RESIDENTS OF CHIDONGO, JUNJU, MRIMA MINE AND BODOI VILLAGES OF KILIFI SOUTH CONSTITUENCY REGARDING RESETTLEMENT OF THE RESIDENTS

The Secretary, Wakf Commissioners of Kenya informed the Committee as follows:

a. The Wakf Commissioners of Kenya is an institution under the office of the Attorney General that administers both private and public wakf (registered with the institution) as provided by the Wakf Commissioners of Kenya Act (Cap109). The jurisdiction of the institution is confined to the former Coast Province.

b. Land Parcel MN/IV/71/1 measuring 491.2 acres is not registered as a Wakf property with the institution as required under section 10 (2) of the Wakf Commissioners of Kenya Act (Cap109). Therefore, the wakf record by the recorder of title is a private wakf that has not been registered with the Institution. They clarified that although the Commissioners registered and administer both private and public wakf. The Islamic teachings allow for individuals to register private wakf.

c. The lease of 999 years issued to the current registered owners is not valid since the sanction of the wakf Commissioners of Kenya was not obtained contrary to section 14 of the Wakf Commissioners of Kenya Act, Cap 109.

vii. They recommended that the parcel land reverts to the Wakf Commissioners of Kenya as provided for in Wakf Commissioners of Kenya Act, Cap 109 and the Institution could the administer the same on behalf of the heirs of Mohamed Bin Juma.

viii. On the issue of the squatters currently occupying the land the Secretary said that the Institution could negotiate with the government to facilitate the purchase of the land to settle the squatters.

MIN. NO. NA/DDC/LANDS/2021/108: ADJOURNMENT

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

Signature .....

HON. DR. RACHAEL KAKI NYAMAI, CBS, M.P.
(Chairperson)

Date.....05/08/2021.....

MINUTES OF THE 35TH SITTING OF THE DEPARTMENTAL COMMITTEE ON LANDS HELD ON WEDNESDAY, 28TH JULY, 2021 AT ENGLISH POINT, MARINA – MOMBASA AT 2.30 P.M

PRESENT

1. Hon. Dr. Rachael Nyamai, CBS, M.P - **Chairperson**
2. Hon. Khatib Mwashetani, M. P - **Vice Chairperson**
3. Hon. Benjamin Washiali, CBS, MP
4. Hon. Omar Mwinyi Shimbwa, M.P
5. Hon. Ahmed Kolosh, MP
6. Hon. Ali Mbogo, M.P
7. Hon. George Risa Sunkuyia, M.P
8. Hon. Owen Yaa Baya, M.P
9. Hon. Samuel Kinuthia Gachobe, MP
10. Hon. Teddy Mwambire, M.P

APOLOGIES

1. Hon. Mishi Mboko, M.P
2. Hon. Joshua Kutuny, MP
3. Hon. Babu Owino, MP
4. Hon. Caleb Kositany, MP
5. Hon. George Aladwa, M.P
6. Hon. John Muchiri Nyaga, MP
7. Hon. Josphat Gichunge Kabeabea, M.P
8. Hon. Lilian Tomitom, MP
9. Hon. Patrick Munene Ntwiga, MP

THE NATIONAL ASSEMBLY SECRETARIAT

1. Mr. Leonard Machira - Senior Clerk Assistant
2. Mr. Ahmad Guliye - Second Clerk Assistant
3. Ms. Jemimah Waigwa - Legal Counsel
4. Dr. Kefa Omoti - Principal Research Officer
5. Ms. Christine Maeri - Audio Officer
6. Ms. Peris Kaburi - Serjeant At Arms

MIN. NO. NA/DDC/LANDS/2021/113: PRELIMINARIES

The meeting was called to order at fifteen minutes to three o'clock with a word of prayer.

MIN. NO. NA/DCS/LANDS/2021/114: ADOPTION OF THE REPORT BY RESIDENTS OF DINDIRI - MAKATA AND KAOLE VILLAGES IN CHASIMBA WARD, KILIFI SOUTH CONSTITUENCY REGARDING DISPOSSESSION OF LAND BELONGING TO RESIDENTS OF DINDIRI– MAKATA AND KAOLE VILLAGES

The Committee adopted the report on the Petition by residents of Dindiri - Makata and Kaole Villages in Chasimba Ward, Kilifi South Constituency regarding dispossession of Land belonging to the residents and made the following observations and recommendations. The adoption was proposed and seconded by Hon. Khatib Mwashetani, MP and Hon. Samuel Gachobe, MP respectively.

Observations

The Committee made the following observations from evidence adduced in the meetings, that: -

1. The submissions made to the Committee by both the Ministry of Lands and Physical Planning and the National Land Commission indicated that a certificate of ownership No. CR. 13774 in respect of Plot No. MN/IV/152 was originally issued by the colonial government through the 1908 Ordinance is valid.
2. The land in question covers three villages in Kilifi South Constituency: namely Dindiri, Makata and Kaole and the residents of the said villages have lived in the area undisturbed for many years and considered the land in question as their home.
3. The Committee observed that the land in question is developed with several public utilities in place, including Dindiri Primary School that was established in 1951, Dindiri Secondary School which was established in 2009, Kaole Primary School that was established in 2009 and Makata Primary School which was established in 1961. There were also ten (10) churches, two (2) mosques and two trading centres on the land. In this regard, the Committee observed that it could be difficult to relocate the residents from the said land.
4. The Committee noted that the land in question was first registered on May 11, 1970, in the following names:
   a) Ali Rashid Mathri as administrator of the Estate of Rashid Ali Manthri (1/4 undivided).
   b) Khamis Mohamed El – Basami as administrator of the Estate of Mohamed Khamis El – Basami (1/4 undivided share).
   c) Muarabu Salim (1/16 undivided share)
   d) Islam Ali (3/32 undivided share)
   e) Ahmed Ali (3/32 undivided share).

5. In terms of current ownership, the Committee observed that the initial submissions made to the Committee by the Ministry of Lands and Physical Planning, indicating that the title to Plot No. MN/IV/152, measuring 1776 acres was currently registered in the names of Mbarak Islam Abeid (3/6 undivided share), Salim Mohamed Basami (1/6 undivided share), Haidar Mohamed Rashid Basami (1/6 undivided share) and Ahmed Mohamed Rashid (1/6 undivided share was erroneous and only involved the heirs to the 1/6 share of the land in question registered the name of Muarabu Salim(deceased) in 1970.
6. In light of paragraph 5 above, the Committee noted that the Senior Registrar of Titles, Mombasa submitted that the current registration record for the said parcel of land as evidenced by a postal search dated 27th July 2021 was as follows:
   a) Ali Rashid Manthri as the Administrator of the Estate of Rashid Ali Manthri
   b) Mohamed El Basami as the Administrator of the Estate of Mohamed Khamis El-Basami
   c) Mohamed Rashid El- Basami
   d) Islam Ali
   e) Ahmed Ali
   f) Mohamed Rashid Basami
   g) Haidar Mohamed Rashid Basami
   h) Ahmed Mohamed Rashid Basami
   i) Mbarak Islam Abeid

7. The Committee observed that Mbarak Islam Abeid only acquired a portion of the land in question measuring approximately 55.5 acres held by Omar Ali Said, one the heir to the estate Muarabu Salim (deceased) in 1995. In this regard the Committee noted that Mbarak Islam Abeid does not hold a title for the entire land in question as alluded to in the Petition.
8. The Committee further observed that the original title for the land in question LR 152/IV /MN issued in 1970 in the custody of heirs to the current registered owners, which was submitted to the Committee for perusal on 27th July 2021 should be surrendered to the Mombasa Land Registry as it had been reported to have been lost and a provisional certificate for the same issued. Consequently, the original title was cancelled.

9. The Committee also noted that although Mbarak Islam Abeid had **subdivided** the land in question into two portions and obtained a certificate of title for his share measuring 55.5 acres. The Senior Registrar of Titles, Mombasa clarified that the remaining portion was deemed to be legally registered to the other eight proprietors even if they had not obtained individual titles.
10. The Committee further noted that the registered owners of the land in question, apart from Mbarak Islam Abeid, are deceased, and the entitled estates need to submit the succession documents for transmissions of the shares to the surviving heirs.

Recommendations

The Committee made the following recommendations:

1. The Cabinet Secretary, Ministry of Lands and Physical Planning in collaboration with the relevant stakeholders through the Land Settlement Fund does acquire alternative land in

the Financial Year 2022/2023 for settlement of the residents of Dindiri, Makata and Kaole villages located on Plot No. MN/IV/152.

2. The registered owners and holders of the original title for the land Plot No. MN/IV/152, measuring 1776 acres that was first registered on 11th May, 1970 surrender the original title to the Registrar of Titles, at the Mombasa Land Registry for custody.

MIN. NO. NA/DCS/LANDS/2021/115: ADOPTION OF THE REPORT BY RESIDENTS OF CHIDONGO, JUNJU, MRIMA MINNE AND BODOI VILLAGES OF KILIFI SOUTH CONSTITUENCY REGARDING RESETTLEMENT OF THE RESIDENTS

The Committee adopted the report on the Petition by residents of Chidongo, Junju, Mrima Minne and Bodi Villages in Kilifi South Constituency regarding resettlement of residents and made the following observations and recommendations. The adoption was proposed and seconded by Hon. Benjamin Washiali, MP and Hon. Ahmed Kolosh, MP respectively.

Observations

The Committee made the following observations and findings:

1. The land in question is heavily settled as evidenced by established infrastructure such as Bodoi Primary School, Chidongo Primary School, Junju Primary School, Junju Secondary School, Mirima Mine Primary School, Sirini Primary School, mosques, dispensaries, churches, and other commercial establishments. In this regard, the Committee observed that it could be difficult to relocate the residents from the said land.
2. The National Land Commission, following a request made by the petitioners seeking to be allocated the land in question, placed a public notice in the print media containing an erroneous land registration number for purposes of those claiming ownership of the land in question to avail ownership documents to the commission for verification and confirmation on 21st November 2017.
3. The Committee further observed that the commission did not readvertise a notice containing the correct land registration upon realizing that the initial advert had indicated the land in question as LR No. MN/IV/71 instead of LR No. MN/IV/71/1.
4. The submissions made to the Committee by the Ministry of Lands and Physical Planning, the National Land Commission and the Senior Registrar Titles, Mombasa Land Registrar indicated that the circumstances relating to ownership of the land in question appears suspicious on the following grounds:

i. The Ministry of Lands and Physical Planning submitted that the current registered proprietors of LR. No. MN/IV/71/1 are Muhia Daniel Kimeu, Lucas Chimera Kenga, Francis Kipkogei Kemboi and Christopher Tuitoek Kiplagat.
ii. The Ministry of Lands and Physical Planning further submitted that the records at the Mombasa Registry also indicated that the land in question MN/IV/71/1 was reserved as Wakf property to the heirs of Mohamed bin Juma. Therefore, the said parcel of land would not have been available for allocation unless due process was followed in acquiring the interest from the wakf free of encumbrances (annexure I).
iii. It is notable that Muhia Daniel Kimeu, Lucas Chimera Kenga, Francis Kipkogei Kemboi and Christopher Tuitoek Kiplagat being the current registered proprietors of LR. No. MN/IV/71/1 obtained a 999-year lease for the land. The issuance of a 999-year lease for a new grant in respect of the said land appears suspicious as the Ministry had stopped issuing 999-year leases for new grants since 2010.
iv. The issuance of a 999-year lease for a new grant in respect of the said land commencing 1st January 1995 and a certificate of Title No. C. R. 71107 in respect of the said land was issued on 1st March 2018.
v. The correspondence file for the plot could not be traced at the records section at the Ministry and the survey details were also missing from the Ministry 's survey offices.
vi. The Senior Registrar of Titles, Mombasa Land Registry submitted that there are no records at the Mombasa Land Registry to confirm whether a ground report was submitted to the Ministry of Lands and Physical Planning to facilitate the allocation of the land to the said registered owners as required for fresh allocation of government land.
vii. The National Land Commission submitted that apart from a copy of the title issued to Muhia Daniel Kimeu, Lucas Chimera Kenga, Francis Kipkogei Kemboi and Christopher Tuitoek Kiplagat, it had also received a certificate of confirmation of grant of the estate of Suleiman Ali (deceased), issued to Awena Hemed Mohammed dated 17th July 2020 in Succession Case No. 29 of 2017 indicating the land in question as LR. No. MN/IV/71/Junju instead of LR 71/1/IV/MN (annexure).
viii. The National Land Commission did not readvertise a notice containing the correct land registration even upon realizing that the initial advert had erroneously indicated the land in question as LR 71/IV/MN instead of LR 71/1/IV/MN.

5. The Secretary, Wakf Commissioners of Kenya submitted that land parcel MN/IV/71/1 measuring 491.2 acres is not registered as a Wakf property with the institution as required under section 10 (2) of the Wakf Commissioners of Kenya Act (Cap109). Therefore, the wakf to the heirs of Mohamed bin Juma made in the records at the Mombasa land Registry in 1924 was a private wakf and hence not available for allocation.

Recommendations

1. The Ethics and Anti-Corruption Commission considers investigating the circumstances surrounding the allocation of the land parcel L.R No. MN/IV/71/1 to the current registered owners and any other person and make the relevant recommendations thereof.
2. The Chief Land Registrar ensures that there are no further transactions relating to the land in question, L.R No. MN/IV/71/1, until the investigations by the Ethics and Anti-Corruption Commission are concluded.
3. The Cabinet Secretary, Ministry of Lands and Physical Planning identifies the heirs of the wakf recorded by Mohamed bin Juma in the Mombasa Land Registry in 1924 with a view to acquiring the land in question, L.R No. MN/IV/71/1, through the Land Settlement Fund for the settlement of current occupiers within 90 days of tabling of this Report.

MIN. NO. NA/DDC/LANDS/2021/116: ANY OTHER BUSINESS

a. **Petition by the family of Mohamed Mwinyihaji Bwika regarding dispossession of Diani complex land**: The Committee tasked the secretariat to make a follow up on correspondence seeking response from the Cabinet Secretary Ministry of Lands and Physical planning on the issues raised in the petition

b. **Complaints by Hon. Omar Mwinyi, MP on behalf of residents of Changamwe Constituency regarding eviction of Mazunguka:** The Committee would consider the complaints raised by the residents of Changamwe Constituency relating parcels of land in the next meeting with a view to recommending resolution on the same.

MIN. NO. NA/DDC/LANDS/2021/117: ADJOURNMENT

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

Signature .....

HON. DR. RACHAEL KAKI NYAMAI, CBS, M.P.
(Chairperson)

Date.....05/08/2021.....

THE NATIONAL ASSEMBLY
PAPERS LAID
DATE: 10 AUG 2021 DAY.
TABLED BY:
CLERK-AT THE-TABLE:

Hon. Speaker
You may approve.
arap Kirui
DDLP.
3/11/20

Approved
SNA
3/11/2020

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

(No. 38 of 2020)

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

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

DRAW the attention of the House to the following: -

1. **THAT,** Makao CBO was registered as a Community Based Organization on 26th August 2019 under Certificate Number 49145 and has membership comprising residents of Dindiri-Makata and Kaole Villages of Chasimba Ward in Kilifi South Constituency;

2. **THAT,** residents of these two villages comprising of a population of over 65,000 live on the ancestral land registered under Plot No.152/IV/MN measuring 1,776 acres;

3. **THAT,** the residents recently discovered with dismay the existence of copies of a title deed dated 1908 that allegedly assigns ownership of the land to an absentee individual by the name of Mbarak Islam Abed;

4. **THAT,** this alleged subdivision and title deed issuance is irregular and highly questionable in view of, among other reasons, the fact that it was issued over 110 years ago during the British colonial era yet at Independence in 1963 all Kenyan land was freed from colonial oversight and transferred to the Government to safeguard the welfare of indigenous people occupying their respective lands;

5. **THAT,** Wachonyi and Giriama ancestors had settled in the Dindiri-Makata-Kaole forest area for over 100 years without any dispute or opposition, and had built houses, grown crops such as coconut palms, cashewnuts, maize, cassava and mangoes, and reared livestock;

6. **THAT,** over the decades, the community expanded exponentially and established numerous social infrastructure such as Dindiri Nursery School, Makata Primary

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

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

7. **THAT,** grave yards that are almost 100 years old as well as old mango trees are a testament to the fact that the residents have lived on this ancestral land for decades;

8. **THAT,** the area residents are the legitimate owners of the land Plot No.152/IV/MN as a community by virtue of being the occupants of the land for centuries;

9. **THAT,** efforts to address this matter with relevant authorities have not borne much fruit;

10. **AND THAT,** the matter in respect of which this petition is made is not pending before any Court of Law or Constitutional body.

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

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

And your **PETITIONERS** will ever pray.

PRESENTED BY

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

Date 3/11/2020

28th November, 2019

MAKAO CBO
Tel: 0726 339 039
P.O. Box 1153 - 80108, KILIFI

FROM:
MAKAO CBO
P.O. BOX
KILIFI

TO;
THE CHAIRPERSON
PARLIAMENTARY COMMITTEE ON LANDS
P.O. BOX .....
NAIROBI

THRO:
THE MP
KILIFI SOUTH CONSTITUENCY
HON. KEN CHONGA

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

Preamble:
MAKAO CBO is a registered Community Based Organization. Its registration is SS/KLF/HD/LR/CBO/CHONYI-D/121/2019 certificate number is 49145 dated 26th August, 2019.
The membership of MAKAO CBO is all the residents of Dindiri – Makata & Kaole villages of Chasimba Ward, Kilifi South Constituency, Chonyi Sub County, Kilifi County living within the span of land occupying the **Plot No. 152/IV/ MN containing 1776 acres.**
There are over 1000 households within this area.
The total population of the people occupying the plot is about 65,000 which include men, women, children and grand children.

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

We therefore, since inception of the group have been finding ways of getting the right to the ownership of the land mentioned above and we still haven't succeeded.
In our effort in pursuit of this land problem, we managed to acquire certified copies of the Land Title Deed dated 1908 , its registration and mode of subdivision and transfers of the same (see copies attached) for the piece of land and found out that the title deed to our land (this land of Dindiri - Makata & Kaole) which we have been occupying for centuries and decades is in the name of one **Mbarak Islam Abed**. (absentee).

We have wondered how he acquired the said title deed which is dated way back in the 1908, a time when Kenya was under the rule of the British!!!
We underasatnd that upon gaining her full independence, the entire land in Kenya, was freed from the British rule and, we usurped the ownership of our land as a sovereign state and as the indigenous people of Kenya who were occupying the land in question above.

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

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

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

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

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

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

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

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

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

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

There is a private primary school within the area.

There are also over 10 churches of different denominations.

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

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

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

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

1. Age old grave yards spanning from Dindiri-Makata to Kaole villages in each boma where clans have been burying our dead family members over the years.
2. Very old tree crops such as mango trees, Bombax rhodognaphalon (misufi), coconut trees, and newly planted forest trees as reforestation (for economic purposes). Several age old mango trees can vividly be seen especially in areas of graveyards.
3. Elderly men and women born here who are over the age of 80 years and have never been disturbed by anyone claiming ownership of the land in question.
   Examples of such include: Mzee Mdachi Msiriro – born 1924 (ID No. 5456533), Mzee Nyamawi Muhaso – born 1926 (ID No. 4584301), Mzee Lewa Ngoma – born 1928 (ID No. 3885433), Mzee Joseph Barawa – born 1930 (ID No. 2149351), Mzee Mwatsuma Mdiwa – born 1932 (ID No. 3903981), Mzee Mwangala Kusa – born 1935 (ID No. 5339384), Mzee Rondo Mwabonje – born 1942 (ID No. 32580497) among others.
4. Several permanent residential and commercial houses
5. The 3 public nursery and primary schools and the 1 public secondary school as other learning institutions

- M. P. Kilifi South Constituency – Hon. Ken Chonga
- M.C.A. Chasimba Ward – Hon. Kazungu Mbura

MAKAO CBO
Tel: 0726 339 039
Date: 28/Nov/2019
P.O. Box 1153 - 80108, KILIFI

ANNEXURE I

RESPONSE BY THE MINISTRY OF LANDS AND PHYSICAL PLANNING

MINISTRY OF LANDS AND PHYSICAL PLANNING

RESPONSES TO THE NATIONAL ASSEMBLY DEPARTMENTAL COMMITTEE ON LANDS

Honourable Chair,

Pursuant to a letter Ref. **NA/DDC/LANDS/2021/(046)** dated March 31, 2021, the Committee invited the Cabinet Secretary Ministry of Lands and Physical Planning to respond to the following:

i) Petition by Hon. Ken Kiti Chonga MP on behalf of residents of Dindiri-Makata and Kaole Villages regarding dispossession of land belonging to Dindiri-Makata and Kaole residents in Chasimba Ward, Kilifi South Constituency
ii) Petition by Hon. Ken Kiti Chonga MP on behalf of residents of Chidongo, Junju, Mirima Minne and Bodoi regarding resettlement of residents of Chidongo, Junju, Mirima Minne and Bodoi in Kilifi South Constituency
iii) Petition by residents of Tetu Sub-county regarding resettlement of Tucha Kiandongoro Forest squatters in Solio Ranch
iv) Petition by Hon. Ali Wario Guyo MP on behalf of Father Grol's Welfare regarding subdivision of the Agricultural Development Corporation (ADC) land and stakeholder consultations on Galana Kulalu food security project.

Honourable Chair, we wish to respond as follows;

i) Petition by Hon. Ken Kiti Chonga MP on behalf of residents of Dindiri-Makata and Kaole Villages regarding dispossession of land belonging to Dindiri-Makata and Kaole residents in Chasimba Ward, Kilifi South Constituency

The petition dated November 3, 2020 was presented by Makao CBO, a community-based organization comprising residents of Dindiri-Makata and Kaole villages of Chasimba Ward in Kilifi South Constituency residing on Plot No. 152/IV/MN measuring 1776 acres, claimed to be ancestral land.

The Petitioners claim that they recently discovered that the land is registered in the name of Mbarak Islam Abed, the title having been issued in 1908. They state that the title deed was irregularly issued since it could not have been issued to the said person during the British colonial era.

According to the Petitioners, they have resided on the land for over 100 years and as such, they are the legitimate owners of the land. They claim that efforts to address the matter with the relevant authorities have been futile.

The Petitioners therefore request the Committee to inquire into the matter with a view to secure the revocation of the title deed issued to facilitate subdivision of the land in their favour.

Honourable Chair, we wish to respond as follows;

According to our records, title to Plot No. MN/IV/152 (measuring 1776 acres) was first registered on May 11, 1970 in the following names-

i) Ali Rashid Mathri as administrator of the estate of Rashid Ali Manthri (1/4 undivided)
ii) Khamis Mohamed El- Basami as administrator of the estate of Mohamed Khamis El-Basami (1/4 undivided share)
iii) Muarabu Salim (1/16 undivided share)
iv) Islam Ali (3/32 undivided share, and
v) Ahmed Ali (3/32 undivided share)

(as proprietors in common for an estate in fee simple)

A Certificate of Ownership No. **C.R. 13774** was issued under the Land Titles Ordinance (1908) in respect of the parcel (**Annexure 1**).

The current registered proprietors of Plot No. MN/IV/152 are:

i) Mbarak Islam Abeid (3/6 undivided share)
ii) Salim Mohamed Rashid Basami (1/6 undivided share)
iii) Haidar Mohamed Rashid Basami (1/6 undivided share)
iv) Ahmed Mohamed Rashid(1/6 undivided share)

Mbarak Islam Abeid obtained title to a portion of his share which was registered as **C.R. 35178** on November 11, 2002 (being a subdivision of Plot No. MN/IV/152 (**Annexure 2**).

Honourable Chair,

The petition raises a historical land injustice claim as defined under Section 15 (2) of the National Land Commission Act, 2012. The appropriate redress for the petitioners would be to lodge the petition with the National Land Commission for consideration. The timeline to submit a historical injustice claim expires in September 2021.

ii) **Petition by Hon. Ken Kiti Chonga MP on behalf of residents of Chidongo, Junju, Mirima Minne and Bodoi regarding resettlement of residents of Chidongo, Junju, Mirima Minne and Bodoi in Kilifi South Constituency.**

Honourable Chair,

The Petition dated December 3, 2020 was presented by residents of Chidongo, Junju, Mirima Mine and Bodoi villages residing on Plot No.71/1/V/Mainland North measuring approximately 1776 acres in Kilifi South Constituency, claimed to be ancestral land. They claim to have lived on the land for over 100 years.

The Petitioners state that they applied to be allocated the said parcel of land in 2003, through the District Land Management Board and were informed that the process could not be executed because there was no information regarding the land at the Kilifi land registry. They made a second application to the National Land Commission on February 23, 2015 through the Chijumibo Community Based Organisation (CBO) to have them formally settled on this land. According to the petition, the Commission investigated the matter and also noted that there were no records on the ownership of the land.

On November 21, 2017, the Commission advertised the land through the Kenya Gazette calling for any person with any claim or interest in the parcel to come forward. Although the notice provided a 30 days' timeline, no one came forward to claim the land. Despite this, the Commission did not allocate the land to the Petitioners.

The Petitioners claim that they were shocked to find that the land was registered in the names of Daniel Kimeu Muhia, Lucas Chimeza Kenga, Francis Kipkosgei Kemboi and Christopher Tuitoek Kiplagat (under a 999 years lease commencing in 1995) when they carried out a search on the land on September 11, 2020. They claim that efforts to have matter addressed by the relevant authorities, including the National Land Commission and the Kilifi Lands Registry have been futile. They therefore request the Committee to-

(i) inquire into the matter with a view to securing, with the assistance of the Commission for the revocation of the title deed and subsequent allotment and sub-division of land to the Petitioners
(ii) Secure the prosecution of all land officers and persons involved in the fraudulent allocation of the land so as to discourage repetition of such incidents of blatant impunity regarding land matters in the country
(iii) Make any other order or direction that it deems fit in the circumstances of the matter

Honourable Chair, we wish to respond as follows;

According to our records, the registered proprietors of **L.R. No. MN/IV/71/1** are Muhia Daniel Kimeu, Lucas Chimera Kenga, Francis Kipkogei Kemboi and Christopher Tuitoek Kiplagat. The parcel measures approximately 198.82 Hectares on a 999-year lease commencing on January 1, 1995. A Certificate of Title No. **C.R. 71107** in respect of the above property was issued on March 19, 2018 **(Annexure 3)**.

Honourable Chair,

We note the following regarding the lease;

i. The correspondence file containing the allocation and payment history for the plot cannot be traced at the Ministry Records section in Nairobi
ii. There are records at our Mombasa Registry indicating that MN/IV/71/1 was previously reserved as Wakf property to the heirs of Mohamed bin Juma and their children forever **(Annexure 4).**

In view of the foregoing, the Ministry has written a letter to the registered proprietors to provide documentation used in acquisition and registration of the parcel in their names **(Annexure 5).**

iii) Petition by residents of Tetu Sub-county regarding resettlement of Tucha Kiandongoro Forest squatters in Solio Ranch

Honourable Chair,

The Petitioners state that they were evicted from Tucha/Kiandogoro Forest in 1988 with a promise to be resettled at Solio Ranch Village 3. They claim that unfortunately, people who were not validated as evictees ended up being the beneficiaries, leaving the legitimate beneficiaries homeless and destitute.

They claim that in 2008, a major resettlement programme was undertaken to resettle evictees from Kabaru, Naro Moru and Hombe in Mount Kenya Forest and those evicted from Kabage and Zaina in Aberdare Forest but they were left out of the resettlement exercise.

The Petitioners wish to be resettled in Village 5 of Solio Ranch which they claim is still vacant. They state that they were advised by the Regional Commissioner, Central region vide a letter Ref. RC/LN5/3/2.VOL.V/38 dated December 18, 2019 to petition Parliament since the matter required intervention from several Government agencies hence their petition to the Committee.

Honourable Chair, we wish to respond as follows;

The Ministry set up multiagency committee in 2017 to look into the issue of landless squatters in Nyeri County. The Committee comprises of the County Commissioner who is also the Chair, all the Deputy County Commissioners in the County, officers from the Ministry of Lands and Physical Planning and the National Land Commission.

The mandate of the Committee was to identify the numerous landless people in the county (squatters), their origin and veracity of the claims. The team found out that there were several categories of squatters depending on their origin which include-

i) Forest evictees
ii) Those in colonial villages
iii) Former casual workers in the then European farms
iv) Those displaced by developments
v) People squatting on public land
vi) People displaced by natural catastrophies

As for the forest evictees, the Committee established that people were evicted from Hombe, Ragati, Kabaru, Gathiuru and Cheche in the larger Mt. Kenya Forest. There were also those who were evicted from Aberdare forests such as Zaina, **Kiandongoro (Tucha)**, Kabage and Gakanga. Most of the evictees were settled by the Government in Ndathi Settlement Scheme in 1992 and 2008/9 respectively. The remaining ones are the ones squatting in various places including road reserves. The list of the evictees is attached marked **Annexure 6.** This is because the land was not sufficient to settle all the squatters.

Following site visits, it was found out that these people are living in small congested spaces averaging 1/8 (eighth) of an acre in almost all the colonial villages scattered in the County, where a family or household of 10 or thereabouts was living on that portion of land.

The Committee observed that in order to reduce pressure on the piece of land they occupy, some household members should be considered for land.

Honourable Chair, Solio Ranch Village 5 is private land and is not sufficient to settle all the petitioners. The Ministry in consultation with key stakeholders will source for an alternative land and funds to resettle the squatters.

iv) Petition by Hon. Ali Wario Guyo MP on behalf of Father Grol's Welfare regarding subdivision of the Agricultural Development Corporation (ADC) land and stakeholder consultations on Galana Kulalu food security project

Honorable Chair,

The petition raises a number of issues concerning the Galana Kulalu Food Security Project covering the Galana and Kulalu Government Ranches in Tana

River and Kilifi counties implemented by the Ministry of Water, Sanitation and Irrigation.

From the petition, the Cabinet proposed several measures to ensure full utilization of the 1.7 million acre ranch touching on land settlement, termination of all existing leases on the ADC land, development of road infrastructure, power connection, and the conservation, protection and management of the environment.

The Petitioner states that the Ministry of Lands and Physical Planning has embarked on planning and survey of the land for resettlement of the host communities and subdividing the land for commercial leasing for crops and livestock enterprises. According to the Petitioner, the Ministry plans to settle 30,000 families and establish a 200-acre community ranch scheme.

He claims that the Ministry of Water, Sanitation and Irrigation wrote to the Regional Commissioner, Coast region to schedule stakeholder consultations for the project on November 9-11, 2020 but it did not take place.

The Petitioner requests the Committee to;

i. Inquire into the circumstances under which the proposed 250,000 acres community ranch scheme as per existing survey map was amended to 200,000 acres
ii. Recommend that the 5,000 beneficiaries under the community ranch scheme be increased to a number proportionate to the affected citizens and that priority be accorded to locals who have directly been affected by the project
iii. Ensure that public participation is undertaken as per the Constitution and provisions of the Agricultural Development Corporation (Special Farms) Rules; and
iv. Make any other appropriate recommendations it deems fit in addressing the circumstances raised in the Petition

Honourable Chair, I wish to respond as follows-

The Galana-Kulalau land is registered under two separate titles. The first title is Grant No. 44891 (L.R. No.14248) measuring 99,164 Ha (245,044.16 Acres). It lies largely within Kilifi County. The second parcel is registered as Galana Ranch Block 1/1 measuring 607,042 Ha (1,500,061.5 Acres). The parcel lies largely within Tana River County. Hence the total acreage is 706,206 Ha (1,745,106 Acres). **(Annexure7).**

For avoidance of doubt, the ongoing planning and survey work is solely being carried out on the Kulalu Ranch (L. R. No. 14248) which is within Kilifi County. Therefore, the statement by the petitioner regarding the alleged planning and surveying of the Galana Ranch is not factual.

The Ministry also clarifies that the subject land in question is not a community ranch, and neither has it been under occupation by the community. The Kulalu Ranch belongs to the National Government, and is committed to the Agricultural Development Corporation. In light of this, it is important to note that there has been no provision for 5000 beneficiaries under the purported community ranch scheme as the land belongs to the national government. Any position on settlement of beneficiaries will emanate from the government after its processes of planning and survey have been duly completed.

On the issue regarding public participation, the Ministry confirms that it has been undertaking planning and survey of the land under Kulalu ranch within the Galana – Kulalu Food Security Project (GKFSP). However, the planning and survey are still at the technical stages where land analyses and initial ground truthing are conducted.

The plan has proposed the sub-division of the ranch based on the ecovillages concept to enable promotion of an agro-industrial economy while ensuring environmental sustainability. The draft land use plan is still undergoing technical assessment and refinement at a ministerial level. The Ministry confirms that upon completion of these technical processes, public participation will be incorporated in subsequent phases of the project. This will enable incorporation of views of various stakeholders pending approval of the land use plan.

The Ministry wishes to clarify that based on the status of Kulalu Ranch as national government land, outcomes of the planning, survey and settlement processes will be a national government decision. Nevertheless, given the importance of public participation in success of development projects, such decisions will take into account the concerns raised in stakeholder engagements including the County Government of Kilifi, the area leadership, other Government MDAs, and communities.

Honourable Chair, I submit.

Farida Karoney, EGH
CABINET SECRETARY

April 20, 2021

ANNEXURE 1

To be inserted [illegible] Book. No. [illegible]

THE [illegible]D PROTECTORATE OF KENYA.

LAND TITLES ORDINANCE, 1908.

SCHEDULE I. FORM B.

CERTIFICATE OF OWNERSHIP.

I JAMES DANDIE HUNTER Recorder of Titles do hereby certify that ALI RASHID MANTHRI as Administrator of the Estate of RASHID ALI MANTHRI Deceased (½) KHAMIS MOHAMED EL-BASAMI as Administrator of the Estate of Mohamed KHAMIS EL-BASAMI Deceased (½) MOHAMED RASHID EL-BASAMI (½) MWARABU SALIM (1/16th) ISLAM ALI (5/32nds) & AHMED ALI (5/32nds) are in the undivided shares shewn in brackets opposite their names as above the proprietors of an estate in fee (together with the mineral Rights) [1] in that piece of land situate in the Province of COAST at S.W. OF TAKAUNGU KILIFI DISTRICT and which is demarcated and delineated on the plan No. 75073 deposited in the Office of the Recorder of Titles at Mombasa and thereon numbered MN/TT/152 and containing 1776 acres or thereabouts and subject to such mortgages and other interests (if any) as hereunder written. [2]

In Witness whereof I have hereunto set my hand and seal this 9th day of March 1963.

Certificate Fees £...5[illegible]...10. 00
Survey " 189. 12. 00
£225. 2. 00

Recorder of Titles.

L. S.

Mortgages and other interests above referred to:

SUBJECT TO FIRST CHARGE IN FAVOUR OF GOVERNMENT OF KENYA FOR SHS: 4,502/-.

LAND TITLES [illegible] KENYA
REGISTRATION OF TITLES ACT
REGISTERED [illegible] 12774/1
Presented 11-5-[illegible] 20
Time 10.45 am [illegible]

[1] The words in this article shall be deleted if the land has been acquired from the Crown or otherwise with a reservation of minerals.
[2] "Or if it has been acquired from the Crown and is subject to the provisions of the" (here specify the law under which the land has been acquired or by which the holding is governed.)

THE FOLLOWING INSTRUMENT HAS BEEN REGISTERED AGAINST THE TITLE

Provisional Certificate of Title Issued.

(2)

Presentation No. 3 Date of Registration 8-5-85 Registrar

131/14/1/87

THE FOLLOWING INSTRUMENT HAS BEEN REGISTERED AGAINST THE TITLE

Transfer dated 14th January, 1987 to:-

(1) OMAR ALI SALIM 3/6th share (4) AHMED MOHAMED RASHID BASAMI 1/6th share

(2) SALIM MOHAMED RASHID BASAMI 1/6th share

(3) HAIDAR MOHAMED RASHID BASAMI 1/6th share — All as heirs of MUBARAK SALIM (deceased) 1/6th share

(3)

Presentation No. 131 Date of Registration 14-1-87 Registrar

0000/31/3/87

THE FOLLOWING INSTRUMENT HAS BEEN REGISTERED AGAINST THE TITLE

(4) Transfer dated 31st October 1986.

To:- Mubarak Islam Abeid for Shs 20,000/ in respect of 3/6th Undivided Share of Omar Ali Said.

(4)

258

Presentation No. Date of Registration 24.3.87 Registrar

THE FOLLOWING INSTRUMENT HAS BEEN REGISTERED AGAINST THE TITLE

Deed of Rectification dated 11th July 1988 By Omar Ali Salim rectifying the name in item No: 3, the name to read Omar Ali Said

(5)

Presentation No. 175 Date of Registration 12.8.88 Registrar

THE FOLLOWING INSTRUMENT HAS BEEN REGISTERED AGAINST THE TITLE

ISSUE OF NEW CERTIFICATES CR. 35178 IN RESPECT OF THE SHARE OF OMAR ALI SAID (see entry No. 4 above)

(6)

Presentation No. Date of Registration 11/11/2002 Registrar

COLONY & PROTECTORATE OF KENYA

DISTRICT OF *KILIFI*

Locality *S.W of Takaungu Trading Centre*

Meridional District $\frac{\text{South. A. 37}}{\text{V. IX. 6}}$ 7

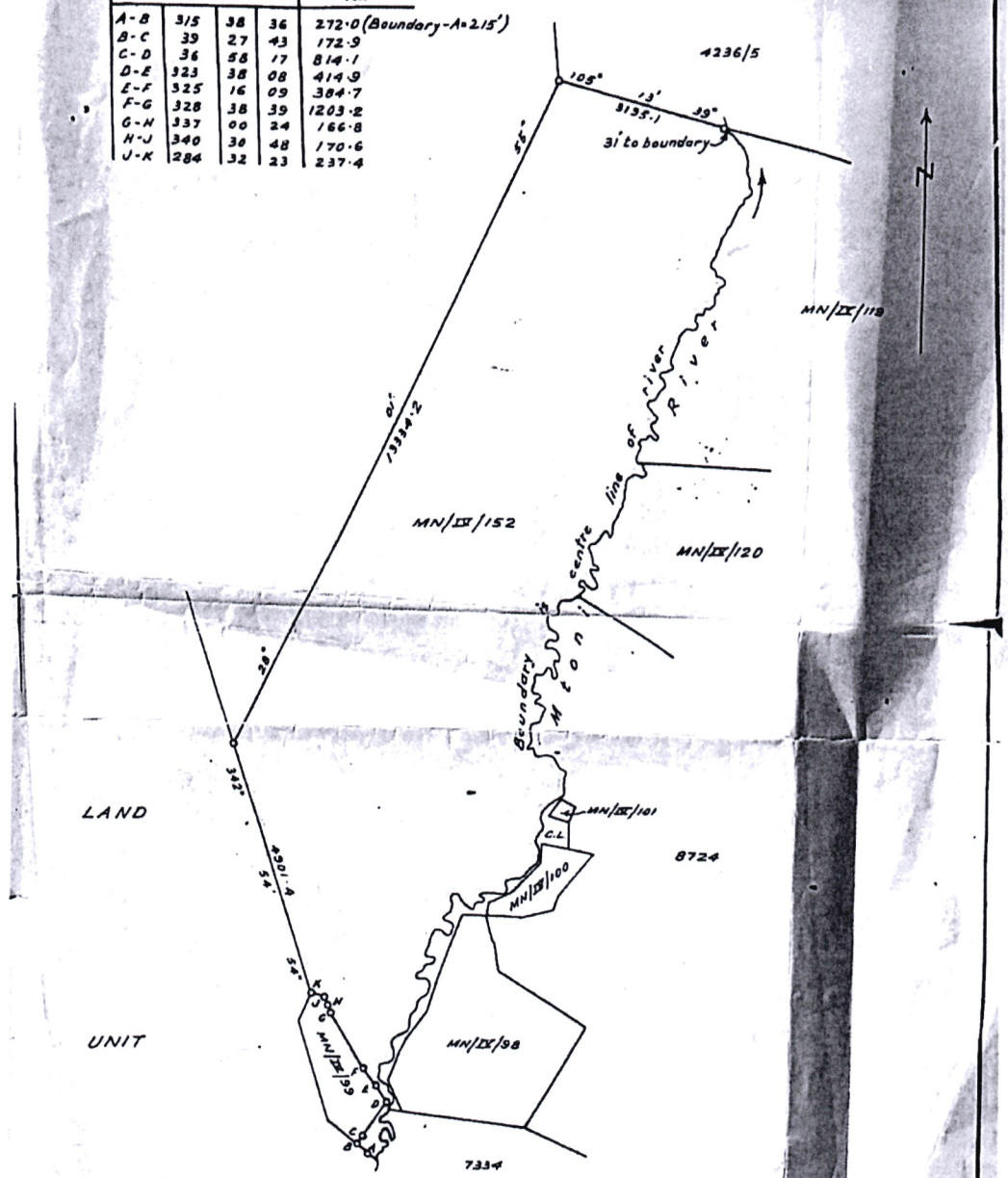
Scale: 1 in. 25000 or 2083·33 Feet to 1 Inch

Land Reference No. _____
(Orig. No. _____

Subdivision No. *152* (Orig. No. ____
of Section No. *IV Mainland North*

Area = *1776 Acres (Approx.)*

Bearings °	'	"	Distances Feet
A-B 315	38	36	272·0 (Boundary-A=215')
B-C 39	27	43	172·9
C-D 36	58	17	814·1
D-E 323	38	08	414·9
E-F 325	16	09	384·7
F-G 328	38	39	1203·2
G-H 337	00	24	166·8
H-J 340	30	48	170·6
J-K 284	32	23	237·4



Recorder of Titles
9th March, 1962

F. E. CHARNLEY
for Director of Surveys
Nairobi FEB 27 1962 1962

Traced by
Compared by

Please quote this PLAN No. 75079

ANNEXURE II

RESPONSE BY THE SENIOR REGISTRAR OF TITLES-MOMBASA

REPUBLIC OF KENYA

MINISTRY OF LAND AND PHYSICAL PLANNING

Telegram
Telephone: 041/2312914

DEPARTMENT OF LANDS,
P.O. BOX 80053-80100
MOMBASA.

When replying please quote:

Ref: CF. LND. GEN. 2/103

28th July, 2021

Clerk of the National Assembly
Clerk's Chambers
National Assembly
P.O. Box 41842-00100
NAIROBI

RE: SUBMISSION TO THE NATIONAL ASSEMBLY DEPARTMENTAL COMMITTEE ON LANDS

The above mentioned matter refers.

This is further to the oral submissions offered by the undersigned to the Committee siting held on Tuesday 27th July, 2021 at English Point Marina hotel.

In response to the two petitions and specifically on the parcels of land under reference, I wish to state as follows:-

PETITION 1 – IN RESPECT OF PLOT MN/IV/152 (1776 ACRES)

According to record in our custody Parcel of Land Number MN/IV/152 is registered under Title Number CR. 13774 and Certificate of Ownership was issued on 11th May, 1970. The registered owners at first registration were documented as follows:-

1. ALI RASHID MANTHRI (As Administrator of the Estate of RASHID ALI MANTHRI – Deceased) 1/3 share (constituting ¼ x 1776 = 444 Acres)

2. KHAMIS MOHAMED EL-BASAMI (As Administrator of the estate of MOHAMED KHAMIS EL-BASAMI) ¼ share (Constituting ¼ x 1776 = 444 Acres)
3. MOHAMED RASHID EL-BASAMI – ¼ share (Equivalent to ¼ x 1776 = 444 Acres)
4. MUARABU SALIM – 1/16 share – (Equivalent to 111 Acres)
5. ISLAM ALI - 3/32 share (Equivalent to 3/32 x 1776 = 166.5 Acres)
6. AHMED ALI - 3/32 share (Equivalent to 3/22 x 1776 = 166.5 Acres thereof).

The title register in our custody indicate that a Provisional Certificate of Title was issued on 8th May, 1985 on the loss of the original title. Consequently the original title held by the owners was deemed cancelled and supersede by the Provisional Title. Further study of the title register and specifically the substantive document of transfer dated 14th January, 1987 prepared and signed by the Public Trustee for and on behalf of the Estate of MUARABU SALIM show a share constituting 1/16 owned by the deceased was transferred to his heirs in Law in respective shares as follows:-

a) OMAR ALI SALIM – 3/6 share (3/6 x 111) = 55.5 Acres
b) MOHAMED RASHID BASAMI – 1/6 share (1/6 x 111) = 18.5 Acres
c) HAIDAR MOHAMED RASHID BASAMI – 1/6 share (1/6 x 111) = 18.5 Acres
d) AHMED MOHAMED RASHID – 1/6 share (1/6 x 111) = 18.5 Acres

Pursuant to a transfer dated 31st October, 1986 the 3/6 share of OMAR ALI SALIM (who later came to be referred as OMAR ALI SAID) Though a deed of rectification of name was transferred to one MBARAK ISLAM ABEID. Consequently, Mbarak Islam processed and had a Certificate of title issued in respect of his share which constituted an area of 55.5 acres as per computation captured above. The independent Certificate of Title Number CR.35178 as per the subplot MN/IV/660 was registered on 11th November, 2002.

I have noted with regret that previous Certificate of Postal searches issued from our registry might have been issued in error, due to oversight that transfer entry Number 3 on the register was not for the whole land but the mere 1/16 share owned by the estate of MUARABU SALIM. I have enclosed the transfer document for reference and record. It therefore follow that a current status on ownership would capture the registered owners as eight (8) in their respective shares, and one owner standing independently on his title issued in respect of his share (CR.35178). I have also enclosed a current Certificate of Search to the effect.

Finally I note that some of the noted owners are deceased, the entitled estates need to submit the succession documents for transmission of share to the surviving heirs.

PETITION 2 (IN RESPECT OF PLOT NO. N.IV/71/1

According to record in our custody Plot No. MN/IV/71/1 was registered as a New lease/Grant. The said Lease was received for our registration through a forwarding letter dated 6th March, 2018 from the office of the Chief Land Registrar. The Lessee are noted as MUHIA DANIEL KIMEU, LUCAS CHIMERA KENGA, FRANCIS KIPKOGEI KEMBOI and

CHRISTOPHER TUITOEK KIPLAGAT. The Lease was registered on 19th March, 2018 and assigned Title Number CR.71107.

However, upon perusal of the registration card record which was kept by the office of Registrar of Titles, it has come to our attention that Plot No. MN/IV/71 was partitioned giving rise to two portions as follows:-

1. MN/IV/71/1 – measuring 491.28 Acres
2. MN/IV/71/2 – measuring 2158 Acres

Upon the above subdivisions Plot No. MN/IV/71/2 was assigned new plot No. as MN/IV/135 and was registered on 9th December, 1924 in the name of administrator General as Administrator of the estate of MOHAMED BIN JUMA (Deceased) as Title Number CR.7827. The said title was transacted upon severally through transfers and was acquired by the Settlement Fund Trustee together with other lands vide a transfer dated 6th August, 1976 for Kshs.486,200/=.

There is no record that a title was issued in respect of Plot No. MN/IV/71/1. However, the registration card clearly indicate the same was reserved for the WAKF of the heirs of MOHAMED BIN JUMA and their children forever. This in my opinion would constitute a private WAKF in respect of MOHAMED BIN JUMA. Consequently the land would not be available for allocation or alienation unless due process was followed in acquiring the proprietory interest from the WAKF free of any encumbrances. There is need for ascertainment of legitimate and legal heirs of MOHAMED BIN JUMA with the aim of procuring the title document and proper administration of the land as was intended.

I wish to state that we have communicated our observations to the Department of Land Administration on the way forward in view of the Lease under reference. I have enclosed certified copies of the Lease and the Certificate of Title issued thereof, the registration card extract and Certificate of "title issued for Plot MN/IV/71/2 (now MN/IV/135) for reference.

S. K. Mwangi
SENIOR REGISTRAR OF TITLES`
MOMBASA

Encl.

Copy to: Chief Land Registrar
Ministry of Land & Physical Planning
Ardhi House
P.O. Box 30450-00100
NAIROBI.

REPUBLIC OF KENYA

IN THE MATTER OF LAND REGISTRATION ACT NO 3 OF 2012

IN THE MATTER OF LAND ACT N0. 6 OF 2012

THE REGISTRATION OF TITLES ACT

CAP.281 (REPEALED)

CERTIFICATE OF POSTAL SEARCH AS ON 27TH JULY, 2021

PLOT NUMBER	:	152/IV/MN
TITLE NUMBER	:	CR. 13774
AREA	:	1,776 ACRES
TENURE	:	FREEHOLD
REGISTERED OWNER	:	**ALI RASHID MANTHRI** as Administrator of the Estate of **RASHID ALI MANTHRI (DECEASED) ¼ share,** **MOHAMED ELBASAMI** as Administrator of the estate of **MOHAMED KHAMIS EL-BASAMI (DECEASED) ¼ share,** **MOHAMED RASHID EL-BASAMI ¼ share** **ISLAM ALI** - 3/32 share **AHMED ALI** - 3/32 share **MOHAMED RASHID BASAMI** -1/96 share **HAIDAR MOHAMED RASHID BASAMI** 1/96 share **AHMED MOHAMED RASHID** - 1/96 share
ENCUMBRANCES	:	ISSUE OF NEW CERTIFICATE OF TITLE NO. CR.35178 IN RESPECT OF THE SHARE OF MBARAK ISLAM ABEID 3/6 SHARE OUT (OF 1/16 SHARE OF OMAR ALI SAID)

REGISTRAR OF TITLES

E. Murangi SC

LAND TITLES ORDINANCE, 1908.

SCHEDULE I. FORM B.

CERTIFICATE OF OWNERSHIP.

I JAMES DANDIE HUNTER Recorder of Titles do hereby certify that ALI RASHID MANTHRI as Administrator of the Estate of RASHID ALI MANTHRI Deceased (½) KHAMIS MOHAMED EL-BASAMI as Administrator of the Estate of Mohamed KHAMIS EL-BASAMI Deceased (¼) MOHAMED RASHID EL-BASAMI (¼) MUARABU SALIM (1/16th) ISLAM ALI (3/32nds) & AHMED ALI (3/32nds) are in the undivided shares shewn in brackets opposite their names as above the proprietors of an estate in fee (together with the mineral Rights) (1) in that piece of land situate in the Province of COAST at S.W. OF TAKAUNGU KILIFI DISTRICT and which is demarcated and delineated on the plan No. 75079 deposited in the Office of the Recorder of Titles at Mombasa and thereon numbered MN/IV/152 and containing 1776 acres or thereabouts and subject to such mortgages and other interests (if any) as hereunder written. (2)

IN WITNESS whereof I have hereunto set my hand and seal this 9th day of March ~~XIX~~ 1962.

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

L. S.

RECORDER OF TITLES.

Mortgages and other interests above referred to:

SUBJECT TO FIRST CHARGE IN FAVOUR OF GOVERNMENT OF KENYA FOR SHS: 4,502/-.

LAND TITLES ... MOMBASA-KENYA
REGISTRATION OF TITLES ACT
REGISTERED AS NO. 137741
Presented 11-5-1970
Time 10.45 am
Registrar of Titles

DATE 23/8/2001

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

THE FOLLOWING INSTRUMENT HAS BEEN REGISTERED AGAINST THE TITLE

Provisional Certificate of Title Issued.

2

Presentation No. 3 Date of Registration 8-5-85 Registrar

131

14/1/87

THE FOLLOWING INSTRUMENT HAS BEEN REGISTERED AGAINST THE TITLE

Transfer dated 14th January, 1987 to:-

(1) OMAR ALI SALIM 3/6th share

(2) MOHAMED SALIM RASHID BASAMI 1/6th share

(3) HAIDAR MOHAMED RASHID BASAMI 1/6th share

(4) AHMED MOHAMED RASHID 1/6th share

of MUBARAK SALIM (deceased) — All as heirs of 6th share

3

Presentation No. 131 Date of Registration 14-1-87 Registrar

0029

2/3/87

THE FOLLOWING INSTRUMENT HAS BEEN REGISTERED AGAINST THE TITLE

4

Transfer dated 31st October 1986.

(1):- MBARAK SALIM ABEID for Shs 20,000/-

in respect of 3/6th Undivided share of

Omar Ali Said.

Presentation No. 258 Date of Registration 24.3.87 Registrar

THE FOLLOWING INSTRUMENT HAS BEEN REGISTERED AGAINST THE TITLE

5

Deed of Rectification dated 11th July 1988

By Omar Ali Salim rectifying the name

in item No. 3, the name to read Omar Ali Said

Presentation No. 175 Date of Registration 12.8.88 Registrar

6

ISSUE OF NEW CERTIFICATES CR. 35178

IN RESPECT OF THE SHARE OF OMAR ALI

SAID (see entry No. 4 ABOVE)

11/11/2002 Registrar

CERTIFIED TRUE COPY

FEES PAID VIDE REVENUE KSH.

DATE 23/8/2021

COLONY & PROTECTORATE OF KENYA

DISTRICT OF KILIFI

Locality S.W of Takaungu Trading Centre

Meridional District South. A. 37 / V. IV. 6 7

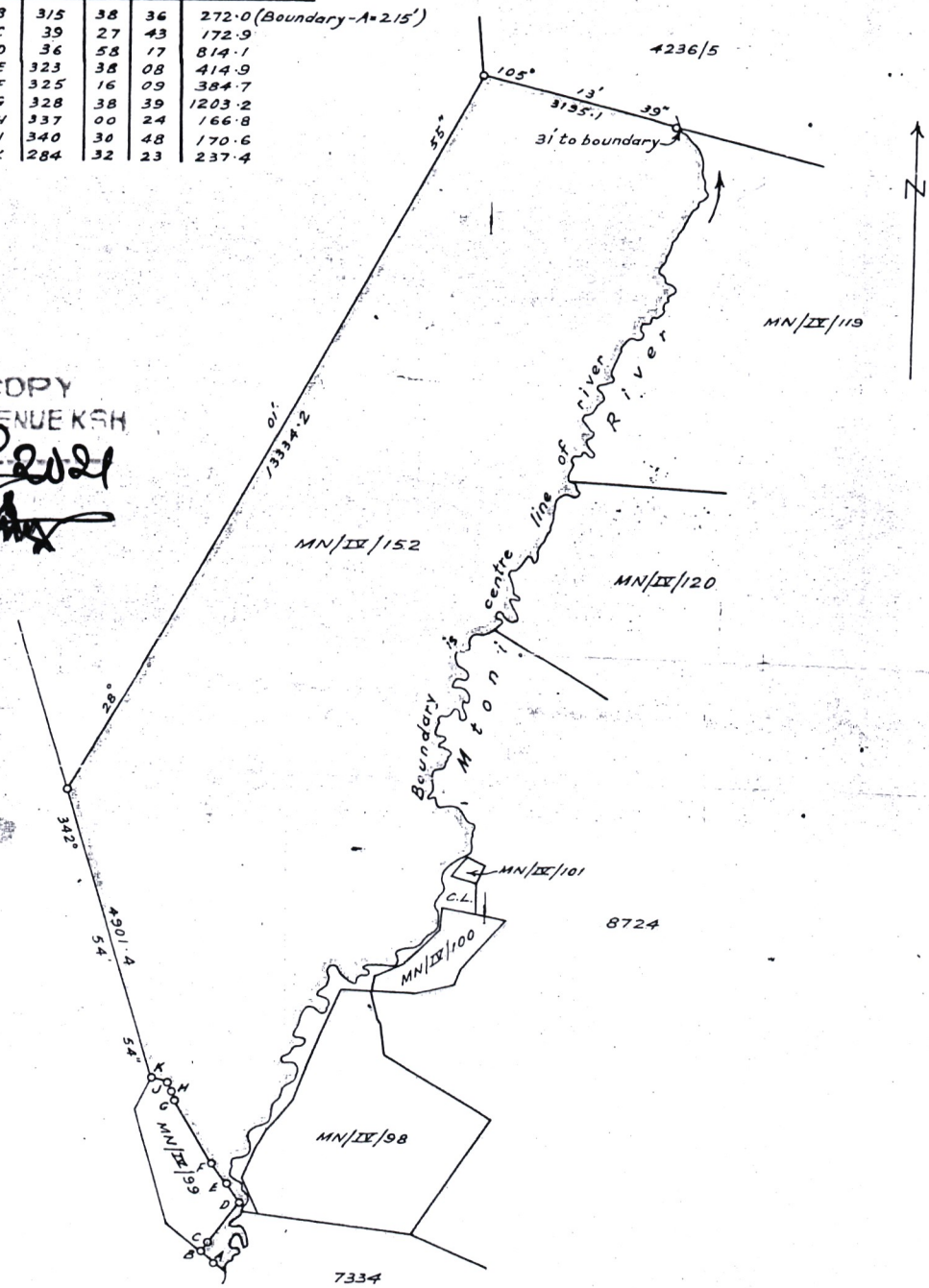
Scale: 1 in. 25000 or 2083·33 Feet to 1 Inch

Land Reference No. _____
(Orig. No. _____

Subdivision No. 152 (Orig. No. ____
of Section No. IV Mainland North

Area = 1776 Acres (Approx.)

Bearings °	'	"	Distances Feet
A-B 315	38	36	272·0 (Boundary-A=215')
B-C 39	27	43	172·9
C-D 36	58	17	814·1
D-E 323	38	08	414·9
E-F 325	16	09	384·7
F-G 328	38	39	1203·2
G-H 337	00	24	166·8
H-J 340	30	48	170·6
J-K 284	32	23	237·4



Recorder of Titles
9th March, 1962

F. E. CHARNLEY
for Director of Surveys

Nairobi FEB 27 1962 1962

Traced by Sullen

Please quote this PLAN No 75079

GAZETTE NOTICE No. 2473

THE MAGISTRATES' COURTS ACT

(*Cap.* 10)

THE JUDICIAL SERVICE COMMISSION

ASSIGNMENT OF DISTRICT MAGISTRATE

IN EXERCISE of the powers conferred by section 7 (1) of the Magistrates' Courts Act, the Chairman* of the Judicial Service Commission makes the following assignment of a district magistrate:

~~CHARLES SYENGO~~ KARERE, a district magistrate empowered to hold a magistrate's court of the second class, is assigned to the Garissa, Wajir and Mandera districts, with effect from 1st July, 1985, in addition to the Kericho and Kisii districts by Gazette Notice No. 745/84.

Dated the 18th June, 1985.

A. H. SIMPSON,
Chairman,
Judicial Service Commission.

*G/N. 3606/67.

GAZETTE NOTICE No. 2474

THE NATIONAL ASSEMBLY AND PRESIDENTIAL ELECTIONS ACT

(*Cap.* 7)

DECLARATION OF VACANCY

PURSUANT to section 18 of the National Assembly and Presidential Elections Act, I give notice that, consequent upon the death of—

THE HON. HORACE ONGILI OWITI, M.P.,

the seat formerly held by the said member has become vacant.

Dated the 21st June, 1985.

F. M. G. MATI,
Speaker of the National Assembly.

GAZETTE NOTICE No. 2475

THE REGISTRATION OF TITLES ACT

(*Cap.* 281, *section* 71)

ISSUE OF A PROVISIONAL CERTIFICATE

WHEREAS William Kimani Richu, Assistant Public Trustee, of P.O. Box 80366, Mombasa, administrator of the estate of Muarabu bint Salim Basami, the registered proprietor of one-sixth undivided share of the piece of land known as subdivision No. 152, section IV Mainland North by virtue of a certificate of ownership registered as C.R. 13774/1, and whereas sufficient evidence has been adduced to show that the said certificate is lost. Notice is given that after the expiration of ninety (90) days from the date hereof, I shall issue a provisional certificate of title provided that no objection has been received within that period.

Dated the 28th June, 1985.

M. L. OJIAMBO,
Registrar of Titles.

GAZETTE NOTICE No. 2476

THE REGISTRATION OF TITLES ACT

(*Cap.* 281, *section* 71)

ISSUE OF A PROVISIONAL CERTIFICATE

WHEREAS the County Council of Nakuru, a local government body duly constituted under the Local Government Regulations, is registered as proprietor as lessee of all that piece of land known as L.R. No. 12322, situate north of Molo town in Nakuru District by virtue of a grant registered as I.R. 32028/1, and whereas sufficient evidence has been adduced to show that the said grant registered as I.R. 32028/1 has been lost. Notice is given that after the expiration of ninety (90) days from the date hereof, I shall issue a provisional certificate of title provided that no objection has been received within that period.

Dated the 11th June, 1985.

J. L. W. MUNJUGA,
Registrar of Titles.

GAZETTE NOTICE No. 2477

PUBLIC SERVICE COMMISSION OF KENYA

VACANCIES

APPLICATIONS are invited for the posts shown below. Completed application forms should reach the Secretary, Public Service Commission of Kenya, P.O. Box 30095, Nairobi, on or before 19th July, 1985.

Civil servant applicants and local authority officers should complete forms PSC. 2A (revised) in triplicate (submitting the original through their heads of department) and cards PSC. 25 and 25A. Other applicants should complete forms PSC. 2 in triplicate and cards PSC 24 and 25A.

These documents are obtainable either from the secretary or other government offices and are issued free of charge.

Originals of certificates and similar documents should not be submitted unless specifically asked for. All applicants should state their postal addresses.

NOTE

Incremental credits will be granted to successful candidates who are not civil servants for approved previous experience provided the maximum salary is not exceeded. They will also be eligible for benefits and privileges enjoyed by civil servants in accordance with existing government regulations.

Vacancies in the Ministry of Health:

Pharmaceutical Technologist I (Three Posts) (No. 232/85)

Salary scale.—K£1,794 to 2,424 p.a. PENSIONABLE or AGREEMENT.

Applicants must be serving officers in the Ministry of Health in the grade of Pharmaceutical Technologist II (Job Group "H"). They should have served for a minimum of three (3) years in that grade and demonstrated technical competence in their work, ability to organize and control personnel under them for optimum provision of pharmaceutical services.

Vacancies in the Ministry of Commerce and Industry:

Senior Industrial Development Officer (Two Posts) (No. 233/85)

Salary scale.—K£2,712 to 3,540 p.a. PENSIONABLE or AGREEMENT.

Applicants must be in possession of a degree in economics, business administration, commerce, geography, law or some related qualifications. Post-graduate qualifications in the same fields will be an advantage. Candidates must have served for at least five (5) years, three of which must be at the level of Industrial Development Officer I (Job Group "K") on assignments involving industrial or commercial promotion and administration. Serving government officers without the above academic qualifications but of Kenya Certificate of Education standard and ten years' experience in promotion and administration of commerce and industry, three of which must be at Job Group "K" level, will also be considered.

The successful candidate will be assigned duties pertaining to industrial legislation, protection, investment and taxation; transfer pricing and negotiations on industrial projects, drafting cabinet and other position papers on matters relating to industrialization.

Vacancies in the Ministry of Finance and Planning:

Senior System Ecologist (One Post) (Kenya Rangeland Ecological Monitoring Unit) (No. 234/85)

Salary scale.—K£2,712 to 3,540 p.a. PENSIONABLE AGREEMENT.

Applicants must be Kenya citizens with a master of scie degree from a recognized university in any of the follov

CERTIFIED TRUE COPY
FEES PAID VIDE REVENUE K...
DATE 23/7/2021

REPUBLIC OF KENYA
REGISTRATION OF TITLES
(CAP 281)
TRANSFER

KENYA REVENUE 14 87 ONE POUND

£ 100-00
£ 10 up 5/-

WHEREAS the Assistant Public Trustee of the Republic of Kenya (hereinafter called "the Assistant Public Trustee") is the administrator of the estate of the late MUARABU SALIM (hereinafter called "the deceased") by virtue of a Grant of Letters of Administration Probate and Administration Cause No.76 of 1983 issued on 14th October 1983 AND WHEREAS the deceased is the registered proprietor of 1/6th undivided share (subject however to such charges leases and encumbrances as are notified by the momorandum endorsed hereunder) of all that parcel of land comprising by measurement one seven seven six (1776) acres or thereabouts and particularly known as plot No.152 Section IV Mombasa Mainland North which parcel of land is demarcated and delineated on Survey plan No.75079 attached to certificate of title issued by the Recorder of Titles and registered at the Mombasa Land Registry as CR 13774/1 AND WHEREAS OMAR ALI SALIM, SALIM MOHAMED RASHID BASAMI, HAIDAR MOHAMED RASHID BASAMI and AHMED MOHAMED RASHID BASAMI are the heirs-at-law of the estate of the deceased entitled to the deceased's right title and interest in the said parcel of land above described NOW THEREFORE THIS TRANSFER WITNESSETH that the Assistant Public Trustee DOTH HEREBY TRANSFER to the heirs-at-law all the deceased's right title and interest in the said parcel of land with all improvements thereon if any in the following shares:- Omar ALI SALIM - 3/6th share, SALIM MOHAMED RASHID BASAMI 1/6th share, HAIDAR MOHAMED RASHID BASAMI-1/6th share and AHMED MOHAMED RASHID BASAMI-1/6 share of the deceased's 1/16th share.

IN WITNESS WHEREOF THE Official Seal of the Public Trustee has been affixed by WILLIAM KIMANI RICHU the Assistant Public Trustee who has set his hand in authentication thereof this 14th day of January one thousand nine hundred and eighty Seven.....

SEALED with the Official Seal of the Public Trustee of the Republic of Kenya and signed in authentication thereof by WILLIAM KIMANI RICHU the Assistant Public Trustee of Kenya.

MEMORANDUM OF CHARGES LEASES AND ENCUMBRANCES

Subject to First charge in favour of Government of Kenya for Shs.4502/=.

Drawn by:-

The Assistant Public Trustee,
P.O. Box 80366,
MOMBASA.

13774/3

14th JANUARY, 86

10.30 A.M.

CERTIFIED TRUE COPY
FEES PAID VIDE REVENUE KSH
DATE 23/8/2021

REPUBLIC OF KENYA

REGISTRATION OF TITLES ACT

24 -2 59

C.R. 13774/1

I, OMAR ALI SAID of Post Office Box number 15170, Takaungu in the Kilifi District of the Coast Province of the Republic of Kenya being registered as proprietor in respect of 3/6th undivided share (subject however to such charges leases land encumbrances as are notified in the memorandum endorsed hereon) of ALL THAT piece of land 152 section IV Mainland North containing by measurements one thousand seven hundred seventy six (1776) acres or thereabouts situated in the Coast Province of the Republic of Kenya at Kaole and which is demarcated and delineated on Land Survey Plan number 75079 attached to the certificate of ownership number 10915 and registered at Mombasa Registry as number C.R.13774 /1.

IN CONSIDERATION of Kenya Shillings Twenty Thousand (KShs. 20,000/=) only paid to me by MBARAK ISLAM ABEID of Post Office Box number 87021 Mombasa of the Coast Province of the Republic of Kenya DO HEREBY TRANSFER Unto MBARAK ISLAM ABEID All my right title and interest in respect of my share in and to the piece of land AND together with all the Improvements standing thereon absolutely.

IN WITNESS WHEREOF I have subscribed hereunto my name on this 31st day of October One Thousand Nine Hundred and Eighty six.

MEMORANDUM OF CHARGES, LEASES & ENCUMBRANCES

- NIL -

SIGNED by the said
OMAR ALI SAID in
the presence of ;-

ID 2147112/65

DRAWN BY:-
MBARAK ISLAM ABEID
P.O. BOX 87021,
MOMBASA.

REGISTRATION OF TITLES ACT
REGISTERED AS No. CR 13774/4
24th March 1987
Presented
This 2:59 Pm

CERTIFIED TRUE COPY
FEES PAID VIDE REVENUE KSH
DATE 22/7/2021

MOMBASA DISTRICT
LAND REGISTRY

DEED OF RECTIFICATION

0175 '88 AUG 12 11:26

24/10-00
200 @ 5/=
8/8

KENYA REVENUE 88 ONE POUND (8)

WHEREAS by an instrument of transfer registered as C.R. 13774/3 whereby my name as one of the transfe was wrongly written as OMAR ALI SALIM and whilst transfering my share to MBARAK ISLAM ABEID my corre name was indicated on the instrument of transfer registered as C.R. No. 13774/4.

IN WITNESS WHEREOF I have hereunto set my hand and seal this 11th day of July One thousand nine hundred and eighty eight.

Signed by the)
said: OMAR ALI SAID)
in the presence of:)

ID/No. 2147118/65

JOSEPH V. JUMA
ADVOCATE
P. O. Box 99426
MOMBASA

DRAWN BY:)
MBARAK ISLAM ABEID)
P. O. BOX 87021, MOMBASA.)

LAND TITLES REGISTRY—MOMBASA—KENYA
REGISTRATION OF TITLES ACT
REGISTERED AS No. C.R. 13774/5
Presented 12th August 1988
11:26 AM
Registrar of Titles

CERTIFIED TRUE COPY
FEES PAID VIDE REVENUE KSH
DATE 23/8/2021

CERTIFIED TRUE COPY
FEES PAID VIDE REVENUE RECEIPT
DATE 23/8/2021

REPUBLIC OF KENYA

THE REGISTRATION OF TITLES ACT

(Chapter 281)

CERTIFICATE OF TITLE

TITLE NO: C.R. 35178

I HEREBY CERTIFY that MBARAK ISLAM ABEID of P.O. Box 87021

MOMBASA

of

in the Republic of Kenya pursuant to a Transfer registered as Number ~~L.R.~~ C.R. 13774/4 ~~is~~ are now the registered proprietor(s) as owner(s) for an estate in fee simple

of ALL that piece of land situate South West of Takaungu Town Centre

in the Kilifi District containing by measurement two two decimal

~~hectares/acres(less roads)~~ four six (22.46)

hectares/acres) or thereabouts and being ~~Land Reference~~ Subdivision Number 660

(Original Number 152/2) Section IV Mainland North

as delineated on Land Survey Plan Number 230595

annexed to the said Transfer)

SUBJECT however to the Act Special Conditions Encumbrances and other matters specified in the Memorandum hereunder written

IN WITNESS whereof I have hereunto set my hand and seal this eleventh

day of November two thousand and two ~~One thousand nine hundred and~~

Registrar of Titles

MEMORANDUM

1) The Land Titles Act (Cap. 282) Excepting Part III thereof

GPK (L) 2) The Registration of Titles Act (Cap. 281)

REGISTRATION OF TITLES ACT
REGISTERED AS No. C.R. 35178/1
11TH NOVEMBER 2002
TIDEO. 10.00 AM

KWAYLEAVE AGREEMENT DATED 22ND DECEMBER 2020 BETWEEN MBARAK ISLAM ABEID (GRANTOR) AND THE RURAL ELECTRIFICATION AND RENEWABLE ENERGY CORPORATION (GRANTEE) OVER ERECTION OF POLES, POWER TRANSMISSION LINES

Presentation No. 141 Date of Registration 18/1/2021 Registrar

S. K. Mwangi 303

CERTIFIED TRUE COPY
FEES PAID VIDE REVENUE KSH
DATE 23/8/2021

CERTIFIED TRUE COPY
FEES PAID VIDE REVENUE KSH
DATE 23/7/2021

CR/272/vol. VIII/34

REPUBLIC OF KENYA

DISTRICT OF KIAMBU

Locality S.W. of Ta Kaunga T. Centre

Reference Map Sorvey A. 37 / IV. 6

Bearing		'	"	Distances Metres
A-B	15	13	39	600.00

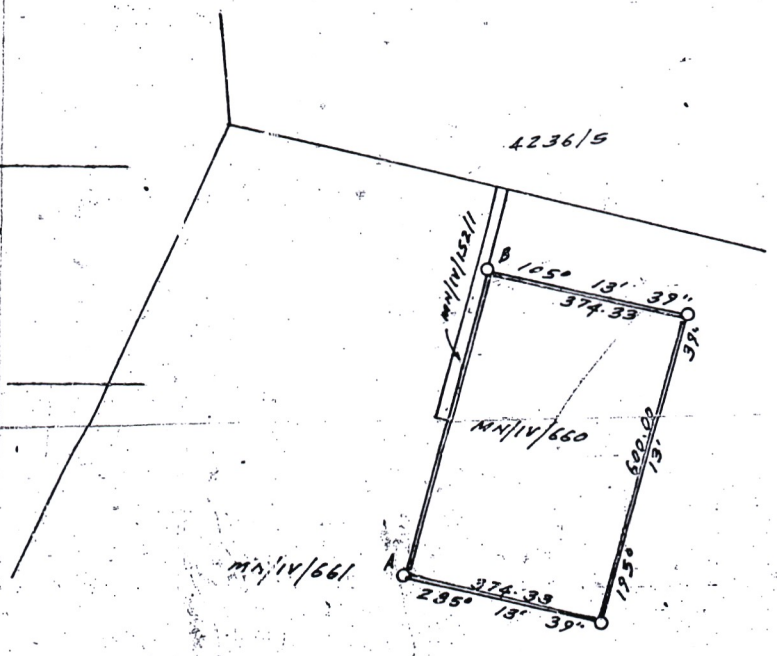
Land Reference No.

Orig. No.

Sub division No. 660 (Orig No. 152/2)

of Section No. IV Mainland North

Area = 22.46 Ha. (Approx.)



C.R 35178

E. N. J. Kiguru
Licensed Surveyor

Scale 1 in 1224

for Director of Surveys

Nairobi 22ND June 19 80

DEED PLAN No. 305995

NATIONAL LAND COMMISSION

RESPONSE TO PETITIONS AND STATEMENTS REFERRED TO THE NATIONAL ASSEMBLY DEPARTMENTAL COMMITTEE ON LANDS

REPORT BY:

GERSHOM OTACHI BW'OMANWA
CHAIRMAN

15th APRIL, 2021

RE: PETITIONS REFERRED TO THE NATIONAL ASSEMBLY DEPARMENTAL COMMITTEE ON LANDS

Your letter REF. NA/DDC/LANDS/2021/(044) of 31st March, 2021 on the above refers.

1. Petition by Hon. Ken Kiti Chonga, MP on behalf of residents of Dindiri-Makata and Kaole Villages regarding dispossession of land belonging to Dindiri-Makata and Kaole residents in Chasimba Ward of Kilifi South Constituency.
2. Petition by Hon. Ken Kiti Chonga, MP on behalf of residents of Chidongo, Junju, Mirima Minne and Bodoi villages regarding resettlement of residents in Chidongo, Junju, Mirima Minne and Bodoi in Kilifi South Constituency.
3. Petition by Hon. Khatib A. Mwashetani, MP on behalf of the family of Mohamed Mwnyihaji Bwika regarding dispossession of Diani Complex land.

Honourable Chair, the Commission investigated the above three petitions and established the following findings and recommendations.

1. **Petition by Hon Ken Kiti Chonga, MP on behalf of residents of Dindiri-Makata and Kaole Villages regarding dispossession of land belonging to Dindiri-Makata and Kaole residents in Chasimba Ward of Kilifi South Constituency.**

The Commission received a claim dated 16th January 2019 from MAKAO Community Land Committee regarding Historical Land Injustices relating to Plot No. 152/IV/MN C.R 13774/4 situated at Takaungu West (a copy attached **Annex 1**)

A copy of another claim dated 28th November 2019 from MAKAO CBO to the Chairman, Parliamentary Committee on Lands was also received at our county office in Kilifi. The claim was regarding the ownership of Plot No. 152/IV/MN C.R 13774/4, measuring approximately 1,776 acres (Copy attached **Annex 2**).

In the petition, the CBO claimed that they have been living on the said parcel of land for many years undisturbed. However, they had discovered the existence of copies of title deed dated 1908 that allegedly assigns the ownership of the land to an absentee individual by the name of Mbarak Islam Abed.

Fact Finding

The Commission initiated due diligence from the relevant land offices and obtained the following information;

- That the said plot had a land title ordinance for 1908 registered under the Mbarak Islam Abed and others who are believed to be Mazrui's.
- On 8th May 1985 a provisional certificate of title was issued and then a transfer was done to the heirs of the original title holder.

- Later Plot No. MN/IV/152 CR 13774/1 was subdivided into 2 plots Nos. MN/IV/660 measuring approximately 55.49 acres registered under Mbarak Islam Abed and Plot No. MN/IV/661 registered under Rashid Ali 444 acres, Mohammed Khamis 444 acres, Mohammed Rashid 444 acres, Islam Ali 166.5 acres, Ahmed Ali 166.5 acres. (copy of documents attached **Annex 3**)

The Commission conducted a site visit to the area. We found out that the said parcel of land is located to the west of Takaungu off Mbogolo areas along Mombasa – Malindi highway. It is heavily squatted with mixed development of permanent, semi-permanent and temporary houses owned by local communities, the dominant being the Chonyi community.

The squatters claim to have been on the land for over 100 years and have built their homes, raised their children and even buried their loved ones there.

The land has been developed with public utilities e.g. Dindiri ECD, primary and secondary, Makata ECD and primary, Kaole ECD and primary, 10 churches, 2 mosques and 2 trading centres. In addition, the locals recognize that the said parcel of land was registered under Mbarak Islam Abeid and others as Mazrui's.

Conclusion and Recommendations

1. From ground visit it was established that this land has been squatted on for very many years and has several public institutions such as schools, churches and mosques as evidence of long settlement.
2. The Ministry of Lands and Physical Planning in collaboration with relevant stakeholders, through the Land Settlement Trustee Fund, should consider acquiring the land and settling the squatters who have lived on the land for many years, built their homes, raised their children and even buried their loved ones.

2. **Petition by Hon Ken Kiti Chonga, MP on behalf of residents of Chidongo, Junju, Mirima Minne and Bodoi villages regarding resettlement of residents in Chidongo, Junju, Mirima Minne and Bodoi in Kilifi South Constituency.**

The National Land Commission received a claim dated 23rd February 2015 from Chijumibo CBO which consists of Chidogo, Junju, Mirima Minne and Bodoi villages in Kilifi South Constituency requesting for regularization and/or allocation of the parcel No. 71/1/IV/MN. The parcel measures approximately 198.82 Ha equivalent to 491.28 acres (copy of the claim attached as **Annex 1**). They claimed that they have been living on the said parcel of land for many years undisturbed. They further claimed that the land has been developed with permanent, semi-permanent and temporary houses with an approximation of 1,300 households.

Fact Finding

Upon receipt of the claim, the Commission initiated due diligence by conducting a site visit in November 2015 to ascertain the ground status (copy of the ground report attached as **Annex 4**). Subsequently, the Commission wrote the following letters to the relevant land offices for facts finding purposes:

I. A letter dated 20th February 2017 to the Chief Officer in charge of lands, Kilifi County requesting for his comments/recommendation on the application. (Copy attached as **Annex 2**)
II. A letter dated 8th September 2017 to the Land Registrar, Mombasa seeking for information and records relating the subject parcel of land, i.e. official search and certified true copy of documents. (copy attached as **Annex 3**).

The Commission received a response dated 21st February 2017 from the Chief Officer in charge of lands on the matter (see the comments on **Annex 2**). The Commission did not receive any response from the Land Registrar, Mombasa even after several follow ups.

Thereafter the Commission summoned the CBO and a hearing was held at Mtwapa Country Resort on 11th September 2017. (Minutes attached as **Annex 5**). The meeting resolved that the Commission will place the said parcel 71/1/1V/MN on a public notice in the 3 local dailies as guided by the law for purposes of those claiming ownership to the parcel to avail their ownership documents within the stipulated time to National Land Commission for verification and confirmation. Failure to which the commission will declare the parcel as public land for allocation.

The parcel was advertised in the 3 local dailies but later the Commission realized that a wrong parcel number was inadvertently quoted in the advertisement as 71/IV/MN instead of 71/1/IV/MN (copy attached as **Annex 7**). A new public notice was drafted but was not advertised

because the then Chairman of the Commission was removed from the office before the notice could be published. (a copy attached).

On 26th February 2018, the then NLC Chairman noted that 3 families had visited his office claiming ownership of Plot No. 71/1/IV /MN. (Minutes attached as **Annex 8**)

The Commission thereafter received a certificate of confirmation of grant of the estate of Suleiman Ali deceased, issued to Awena Hemed Mohammed dated 17th July 2020 of Succession Case No. 29 of 2017 (copy attached as **Annex 9**).

The Commission then received a copy of a Letter of Allotment, Certificate of Title, and Plot No. MN/IV/71/1 CR 71107 registered to Muhia Daniel Kimeu, Lucas Chimerakenga, Francis Kipkogei Kemboi and Christopher Tuitoek Kiplagat issued on 19th March, 2020. A Copy of the official search dated 11th September 2020 and a Deed Plan are attached as **Annex 10**.

Conclusion and Recommendation

1. Ground visit established that the land is highly squatted with approximately 1,300 households.
2. The issue of ownership and conflicting interests should be resolved by the Ministry of Lands and Physical Planning in collaboration with the relevant stakeholders.
3. Once ownership details of the land are resolved, the Ministry of Lands and Physical Planning in collaboration with relevant stakeholders should settle the communities currently in occupation of the land.

3. **Petition by Hon. Khatib A. Mwashetani on behalf of the family of Mohamed Mwinyihaji Bwika regarding dispossession of Diani Complex land.**

A complaint by Tiwi aggrieved residents was presented to the National Land Commission in 2018 and was given a reference number NLC/HLI/486/2018. After admission of the claim, hearing was conducted on 28th August 2019 at Kenya School of Government, Mombasa.

The claimed parcel of land (LR. No. 13444) is within Tiwi area of Kwale County. During the hearing, the claimants were represented by Mwinyi Mohamed Bwika and Rashid Khamisi Bwika. They alleged that the land measuring 4.5 Ha was their ancestral land. They added that, they had been paying land rates to the County Government of Kwale for the land. They further alleged that their land was grabbed by a prominent person in government. They had also attempted to get official searches from the land registry in Kwale, Mombasa and Nairobi without success. The respondents to the matter did not make an appearance to the hearing by the commission.

Upon further investigations, the Commission could not prove who pays land rates as the County Government of Kwale did not have records of this land.

On the same day of the hearing, the Commission conducted a ground visit to the land (LR. No. 13444) claimed by the family of the late Mohamed Mwinyihaji Bwika of Kwale County. There were no developments on the ground then. Currently, the entire parcel of land is fenced with a stone wall perimeter fence all the way to the high water mark. However, there are no developments inside the fenced area.

Conclusion and Recommendations:

The Commission made the following recommendations pursuant to article 67 (2) (e) of the constitution and Section 15 of the National Land Commission Act No. of 2012.

i. The claim met the Historical Land Injustice criteria and was therefore admitted.
ii. Tiwi Beach Block 13444 to be restituted to Bwika family.
iii. The title to this land to be revoked so that the land is transferred to Mwinyi Mohamed Bwika and Rashid Khamisi Bwika.

These recommendations were subsequently gazzetted via Kenya gazette No 1995 of 1st March 2019.

The Commission to write to the Cabinet Secretary Ministry of Lands and Physical Planning requesting her to direct the Chief Land Registrar to comply with recommendations of the Commission as provided for by Section 15(10) of the National Land Commission Act, 2012.

Honorable Chair, I submit.

Gershom Otachi Bw'Omanwa
CHAIRMAN

Grant of Letters of Administration Intestate. P. & A. 41

REPUBLIC OF KENYA

29.7.1998

197

IN THE HIGH COURT OF KENYA

AT MOMBASA

SUCCESSION CAUSE No. H.C./R/M. 55 OF 1997

In the matter of the Estate of SALIM MOHAMED BASSAMY Deceased.

BE IT KNOWN that on the 24th December m, 1997, letters of Administration intestate of all the estate of SALIM MOHAMED BASSAMY (also known as .....) deceased late of BOX 95350 MOMBASAA who died domiciled in ..... on the 29th July, 1995 at MEWA MEDICAL CENTRE which by law devolves to and vests in his/her personal representative were granted by this Court to AHMED SALIM MOHAMED BASSAMY of 80296 MOMBASA (and AMUR SALIM MOHAMED BASSAMY of BOX 80296 MOMBASA) 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 MOMBASA this 5th January, 1998

M. Ang'awa

Signature MARY ANG'AWA

Judge of the High Court/
~~*Resident/Magistrate*~~
JUDGE

GPK (L)

ANNEX 10

REPUBLIC OF KENYA

THE LAND REGISTRATION ACT
(No. 3 of 2012, *Section* [illegible])

THE LAND ACT
(No. 6 of 2012)

THE REGISTRATION OF TITLES ACT (*Cap.* 281) (*Repealed*)
THE GOVERNMENT LAND ACT (*Cap.* 280) (*Repealed*)
THE LANDS TITLES ACT (*Cap.* 282) (*Repealed*)

CERTIFICATE OF TITLE

Title No. CR. 71107

Term 999 Years, From 1.1.1995

Annual Rent Kenya Shillings PEPPERCORN (*L.R. demanded*) (Revisable)

I hereby certify that MUTIA NAMBU KIEKI, LUCAS CHIONGA KEFFA, FRANCIS KIPROGET KIBEGI, CHRISTOPHER TULTOEK KIELAC of P.O. Box 52, KILILI is/are the registered proprietor(s) in the Republic of Kenya pursuant to section 108 of the Land Registration Act (where now registered proprietor(s) is lessee(s) from the Government of the Republic of Kenya for the term of 999 years from the 1st day of January, One Thousand Nine Hundred and Ninety Five of land situate in the Pokot North Municipality in the Kilili District containing by measurement One Hundred and Ninety Eight Decimal Eight Two (198.82) (less road reserve of 0.0 Ac) of Acreage and being land Reference W/Tu/1 (or other Number) as delineated on Land Survey Plan 80 annexed hereto. SUBJECT however to the payable annual rent PEPPERCORN (if any demanded) and to the Act(s) special conditions, Encumbrances and other as in the Memorandum hereunder written.

Given under my hand and seal this 9th day of March

Registrar

ANNEX 10

Form 118 – Registration of Title to Land Act, 2010, rule 7
Form 8 – Land Registration (General) Regulations, 2017, rule 7
Form 8 – Land Titles Act, Cap 300, rule 3

07 SEP 2021

REPUBLIC OF KENYA

APPLICATION FOR POSTAL SEARCH

To, The Registrar,

LANDS REGISTRY, NAIROBI / MOMBASA MOMBASA

APPLICATION is made for a copy of last complete page of the abstract register

or register of titles relating to Lands Reference No. MN/IV/3/1 Title / Deed

File No 17162 and any subsequent entries.

Adhesive revenue stamp to the value of Sh 100 in payment of the fee is fixed herein

Signed

Dated 7 day of Sept 2021 Name in Block Capitals [illegible]

Postal address P.O. Box [illegible]

MOMBASA

(For application to the registry)

POSTAL SEARCH CERTIFICATE No.

Copy forwarded as requested above

For Official Use Only

Dispatched

ANNEX 10

vember, 2019

Case 2 Annex 1

NATIONAL LAND COMMISSION
RECEIVED
Date: 2/12/2019
COUNTY COORDINATOR, KILIFI COUNTY

:
AO CBO
BOX ..1153...
FI

E CHAIRPERSON
ARLIAMENTARY COMMITTEE ON LANDS
.O. BOX .....
AIROBI

THRO:
THE MP
KILIFI SOUTH CONSTITUENCY
HON. KEN CHONGA

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

Preamble:
MAKAO CBO is a registered Community Based Organization. Its registration is SS/KLF/HD/LR/CBO/CHONYI-D/121/2019 certificate number is 49145 dated 26th August, 2019.
The membership of MAKAO CBO is all the residents of Dindiri – Makata & Kaole villages of Chasimba Ward, Kilifi South Constituency, Chonyi Sub County, Kilifi County living within the span of land occupying the **Plot No. 152/IV/ MN containing 1776 acres.**
There are over 1000 households within this area.
The total population of the people occupying the plot is about 65,000 which include men, women, children and grand children.

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

We therefore, since inception of the group have been finding ways of getting the right to the ownership of the land mentioned above and we still haven't succeeded.
In our effort in pursuit of this land problem, we managed to acquire certified copies of the Land Title Deed dated 1908 , its registration and mode of subdivision and transfers of the same (see copies attached) for the piece of land and found out that the title deed to our land (this land of Dindiri - Makata & Kaole) which we have been occupying for centuries and decades is in the name of one **Mbarak Islam Abed**. (absentee).

We have wondered how he acquired the said title deed which is dated way back in the 1908, a time when Kenya was under the rule of the British!!!
We understand that upon gaining her full independence, the entire land in Kenya, was freed from the British rule and, we usurped the ownership of our land as a sovereign state and as the indigenous people of Kenya who were occupying the land in question above

er centuries, our ancestors have occupied the land covering the entire area. They have since then abished farmland and homes for themselves and their families. No one has ever complained that the rest land belonged to him/them. No one complained of their land being invaded by people and, no eport whatsoever was made to the then government authorities of those days. No one has since come to claim ownership of this land till to date!!

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

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

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

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

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

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

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

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

There is a private primary school within the area.

There are also over 10 churches of different denominations.

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

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

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

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

1. Age old grave yards spanning from Dindiri-Makata to Kaole villages in each boma where clans have been burying our dead family members over the years.
2. Very old tree crops such as mango trees, Bombax rhodognaphalon (misufi), coconut trees, and newly planted forest trees as reforestation (for economic purposes). Several age old mango trees can vividly be seen especially in areas of graveyards.
3. Elderly men and women born here who are over the age of 80 years and have never been disturbed by anyone claiming ownership of the land in question.
   Examples of such include: Mzee Mdachi Msiriro – born 1924 (ID No. 5456533), Mzee Nyamawi Muhaso – born 1926 (ID No. 4584301), Mzee Lewa Ngoma – born 1928 (ID No. 3885433), Mzee Joseph Barawa – born 1930 (ID No. 2149351), Mzee Mwatsuma Mdiwa – born 1932 (ID No. 3903981), Mzee Mwangala Kusa – born 1935 (ID No. 5339384), Mzee Rondo Mwabonje – born 1942 (ID No. 32580497) among others.
4. Several permanent residential and commercial houses
5. The 3 public nursery and primary schools and the 1 public secondary school as other learning institutions

ur Petition.

Since we have occupied the aforementioned parcel of land **(152/IV/ MN)** for so many decades undisturbed, and we have established ourselves here, we have no other place to call our home/our land except this land of Dindiri-Makata & Kaole, we hereby petition the government, through our area MP, Hon. Ken Chonga; through the Parliamentary Committee on Land, to intervene and have this matter resolved once and for all.
We wish to be fully recognized as the legitimate owners by birth, by virtue of being the occupants of the land for centuries and decades, by constitution as Kenyans and by right of ownership of the aforementioned land.

This we are aware that can only be done by having the title deed which is in the name of one **Mbarak Islam Abed** (absentee) to be revoked and the land which is ours be subdivided and we be allocated and issued with title deeds.
Our fear is that if the above prayer is not granted, we shall suffer irreparable damage.
We are likely to lose our properties and our lives if this is not granted.

The holder of the title has absolutely nothing to show on the ground within the aforementioned parcel of land for him to claim any real ownership.
On the contrary, we local residents occupying the section of land (Dindiri-Makata & Kaole) have enough evidence that confirms our right to the ownership of the land.

Kindly consider our plea.

Thank you.

Signed by us on behalf of the

members of MAKAO CBO

.....

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

.....

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

.....

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

Cc:

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

Cover Annex 1

Certificate No. 49145

Republic of Kenya

MINISTRY OF EAST AFRICA COMMUNITY, LABOUR AND SOCIAL PROTECTION

DEPARTMENT OF SOCIAL DEVELOPMENT

Certificate of Registration of Community Based Organization (C

This is to Certify that

MAKAO C.B.O

Group Name / Project

SS/KFI/HD/LR/CBO/CHONYI-D/121/2019

Registration No.

CHONYI

Division

26TH AUGUST 2019

Date of Registration

NG'OMBENI

Sub-location / Ward

KILIFI SOUTH

Constituency

KILIFI SOUTH

Sub County

ZIANI

Location

is registered with the Department of Social Development Office as a Community Based Organization (CBO)

KILIFI

County

Name DORAH CHOVU

County / Sub County Social Development Officer

26TH AUGUST 2019

Date of Issue

COUNTY CO-ORDINATOR FOR SOCIAL DEVELOPMENT KILIFI COUNTY

Signature

KENYA

Note: The Contents of this Certificate should not be erased, altered or defaced in any way

Case Two annex 2

LAND TITLES ORDINANCE, 19

SCHEDULE I. FORM B.

CERTIFICATE OF OWNERSHIP.

I JAMES DANDIE HUNTER ... Recorder of Titles

ALI RASHID MONTERI as Administrator of the Estate of RASHID ALI MONTERI Deceased
MOHAMED EL-BASAMI as Administrator of the Estate of Mohamed KHAMIS EL-BASAMI Deceased
MOHAMED RASHID EL-BASAMI (¼) MUARABU SALEM (1/16th) ISLAM ALI (3/32nds) [illegible]
are in the undivided shares shewn in brackets opposite their names or above
are the proprietors of an estate in fee (together with the mineral Rights) (1) in that piece of land
COAST at S.W. OF TIWANDE VILLAGE DISTRICT
and delineated on the plan No. 75079 deposited in the Office of the Recorder of Titles
numbered MW/TW/152 and containing 1776 acres or thereabouts
mortgages and other interests (if any) as hereunder written. (2)

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

Certificate Fees £...35...10. 00
Survey " 189. 12. 00
2225. 2. 00

Recorder of Titles

Mortgages and other interests above referred to:

SUBJECT TO FIRST CHARGE IN FAVOUR OF SOLDRICHT OF KENYA SOL.LTD: 4,000/-.

12774
11-5-20
10.45 am

ANNEXURE III

RESPONSE BY THE REGISTERED AND BENEFICIAL OWNERS OF PLOT NO. MN/IV/152

Aboo & Company

4th Floor, Sea View Plaza, Mama Ngina Drive,

ADVOCATES
COMMISSIONER FOR OATHS &
NOTARY PUBLIC

P.O. Box 89244-80100, Mombasa, Kenya
Cell +254 704 311 372
Email: advocates@aboogroup.com
VAT NO. 10817
PIN. NO. A000188633P

Abdulhamid Aboo

YOUR REF: NA/DDCS/LANDS/2021/060 **DATE:** 22nd June, 2021

OUR REF: C/1211/1

"Advance copy by e-mail"

The Clerk's Chambers,
National Assembly
Parliament Buildings,
P.O Box 41842-00100
NAIROBI

ATTN: Mr. Peter K. Chemweno

RE: CONSIDERATION OF A PETITION BY RESIDENTS OF DINDIRI-MAKATA AND KAOLE VILLAGES IN KILIFI SOUTH CONSTITUENCY REGARDING DISPOSSESSION OF LAND BELONGING TO THE RESIDENTS

We refer to the above matter and your letter dated 17th June, 2021 with instructions to respond as hereunder:

We have been retained by Mohamed Ahmed Ali representing Islam & Ahmed Ali Islam , Mbarak Islam Abeid , The Directors of Cedi Investments Limited , The Family of Kassim Abdulatif being the beneficial owners having purchased from Ahmed Salim Ahmed Balala who purchased the interest of Mohamed Khamis & Mohamed Rashid El-basami , Ahmed Salim Ahmed Balala and Ahmed Salim El-basami representing Rashid Ali Manthri and Muarabu Salim being the consolidated original lawful registered land owners of Plot No 152/IV/MN and the beneficial purchasers where the above mentioned residents currently reside.

Our clients are the lawful and beneficial registered land owners of the parcel of land known as Plot no. 152/IV/MN- measuring approximately 1776 acres situated in Dindiri-Makata and Kaole Villages, Kilifi South Constituency Kilifi county of the Republic of Kenya.

For several years now, a number of families have invaded the above-mentioned property claiming to be squatters. On numerous occasions, our clients have made claims and sought interventions from the area Chief, District Commissioner (DC), Division Officer (DO) as they were then known in a bid to settle the land disputes with the squatters but the same has

borne no fruits. Due to the aforesaid events, our clients' right to own the property and quietly have possession of the same has been disrupted.

Our clients' wishes are to have the dispute settled amicably through intervention by the National Government in a bid to settle the squatters while being compensated as required by the law or by mutual contract.

As the lawful and beneficial registered owners of the above-mentioned property, the above-mentioned representatives are ready and willing to attend the virtual meeting scheduled for 23rd June, 2021 at 11: 00 a.m. as it only right and fair that their grievances and needs are taken into consideration before any resolution is made.

We look forward to fruitful deliberations.

Yours Faithfully,
ABOO & COMPANY

A.H ABOO
AH/co

Cc The Liaison Officers
Parliamentary Land Committee
1. Leonard Machira
2. Ahmed Guliye

Cc. Mohammed Islam
Mombasa Maize Millers Limited
Mombasa

Cc. Mbarak Islam Abeid
P.O Box 87021-80100
Mombasa

Cc. Suleiman Harunani
Cedi Investment Limited

Cc. Ahmed Salim Ahmed Balala
P.O Box 80534
Mombasa

Cc. Ahmed Salim El-basami
P.O Box 80296
Mombasa

REPORT TO THE PARLIAMENTARY COMMITTEE ON LANDS

IN THE MATTER OF THE PLOT NO. MN/IV/ 152 MEASURING APPROXIMATELY 1776 ACRES S.W OF TAKAUNGU, KILIFI DISTRICT

AND

IN THE MATTER OF ASCERTAINING THE CURRENT REGISTERED AND BENEFICIAL OWNERS OF PLOT NO. MN/IV/152 AND THEIR CORRESPONDING ACEARAGE

AND

IN THE MATTER OF THE COMPULSORY ACQUISITION OF THE SAID LAND IN TAKAUNGU BY THE NATIONAL GOVERNMENT/ NATIONAL LAND COMMISSION TO SETTLE THE SQUATTERS AND CURRENT OCCUPIERS AND THE CONSEQUENT COMPENSATION TO THE REGISTERED AND BENEFICIAL OWNERS

DATE : 28TH JULY, 2021

PREPARED BY:
ABOO AND COMPANY ADVOCATES
ADVOCATES ON RECORD FOR ALL THE REGISTERED AND BENEFICIAL OWNERS OF PLOT NO. MN/IV/152 and MN/IV/660

TABLE OF CONTENTS

EXECUTIVE SUMMARY

This matter was initiated by the Letter of Invitation to a meeting from the National Assembly dated 17th June, 2021 , regarding a Public Petition by Residents of Dindiri – Makata and Kaole Villages in Kilifi South Constituency regarding dispossession of land belonging to the residents. The said villages are all situated within Plot no. MN/IV/152 measuring approximately 1776 Acres.

A Zoom meeting was arranged on 23rd June, 2021 and postponed to 29th June, 2021 however the same was adjourned due to technical difficulties with the parties agreeing to a physical meeting to take place in Mombasa, which took place on 27th July, 2021.

The purpose of this report, as requested by the Parliamentary Committee, is to ascertain the current registered and beneficial owners of Plot no MN/IV/152 and prove their link to the registered owners as reflected in Certificate of Ownership CR. 13774/1 and the Provisional certificate of title issued in 1985, consequent of meeting that took place on 27th July, 2021 at English Point Marina, with the current registered and beneficial owners present, the public petitioner, Chairman and vice Chairman of the Committee and the Honorable Members of the Parliamentary Committee on Lands.

Honorable Members, we shall now proceed to submit documentary evidence with respect the same.

BRIEF HISTORY ON THE ORIGINAL TITLE DEED CR. 13774/1

In order for us to understand how the registered and current beneficial owners of the said property are, we must briefly delve into the history of the said land. An application was made in The Land Registration Court in Mombasa, Application cause no. 5 N of 1922, wherein the claimants Khamis Bin Salim, Mohamed Bin Rashid, Mohamed bin Khamis El-Basami and Rashid bin Ali El-Manthri were awarded the said parcel of land via judgment delivered on 3rd October, 1922. The judgment stated

> ***"In view of the agreement come to between the applications and the Ag. Asst. Land Officer acting on behalf of the Crown, I order that a Certificate of Ownership issue to Khamis bin Salim, Mohamed bin Rashid El- Bassami, Mohamed bin Khamis El-Basami and Rashid bin Ali Elmandri as tenants in common with respect of 1800 acres of land lying to the S.W. of the Mazrui Reserve No. 2 and along the West bank of the River Mtoni. That is the River forming the Eastern Boundary, and the Western boundary starts from Beacon No. 1 of the Mazrui Reserve No.1. Instructions for survey to issue accordingly."***

The said judgment was issued by Sd. A.J. Maclean, Recorder of Titles. Annexed herein is a copy of the said judgment.

A Certificate of Ownership with respect to the said plot MN/IV/52 was then issued in 1962 reflecting six registered owners. The said Title Deed was then held by the firm of Sachedva and Company up until a few years ago when it was handed over to Aboo and Company Advocates by one of the clients.

The said Original title deed to plot no. MN/IV/152 was presented to the Committee for scrutiny on 27th July, 2021 and states the registered owners of the plot as RASHID ALI MANTHRI (1/4), MOHAMED KHAMIS EL-BASAMI (1/4), MOHAMED RASHID EL-BASAMI (1/4), MUARABU SALIM (1/16TH), ISLAM ALI (3/32nds) , AHMED ALI (3/32nds). Attached herein is a copy of the said title.

The said title deed was overtaken by a Provisional Certificate of Title CR. 13774/2 which was issued in 1985, applied for by Public Trustee who was administering the estate of the late Muarabu Salim consequent to her demise. The existence of the Provisional title was only brought to our attention when Mbarak Islam Abeid, who purchased several acres from one of the beneficiaries of Muarabu Salim (her late husband Omar Ali Said). He presented us with a Title Deed with respect to his subdivided portion of land (55 acres) and a copy the Provisional Title mentioned hereinabove. Furthermore, an original Deed Plan with respect to his subdivision was also presented

to us and is in our possession (annex copy of Deed plan). The legal requirements is to now make an application to the Lands Office for the issuance of a Title Deed with respect to the remaining portion of land (1721 Acres).

Consequently, the Original Title that is in our possession needs to be surrendered to the Registry for cancellation. An application for Postal Search was made on 29th June, 2021 (Annexed herein is a copy of the said application) to ascertain the status of the ownership of the land however the same has not borne any fruit as the Mother title file for the Title Number 152/2 Section IV Mainland North cannot be traced. It is therefore our humble request that the Parliamentary Committee direct the Land office to produce the file so that there may be reconfirmation on the same.

Furthermore, the Provisional Certificate of Title issued in 1985 has entries showing the property being transferred to the Beneficiaries of the late Muarabu Salim and the corresponding transfer to Mbarak Islam Abeid from one of the Beneficiaries of the late Muarabu Salim (Omar Ali Said). Attached herein is a copy of the said title which title deed is in legally in force and any further transaction would be endorsed on the said title. **The registered owners presently are therefore Rashid Ali Manthri, Mohamed Khamis El- Basami, Mohamed Rashid El-Basami, Mbarak Islam Abeid, Salim Mohamed Rashid Basami, Haidar Mohamed Rashid Basami, Ahmed Mohamed Rashid Basami, Islam Ali and Ahmed Ali.**

It is also important to note and bring forth the fact that the application for the said Provisional Title was done by Wiliam Kimani Richu, who was a Public Trustee and administrator of the estate of Muarabu bint Salim Basami, and the same was gazetted on 28th June, 1985.

Now that we have a brief understanding of the history of the property, we shall now delve into who the current registered and beneficial owners of the said land are. The same shall be done in the sequence in which the names appear on the title that is in our possession. We shall also provide all the necessary supporting documents.

CURRENT REGISTERED AND/OR BENEFICIAL OWNERS OF THE PROPERTY

1. RASHID ALI MANTHRI (444 Acres)

The deceased passed away on 6th February, 2002 and was survived by 9 grandsons, and two granddaughters as per the succession petition dated 26th April, 2021 filed under Certificate where in the petitioners, Ahmed Salim Mohamed and Hemed Salim Mohamed. An order was issued on 26th July, 2021 certifying the matter as urgent and listing the same for hearing on 29th July, 2021. Annexed herein is a copy of the said Order. As reflected in the Title, the deceased was the registered owner of ¼ share equivalent to 444 acres of land in Plot. MN/IV/152. We have annexed herein a copy of the death certificate and the documents pertaining to the said succession petition.

2. MOHAMED KHAMIS EL-BASAMI (444 Acres)

This registered owner has passed on. At the time of his death, his son the late Khamis Mohamed El-Basami was appointed as administrator of his estate and he went on to appoint Hyder Mohamed Rashid El-Basami as his attorney through a Power of Attorney dated 15th April, 1988. Hyder and Khamis have since both passed on. Since both Khamis and Hyder have passed on, the deceased is now survived by eleven (11) grandsons and (five) 5 granddaughters. As per the Title, the deceased was the registered owner of ¼ share equivalent to 444 acres of land in Plot no. MN/IV/152. The process of succession has been initiated at the Kadhi's court via succession petition under Certificate and the same has now been certified urgent and is coming up for hearing on 29th July, 2021. Attached herein is a copy of the Succession Petition under Certificate and the consequent order issued on 26th July, 2021. We have also annexed all pertaining documents and death certificates.

3. MOHAMED RASHID EL-BASAMI (444 Acres)

The late Mohamed Rashid El-Basami passed away on 28th September, 1945 and Grant of letters of Administration were issued on 31st January, 1989 appointing Hyder Mohamed Rashid El-Bassamy and Salim Mohamed Rashid El-Bassamy as the administrators of his estate. Attached herein is a copy of the said Grant. He is listed as a registered owner of ¼ share of said property, holding an interest of 444 acres. The deceased was survived by three sons, namely Salim Mohamed Rashid El-Bassamy, Hyder Mohamed Rashid El-Bassamy and Ahmed Mohamed Rashid Bassami, all of whom have passed on to date. Attached herein are the death certificates relating to Salim, Hyder and Ahmed respectively. It is important to note that the deceased's son's names have been spelt as "Basamy" in the said Grant of Letters of Administration, as opposed to "Basami" which is how their late father spelt it. However, for the purposes of

clarification and certainty, the current and proposed administrators of the three deceased (Salim, Hyder and Ahmed) have sworn affidavits confirming that they are one and the same person.

The administration of the estate of the late Salim Mohamed Bassamy was applied for in the High Court (Succession Cause no. HC 55 of 1997, and the Grant of Letters of Administration Intestate were issued on 5th January, 1998 (Annexed herein is a copy of said Grant) and the Certificate of Confirmation of Grant was issued on 29th May, 1998 appointing two sons of the deceased, namely Ahmed Salim Mohamed Bassamy and Amur Salim Mohamed Bassamy as the administrators of the deceased's estate (Annexed herein is a copy of the Certificate of Confirmation of Grant). The two sons, Ahmed and Amur are alive and were present at the Committee meeting held on 27th July, 2021 at English Point Marina.

With respect to the estates of the Late Hyder Mohamed Rashid Basami and the late Ahmed Mohamed Rashid Basami, a succession petition was filed under Certificate at the Kadhi's Court (Succession case no. E 239 of 2021), which application seeks to appoint Ahmed Salim Mohamed and Hemed Salim Mohamed as the administrators of the deceased's estates. The said application has been certified as urgent and the same is coming up for hearing on 29th July, 2021.

4. MUARABU SALIM (111 Acres)

Muarabu Salim is listed as the registered owner of 1/16th interest in the said property. After her demise, her estate was administered by Public Trustee by virtue of Grant of Letters of Administration – Probate and Administration cause No .76 of 1983 issued on 14th October, 1983. Her beneficiaries were her late husband Omar Ali Said (Erroneously referred to in said document as Omar Ali Salim) and three grandsons namely Salim Mohamed Rashid Basami, Haidar Mohamed Rashid Basami and Ahmed Mohamed Rashid Basami, and her estate was transferred to the said beneficiaries in the following shares: Omar Ali Said (Erroneously referred to as Omar Ali Salim) – 3/6th share, Salim Mohamed Rashid Basami – 1/6th share, Haidar Mohamed Rashid Basami – 1/6th share and Ahmed Mohamed Rashid Basami – 1/6th share.

Based on the facts before us and the existence of a Provisional Title issued in 1985, it is clear that the Public Trustee had been unable to trace the Original Title deed and consequently made an application for a Provisional Certificate of Title. The same was applied for by one William Kimani Richu, Assistant Public Trustee and administtator of the estate of the late Muarabu Salim on 28th June, 1985. Attached herein is a copy of the said Gazette Notice No. 2475.

Once the Provisional Title was issued, an instrument of transfer dated 14th January, 1987 was registered against the Provisional Title reflecting the transfer to the four beneficiaries of the late Muarabu Salim. Annexed herein is a copy of the said Transfer and provisional title showing said entry. Furthermore, to correct the error with respect to the incorrect names used to refer to Omar Ali Said, a Deed of Rectification dated 12th August, 1988 correcting the name was registered against the Provisional title under entry number 5. Annexed is a copy of the said Deed of Rectification.

In 1986, Omar Ali Said sold his 3/6th interest in the said Property to one Mbarak Islam Abeid. The said Transfer was registered against the Provisional Title on 24th March, 1987 and Mbarak Islam Abeid was issued with a title deed pertaining to his 55 acres. He was also issued with a Deed plan reflecting his subdivided plot. We have annexed all the legal steps that our client took to obtain his subdivided portion of the land and his Certificate of Tile CR. 35178 which reflects the owner of the 55 acres of subdivided portion as Mbarak Islam Abeid (MN/IV/660).

Therefore the legal owners of the portion belonging to the late Muarabu Salim are Mbarak Islam Abeid, who was present in person at the Committee meeting held on 27th July, 2021 at English Point Marina and the administrators of the estates of the late Salim Mohamed Rashid Basami, Haidar Mohamed Rashid Basami and Ahmed Mohamed Rashid Basami who have been referred to hereinabove, namely Ahmed Salim Mohamed Basami, Amur Salim Mohamed Basami and Hemed Salim Mohamed Basami, who were all present at the Committee meeting.

Furthermore, in an attempt to survey his property, Mbarak Islam Abeid obtained a court order from the Environment and Land Court, ELC NO. 294 OF 2016, allowing for a joint survey to be done to ascertain the level of encroachment of poles and electricity lines if any. The court further ordered that OCS Kilifi Police Station to provide security to the surveyors to enable them to perform the joint survey. According to the latter dated 17th July, 2019 by the Land Surveyor, the meeting was of success until both survey teams were asked to show where the road corridor passes through as per their cadastral map, which they were unable to accomplish due to chaos from the locals and they were chased away from the ground.

Lastly, in lieu of the presence and existence of the Provisional Title, the Original Title must now be submitted to the Lands Office for cancellation as legally required.

5. ISLAM ALI (166.5 Acres)

Islam Ali was listed as a registered owner of 3/32nds share of the said Plot, measuring approximately 166.5 acres. Islam Ali, also referred to as YESLAM ALI BASHAMKH, passed away on 26th May, 1999 and the process of administration was undertaken in High Court, Succession cause no. 147 of 2000, wherein Ali Islam Ali and Mohamed Islam Ali were

appointed as administrators of the deceased's estate by virtue of Certificate of Confirmation of Grant dated 22nd MAY, 2002. Mohamed Islam Ali was present at the Committee meeting held at English Point Marina on 27th July, 2021.

Mohamed Islam Ali explained to the committee how any attempts to enter the land for the purposes of surveying or ascertaining beacons/boundaries have proven futile due to the hostile nature of the people currently occupying the land. Their lack of occupation of the land is not due to negligence or lack of interest on their part, the reality on the ground is that they have been threatened, chased and do not feel safe visiting their own property.

Any naming issues and discrepancies have been dealt with by virtue of Affidavit sworn by Mohamed Islam Ali on 28th July, 2021 annexed herein.

6. AHMED ALI (166.5 Acres)

Ahmed Ali was listed as a registered owner of 3/32nds share of the said Plot, measuring approximately 166.5 acres. Ahmed Ali, also referred to as AHMED ALI YESLAM , passed away on 6th October, 2012 and the process of administration was undertaken in High Court, Succession cause no. 73 of 2013, wherein HAJI AWADH OMAR, ALI AHMED ALO, HASHIM AHMED ALI, MOHAMED AHMED ALI AND RAMLA AHMED ALI were appointed as the Adminsitrators of the deceased's estate by virtue of Certificate of Confirmation of Grant dated 24th October, 2014. Mohamed Ahmed Ali was present at the Committee meeting held at English Point Marina on 27th July, 2021.

He also explained to the Committee that, like his cousin Mohamed Islam Ali, any attempts to enter the land for the purposes of surveying or ascertaining beacons/boundaries have proven futile due to the hostile nature of the people currently occupying the land. He reiterated to the Committee that the lack of occupation of the land is not due to negligence or lack of interest on their part, but that the reality on the ground is that they have been threatened, chased and do not feel safe visiting their own property.

Any naming issues and discrepancies have been dealt with by virtue of Affidavit sworn by Mohamed Ahmed Ali on 28th July, 2021 annexed herein.

Honorable members, we have now come to the end of our explanation with respect to how each of our clients relate to the names present on the Provisional Title Deed as requested by yourselves. It is our humble submission that we have made the necessary links and lies showing the consequent legal and beneficial ownership our client's have over the said land. At this stage, the way forward is an amicable solution that is favourable to all those involved.

SOLUTIONS

Honorable Chairman, Vice Chairman, representative of the public petitioners and Honorable Members of the Parliamentary Committee, we are now at the stage of coming to a solution.

WHEREFORE we humbly pray for the following:

1. That the squatters be settled our client's be compensated by the National Government.

We have now come to the end of our humble submissions.

Dated this 28th day of July, 2021.

ABOO AND COMPANY ADVOCATES
ADVOCATES FOR ALL THE REGISTSERED AND BENEFICIAL OWNERS

MINISTRY OF LANDS AND SETTLEMENT

Telephone: 0125-22475
When replying please quote

DISTRICT LANDS OFFICE
KILIFI DISTRICT
P.O. BOX 258
KILIFI

Ref. N°: KIL/LO/1749 VOL VIII/227
and date

22ND AUGUST, 19 98

MBARAK ISLAM ABEID,
P.O. BOX 238,
KILIFI.

RE: PROPOSED SUBDIVISION ON PLOT L.R. NO. 152/1V/MN INTO TWO PORTIONS OF 6.96. 277 HA AND 22.460 HA VIPINGO.

Enclosed find a scheme plan of the above mentioned subdivision, duly endorsed with my provisional approval subject to the following conditions:-

(i) The land meant for road of access to be surrendered to the Government free of cost (existing motorable track).

(ii) Other local authority by-laws.

(iii) The subplots to assume the conditions of the parent plot.

(iv) Subject to the approval of the Bahari Land Control Board.

Note that final Approval would be given on conformity to the above mentioned conditions.

MWAITA K.
DISTRICT LAND OFFICER,
KILIFI/MALINDI/TANA RIVER/LAMU DISTRICTS:

CC.

THE COMMISSIONER OF LANDS,
P.O. BOX 30089,
NAIROBI.

THE DIRECTOR OF SURVEYS,
NAIROBI.

THE REGISTRAR OF TITLES,
MOMBASA.

SALE No.

ORIGINAL

DEPARTMENT OF LANDS

E 501953

FEE RECEIPT

Station Mombasa

23/9/1994

Received from Mbarak Islam ABED

of

Cash / Cheque By the sum of

Shillings Two hundred fifty only

cents

As per marginal statement nature of transaction Postal search

Title Number LR 152/IV/MN

for COMMISSIONER OF LANDS

NATURE OF FEE	Sh.	cts.
Certificate of Title ..		
Registration ..		
Search Certificate ..	250	
Opening New Register		
Attestation		
Inspection		
Copying		
Conveying/Preparation		
Survey Fees		
Rent		
Stand Premium ..		
Stamp Duty		
Land Adjudication Fees		
Deposits		
TOTAL KSh.	250	

Affix adhesive revenue stamps in payment of the fee here

For Official Use Only

No

Received DISTRICT LAND REGISTRY MOMBASA 23 SEP 1999 TIME ..... AM/PM D. B. No.....

Form Y—Registration of Titles Act (Chapter 281), rule 3
Form J—Government Lands Act (Chapter 280), rule 2
Form J—Land Titles Act (Chapter 282), rule 3
Form C—Registration of Documents Act (Chapter 285), rule
Form C—Land (Perpetual Succession) Act (Chapter 286), rule 4

REPUBLIC OF KENYA

APPLICATION FOR ~~COPY~~ Postal Search

To: THE REGISTRAR,

Our Reference:

LAND REGISTRY, ~~MERCH~~ MOMBASA

I request you to supply

copy/copies of the following: certified ~~uncertified~~

(1) PLOT NO. MN/IV/152

54

*Adhesive revenue stamps at the rate of Sh 2 per certified copy are *pinned* to this application to meet the stamp duty payable thereon

*Adhesive revenue stamps to the value of Sh 255/- are affixed hereto in payment of fees

Date 23 — 9 — 99

(Signature)

Insert below in block capitals the name and address in Kenya to which the copy ~~copies~~ is/~~are~~ to be sent

Name MBARAK ISLAM ABEID

Postal address BOX 87021 MOMBASA

* Delete if not applicable

For completion in the Registry

The above-mentioned copy copies is are forwarded herewith.

The above request cannot be met because

For Official Use Only

Despatched

Date 19

Registrar

TO BE SUBMITTED IN DUPLICATE

MINISTRY OF LANDS AND SETTLEMENT

Telephone: 0125-22475
When replying please quote

DISTRICT LANDS OFFICE
KILIFI DISTRICT
P.O. BOX 258
KILIFI

Ref. No. KIL/10/1749 VOL. VIII/301
and date

12th November 1999

Mbarak Islam Abeid
P.O. Box 238
KILIFI

RE: SUBDIVISION OF PLOT NO. 152/IV/M.N - VIPINGO

Further to my letter of Provisional Approval Ref. No. KIL/10/1749 VOL. VIII/227 dated 22nd August, 1998 and your letter dated 8th November, 1999 accepting the conditions stipulated therein, I hereby accord my Final Approval to the above mentioned subdivision.

MWAITA K
DISTRICT LAND OFFICER
KILFI/MALINDI/TANARIVER/LAMU DISTRICTS

CC.

The Commissioner of Lands
P.O. Box 30089
Nairobi

The Director of Survey
Nairobi

The Registrar of Titles
Mombasa

OR 272

DIRECTOR OF SURVEY
RECEIVED
DATE 21/1/2000
INWARD REG. No. 214
NAIROBI

C/CAD/1782

November 15, 1999

COPY

THE DIRECTOR OF SURVEYS,
P.O BOX 30046,
NAIROBI.

Dear Sir,

SUBDIVISIONAL SURVEY : L.R. No. MN/IV/152
S.W. of TAKAUNGU T/C, KILIFI DISTRICT.

I submit herewith the following documents in connection with the above mentioned survey, for favour of your checking and subsequent approval:

1). One (1) leaf - field note cover/index
2). Four (4) leaves - field notes
3). One (1) page - Surveyors Report
4). Fifteen(15) pages - computations
5). One (1) Survey plan : Form No. 2, plus its linen copy.
6). Copies of approval letters & the approved scheme plan.

Yours faithfully,

E.M.J. KIGURU
LICENSED SURVEYOR.
Encl. ( )

F/a.

NB. Kindly acknowledge receipt of the documents by signing/stamping and returning a copy of this letter.

(Ardhi House)
718050 Ext 4738
Silvano

SK/L/31

E.M.J. Kiguru,
LICENSED LAND SURVEYOR,
P.O. Box 87482, MOMBASA.

SURVEY OF KENYA,
P.O. Box 30046,
NAIROBI.

No. CR/272/VOL.VIII/33

DATE 18.5.2000 19

SIR,

L.R. No.(s) MN/IV/660-661 (formerly MN/IV/152/2-3)
Situation S.W. of Takaungu T.C. - Kilifi

I have to refer to your letter No. C/CAD/1782 dated 15.11.99 and to inform you that plan number F/R 372/102 representing your survey/re-establishment of the above has been approved.

Deed Plans may be submitted for signature now/ when the conditions of approval have been complied with.

Checking fees amount to Sh. 6,400/=

I am, Sir,
Your obedient servant,

S. Kinoti Muriithi
for Director of Surveys.

Copy to Comps No. 44240
S.O.K. Accts.

22/05/00

The Director of Survey
P.O. BOX 30046
NAIROBI.

Standard Chartered

Standard Chartered Bank Kenya Limited

TREASURY SQUARE MOMBASA

KENYA DUTY PAID

Date 6/6/2000

02-0

To MOI AVENUE NBI Branch

KSh 6400/-

Pay DIRECTOR OF SURVEY or Order

Kenya Shillings SIX THOUSAND FOUR HUNDRED ONLY

Not Negotiable

De La Rue

For Standard Chartered Bank Kenya Limite

VALID FOR AMOUNT NOT EXCEEDING KENYA SHILLINGS FIFTY THOUSAND

VALID FOR PAYMENT IN KENYA ONLY 0103599125210

⑈260541⑆020786⑆14⑈3599125210⑈

EDWARD KIGURU LAND SURVEYORS

Consulting & Licensed Surveyors

P.O. Box 87482, Mombasa, Kenya
Digo Road,
Bima Tower,
13th Floor,
Tel: 230724
Email:kiguru@swiftmombasa.com

* **Cadastral surveys**
* **Topographical surveys**
* **Engineering surveys**
* **Mapping surveys**
* **Land planning consultants**

Our ref: C/CAD/1782

Your ref:

June 5 , 2000

THE DIRECTOR OF SURVEYS
P.O. BOX 30046,
NAIROBI.

Dear Sir,

DEED PLANS FOR L. R. Nos. MN/IV/152/1 , MN/IV/660 – 661
(Formerly MN/IV/152) - SW of TAKAUNGU T/C
(F/R 372/102 & COMPS No. 44240)

Please refer to your letter Ref. No. CR/272/Vol.VIII/33 dated 18/05/2000 , approving my above indicated survey.

I enclose herewith **three (3)** sets of Deed Plans (one transparency and one linen per set) , in respect of the above indicated subplots , for your checking , signature and seal.

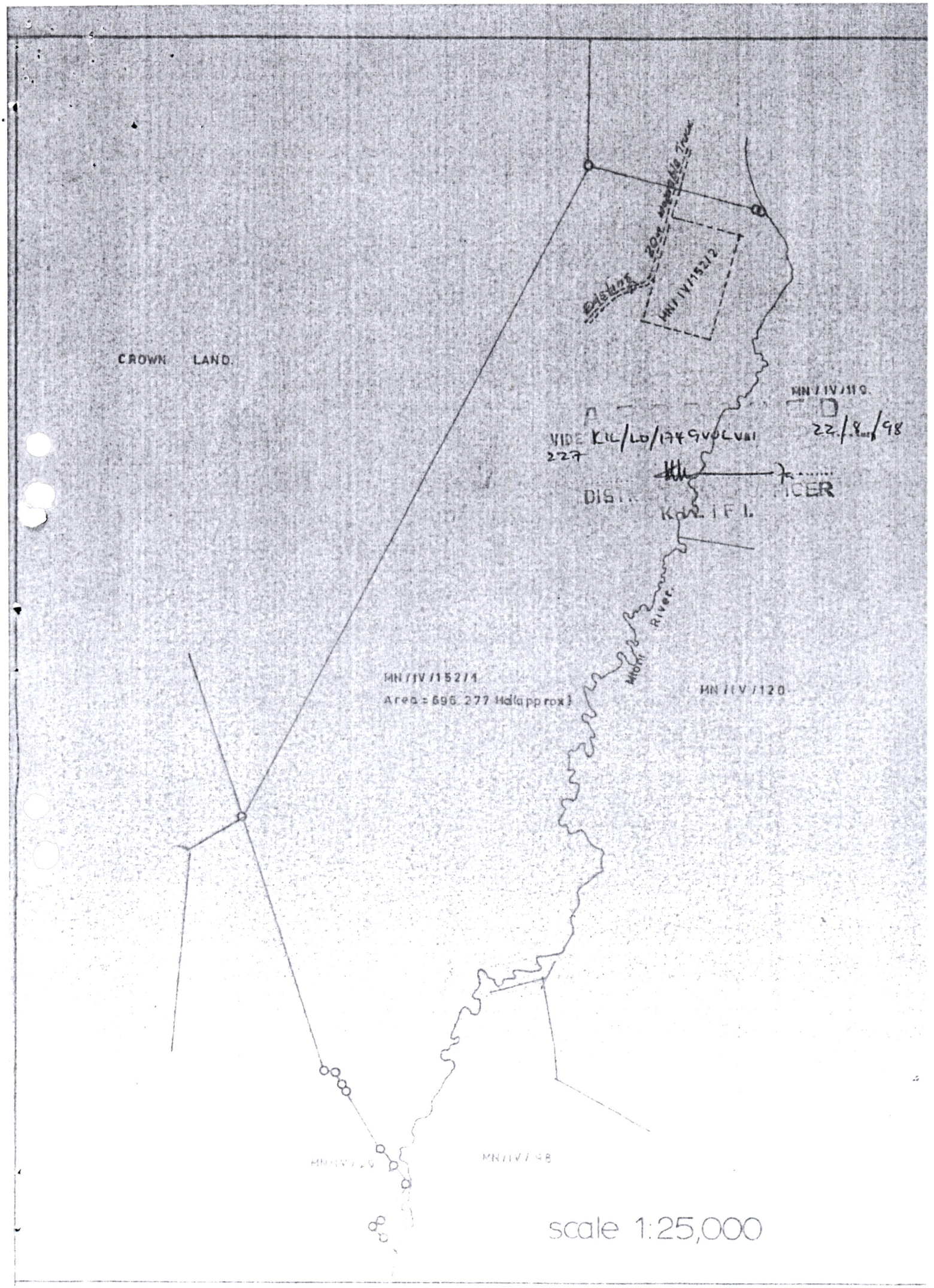
You may thereafter release to me by post.

Yours faithfully,

E.M.J. KIGURU
LICENSED SURVEYOR.

EDWARD M. J. KIGURU
Licensed Surveyor

Encl. (6)

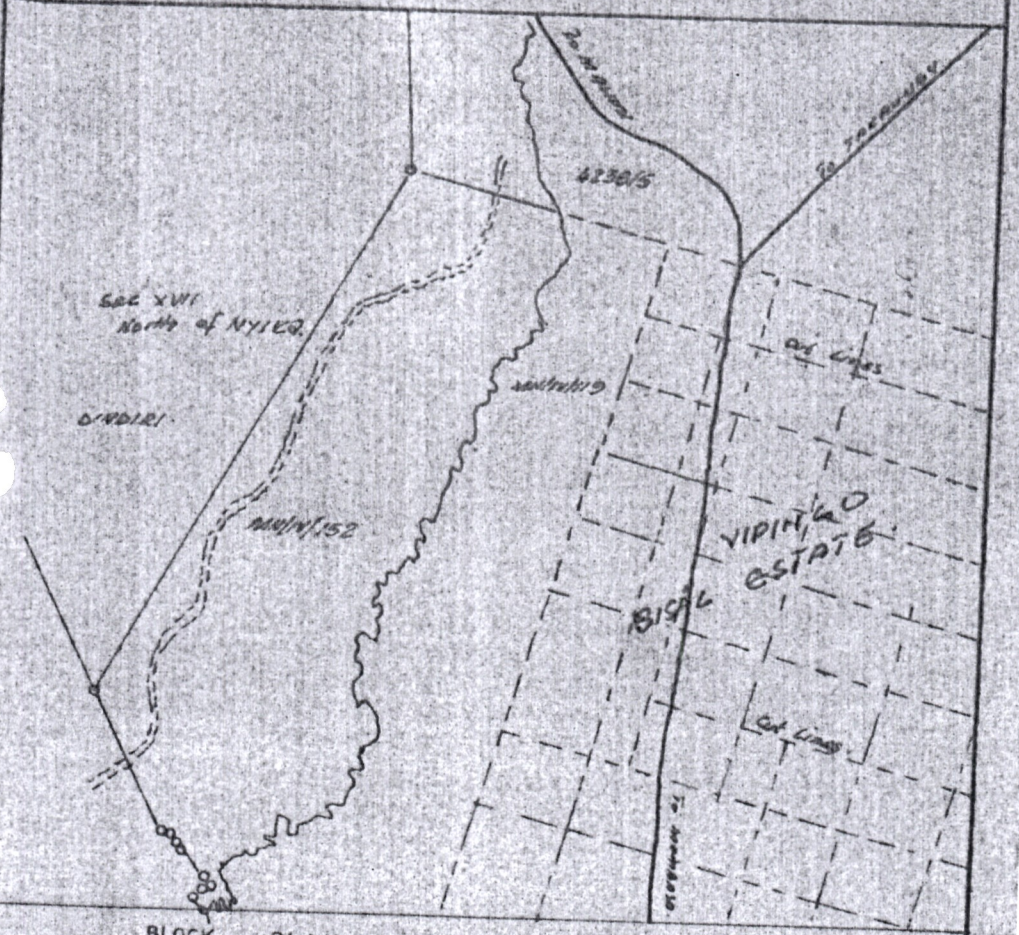

CROWN LAND.
MN/IV/15212
MN/IV/119
22/8/98
VIDE KIL/LD/1749 VOL VIII
227
DIST
KIFI
RIVER
MN/IV/15271
Area = 696.277 Ha (approx)
MN/IV/120
MN/IV/98
scale 1:25,000

PROPOSED EXCISION ON LR No 152 MN/IV.

CLIENT MBARAK ABEID ISLAM.

LEGEND.

PROVIONAL DATA SUBJECT TO SURVEY.
DATA OBTAINED FROM FR 9/40
AREA OF PLOT No 152/MN/152 = 710.737 Ha(approx)
AREA OF SUBPLOT 152/1 = 696.277 Ha
AREA OF SUBPLOT 152/2 = 22.460 Ha.



BLOCK PLAN 1:50,000

APPLICANTS SIGNATURE: .....

REPUBLIC OF KENYA:

THE REGISTRATION OF TITLES ACT:

(CHAPTER - 281)

PROVISIONAL CERTIFICATE OF TITLES.

I HEREBY CERTIFY that by reason of fact that the Certificate of Title registered as C.R.13774/1 has been lost this Provisional Certificate issued under Section 71 of the Act shall serve and be valid for all purposes in lieu of the lost Certificate of Title.

IN WITNESS WHEREOF I have hereunto set my hand and seal this twenty eighth day of October One thousand nine hundred and Eighty five.

REGISTRAR OF TITLES.

REGISTRY - MOMBASA, KENYA
REGISTRATION OF TITLES ACT
CR. 13774/1

THE [illegible]D PROTECTORATE OF KENYA.

LAND TITLES ORDINANCE, 1908.

SCHEDULE I. FORM B.

CERTIFICATE OF OWNERSHIP.

I JAMES DANDIE HUNTER Recorder of Titles do hereby certify that ALI RASHID MANTERI as Administrator of the Estate of RASHID ALI MANTERI Deceased (¼) KHAMIS MOHAMED EL-BASAMI as Administrator of the Estate of Mohamed KHAMIS EL-BASAMI Deceased (¼) MOHAMED RASHID EL-BASAMI (¼) MUARABU SALIM (1/16th) ISLAM ALI (3/32nds) AHMED ALI (3/32nds) are in the undivided shares shewn in brackets opposite their names as above the proprietors of an estate in fee (together with the mineral Rights) (1) in that piece of land situate in the Province of COAST at S.W. OF TAKAUNGU KILIFI DISTRICT and which is demarcated and delineated on the plan No. 75079 deposited in the Office of the Recorder of Titles at Mombasa and thereon numbered MN/IV/152 and containing 1776 acres or thereabouts and subject to such mortgages and other interests (if any) as hereunder written. (2)

IN WITNESS whereof I have hereunto set my hand and seal this 9th day of March XIX 1962.

Certificate Fees £ 35. 10. 00

Survey " £189. 12. 00

£225. 2. 00

L.S.

RECORDER OF TITLES.

Mortgages and other interests above referred to:

SUBJECT TO FIRST CHARGE IN FAVOUR OF GOVERNMENT OF KENYA FOR SHS: 4,503/-.

LAND TITLE ... KENYA

REGISTERED ... 12774/1

11-5-... 20

10.45 am ... Mbatsoe

DISTRICT OF KILIFI

Locality S.W of Takaungu Trading Centre

Meridional District South A 37 / V. IV. 6 7

Scale: 1 in. 25000 or 2083·33 Feet to 1 Inch

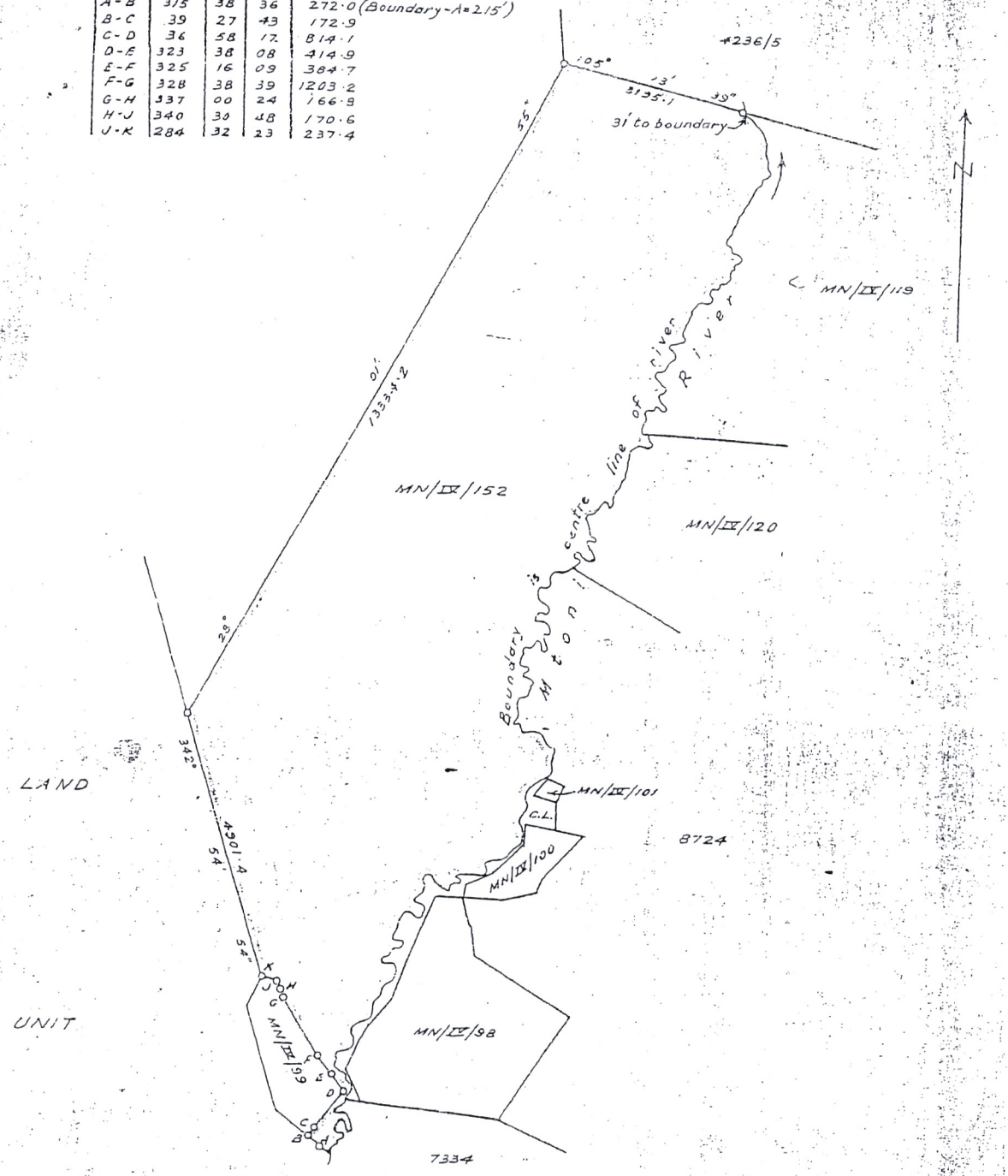
(Orig. No. _____

Subdivision No. 152 (Orig. No. ____

of Section No. IV Mainland North

Area = 1776 Acres (Approx.)

	Bearings °	′	″	Distances Feet
A-B	315	38	36	272·0 (Boundary-A=215′)
B-C	39	27	43	172·9
C-D	36	58	17	814·1
D-E	323	38	08	414·9
E-F	325	16	09	384·7
F-G	328	38	39	1203·2
G-H	337	00	24	166·9
H-J	340	30	48	170·6
J-K	284	32	23	237·4



Recorder of Titles
19th March, 1962

F. E. CHARNLEY
for Director of Surveys

Nairobi FEB 27 1962 1962

Traced by
Compared by

Please quote this Plan No. 75079

Transfer to: (1) OMAR ALI SALIM $\frac{3}{6}$th share
(2) SALIM MOHAMED RASHID BASAMI $\frac{1}{6}$th share
(3) HAIDAR MOHAMED RASHID BASAMI - $\frac{1}{6}$th share
(4) AHMED MOHAMED RASHID BASAMI - $\frac{1}{6}$th share
as heirs of MWARABU SALIM (deceased)

Transaction No. ..... Date of Registration

GAZETTE NOTICE No. 2473

THE MAGISTRATES' COURTS ACT

(*Cap.* 10)

THE JUDICIAL SERVICE COMMISSION

ASSIGNMENT OF DISTRICT MAGISTRATE

IN EXERCISE of the powers conferred by section 7 (1) of the Magistrates' Courts Act, the Chairman* of the Judicial Service Commission makes the following assignment of a district magistrate:

CHARLES SYENGO KARERE, a district magistrate empowered to hold a magistrate's court of the second class, is assigned to the Garissa, Wajir and Mandera districts, with effect from 1st July, 1985, in addition to the Kericho and Kisii districts by Gazette Notice No. 745/84.

Dated the 18th June, 1985.

A. H. SIMPSON,
Chairman,
Judicial Service Commission.

*G/N. 3606/67.

GAZETTE NOTICE No. 2474

THE NATIONAL ASSEMBLY AND PRESIDENTIAL ELECTIONS ACT

(*Cap.* 7)

DECLARATION OF VACANCY

PURSUANT to section 18 of the National Assembly and Presidential Elections Act, I give notice that, consequent upon the death of—

THE HON. HORACE ONGILI OWITI, M.P.,

the seat formerly held by the said member has become vacant.

Dated the 21st June, 1985.

F. M. G. MATI,
Speaker of the National Assembly.

GAZETTE NOTICE No. 2475

THE REGISTRATION OF TITLES ACT

(*Cap.* 281, *section* 71)

ISSUE OF A PROVISIONAL CERTIFICATE

WHEREAS William Kimani Richu, Assistant Public Trustee, of P.O. Box 80366, Mombasa, administrator of the estate of Muarabu bint Salim Basami, the registered proprietor of one-sixth undivided share of the piece of land known as subdivision No. 152, section IV Mainland North by virtue of a certificate of ownership registered as C.R. 13774/1, and whereas sufficient evidence has been adduced to show that the said certificate is lost. Notice is given that after the expiration of ninety (90) days from the date hereof, I shall issue a provisional certificate of title provided that no objection has been received within that period.

Dated the 28th June, 1985.

M. L. OJIAMBO,
Registrar of Titles.

GAZETTE NOTICE No. 2476

THE REGISTRATION OF TITLES ACT

(*Cap.* 281, *section* 71)

ISSUE OF A PROVISIONAL CERTIFICATE

WHEREAS the County Council of Nakuru, a local govern[illegible] of Molo town in Nakuru District by virtue of a grant registered as I.R. 32028/1, and whereas sufficient evidence has been adduced to show that the said grant registered as I.R. 32028/1 has been lost. Notice is given that after the expiration of ninety (90) days from the date hereof, I shall issue a provisional certificate of title provided that no objection has been received within that period.

Dated the 11th June, 1985.

J. L. W. MUNJUGA,
Registrar of Titles.

GAZETTE NOTICE No. 2477

PUBLIC SERVICE COMMISSION OF KENYA

VACANCIES

APPLICATIONS are invited for the posts shown below. Completed application forms should reach the Secretary, Public Service Commission of Kenya, P.O. Box 30095, Nairobi, on or before 19th July, 1985.

Civil servant applicants and local authority officers should complete forms PSC. 2A (revised) in triplicate (submitting the original through their heads of department) and cards PSC. 25 and 25A. Other applicants should complete forms PSC. 2 in triplicate and cards PSC 24 and 25A.

These documents are obtainable either from the secretary or other government offices and are issued free of charge.

Originals of certificates and similar documents should not be submitted unless specifically asked for. All applicants should state their postal addresses.

NOTE

Incremental credits will be granted to successful candidates who are not civil servants for approved previous experience provided the maximum salary is not exceeded. They will also be eligible for benefits and privileges enjoyed by civil servants in accordance with existing government regulations.

Vacancies in the Ministry of Health:

Pharmaceutical Technologist I (Three Posts) (No. 232/85)

Salary scale.—K£1,794 to 2,424 p.a. PENSIONABLE or AGREEMENT.

Applicants must be serving officers in the Ministry of Health in the grade of Pharmaceutical Technologist II (Job Group "H"). They should have served for a minimum of three (3) years in that grade and demonstrated technical competence in their work, ability to organize and control personnel under them for optimum provision of pharmaceutical services.

Vacancies in the Ministry of Commerce and Industry:

Senior Industrial Development Officer (Two Posts) (No. 233/85)

Salary scale.—K£2,712 to 3,540 p.a. PENSIONABLE or AGREEMENT.

Applicants must be in possession of a degree in economics, business administration, commerce, geography, law or some related qualifications. Post-graduate qualifications in the same fields will be an advantage. Candidates must have served for at least five (5) years, three of which must be at the level of Industrial Development Officer I (Job Group "K") on assignments involving industrial or commercial promotion and administration. Serving government officers without the above academic qualifications but of Kenya Certificate of Education standard and ten years' experience in promotion and administration of commerce and industry, three of which must be at Job Group "K" level, will also be considered.

The successful candidate will be assigned duties pertaining to industrial legislation, protection, investment and taxation; transfer pricing and negotiations on industrial projects, drafting cabinet and other position papers on matters relating to industrialization.

Vacancies in the Ministry of Finance and Planning:

Senior System Ecologist (One Post) (Kenya Rangeland Ecological Monitoring Unit) (No. 234/85)

Salary scale.—K£2,712 to 3,540 p.a. PENSIONABLE or AGREEMENT.

REPUBLIC OF KENYA

REGISTRATION OF TITLES ACT

C.R. 13774/1

24 -2 59

I, OMAR ALI SAID of Post Office Box number 15170, Takaungu in the Kilifi District of the Coast Province of the Republic of Kenya being registered as proprietor in respect of 3/6th undivided share (subject however to such charges leases land encumbrances as are notified in the memorandum endorsed hereon) of ALL THAT piece of land 152 section IV Mainland North containing by measurements one thousand seven hundred seventy six (1776) acres or thereabouts situated in the Coast Province of the Republic of Kenya at Kaole and which is demarcated and delineated on Land Survey Plan number 75079 attached to the certificate of ownership number 10915 and registered at Mombasa Registry as number C.R.13774 /1.

IN CONSIDERATION of Kenya Shillings Twenty Thousand (KShs. 20,000/=) only paid to me by MBARAK ISLAM ABEID of Post Office Box number 87021 Mombasa of the Coast Province of the Republic of Kenya DO HEREBY TRANSFER Unto MBARAK ISLAM ABEID All my right title and interest in respect of my share in and to the piece of land AND together with all the Improvements standing thereon absolutely.

IN WITNESS WHEREOF I have subscribed hereunto my name on this 31st day of October One Thousand Nine Hundred and Eighty six.

MEMORANDUM OF CHARGES, LEASES & ENCUMBRANCES

- NIL -

SIGNED by the said
OMAR ALI SAID in
the presence of ;-

SUBORDINATE COURT MOMBASA KENYA

ID 2147118/65

DRAWN BY:-
MBARAK ISLAM ABEID
P.O. BOX 87021,
MOMBASA.

LAND TITLES REGISTRY—MOMBASA, KENYA
REGISTRATION OF TITLES ACT
REGISTERED AS No. CR 13774/4
Presented 26th March 1987
This 2:59 pm
Registrar of Titles

MOMBASA DISTRICT LAND REGISTRY
MAR 1987

Form P & A 54

29
11/30
197

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT ~~NAIROBI~~ MOMBASA

SUCCESSION CAUSE NO. 55 **of 19** 97

IN THE MATTER OF THE ESTATE OF THE LATE SALIM MOHAMED BASSAMY **(DECEASED).**

CERTIFICATE OF CONFIRMATION OF A GRANT

I HEREBY certify that the abovewritten Grant of representation to the estate of the late SALIM MOHAMED BASSAMY issued to AHMED SALIM MOHAMED BASSAMY AMUR SALIM MOHAMED BASSAMY ~~issued to~~ therein named has this 25TH day of MAY, 19 98 been confirmed by the Court pursuant to the provisions of section 71 (1) and (3) of the Law of Succession Act.

Dated at ~~Nairobi~~ Mombasa this 29TH day of MAY, 19 98

P.N. WAKI
Judge of the High Court

SCHEDULE

Name	Description of Property	Share of Heirs

Heirs: - See schedule overleaf

SCHEDULE

1. The deceased was survived by the following children:-

(a) Mohamed Salim Mohamed Bassamy (son)

(b) Rashid Salim Mohamed Bassamy (son)
(c) Saada Salim Mohamed Bassamy (daughter)
(d) Raya Salim Mohamed Bassamy (daughter)
(e) Ahmed Salim Mohamed Bassamy (son)
(f) Abdalla Salim Mohamed Bassamy (son)
(g) Hemed Salim Mohamed Bassamy (son)
(h) Haidar Salim Mohamed Bassamy (son)
(i) Amur Salim Mohamed Bassamy (son)
(j) Nasser Salim Mohamed Bassay (son)
(k) Aisha Salim Mohamed Bassamy (daughter)
(l) Sood Salim Mohamed Bassamy (son)
(m) Zahur Salim Mohamed Bassamy (son)
(n) Rukiya Salim Mohamed Bassamy (daughter)
(o) Awena Salim Mohamed Bassany (daughter)

3. Other Dependants:-

(a) Rukiya Haider Mohamed - 1st widow

(b) Mwanashani Juma - 2nd widow

The identification and shares of all persons beneficially entitled to the said estate have been ascertained and determined as follows in equal undivided shares:

(a) Kenya Cimmercial Bank limited 315 shares 10.00 each.
(b) Carbacid Investments limited 234 shares of 5.00 each.
(c) Kenbanco House limited 31 shares of 20.00 each.
(d) B.A.T. (K) limited 1200 shares of 60.00 each.
(e) Broke Bond Liebig (K) limited 143 shares of 10.00 each.
(f) Current Account No. 205-543-226.
(g) Saving Account No. 104-175-578.
(h) Plot Number XVI/983 - Kshs.750,000.00
(i) Plot number 28/II/M.N - Kshs.400,000.00

Total estimated value Kshs.1.5 million.

REPUBLIC OF KENYA

№ :

CERTIFICATE OF DEATH

Death in the Mombasa District in the Coast

No.	2503197 /19 95	Name and Surname of deceased	Salim Mohamed Bassamy	Age	67 yea
Sex	Male	Residence	Mombasa	Occupation	Reti
Date of Death	29th July 1995				
Place of Death	Mewa Medical Centre	Cause of Death	Hypertension		
Signature, Description and Residence of Informant	Dr.S.A.Said	Signature of Registering Officer	Dr.Ng'ethe	Date of Registration	3

Certified to be true copy of a ~~return~~/an entry in the Register of Deaths in the District above mentioned.

Given under the seal of the Registrar-General on the 25th day of August

This certificate is issued in pursuance of the Births and Deaths Registration Act which provides that a certified c any entry in any register or return purporting to be sealed or stamped with the seal of the Registrar-General shall be re as evidence of the dates and facts thereon contained without any or other proof of such entry.

CA.7294 of 3.8.95

Typed by: (PA)

Checked by: (

FEE PAID: Ten Shillings

REPUBLIC OF KENYA

THE REGISTRATION OF TITLES ACT

(Chapter 281)

CERTIFICATE OF TITLE

TITLE NO: C.R. 35178

I HEREBY CERTIFY that MBARAK ISLAM ABEID of P.O. Box 87021

MOMBASA

of

in the Republic of Kenya pursuant to a Transfer registered as Number ~~L.R.~~ C.R. 13774/4 is ~~are~~ now the registered proprietor(s) as owner(s) for an estate in fee simple

of ALL that piece of land situate South West of Takaungu Town Centre

in the Kilifi District containing by measurement two two decimal

~~hectares/acres (less road reserve of~~ four six (22.46)

hectares/~~acres)~~ or thereabouts and being ~~Land Reference~~ Subdivision Number 660

(Original Number 152/2) Section IV Mainland North

as delineated on Land Survey Plan Number 230595

annexed to the said Transfer)

SUBJECT however to the Act Special Conditions Encumbrances and other matters specified in the Memorandum hereunder written

IN WITNESS whereof I have hereunto set my hand and seal this eleventh

day of November two thousand and two ~~One thousand nine hundred and~~

Registrar of Titles

MEMORANDUM

1) The Land Titles Act (Cap. 282) Excepting Part III thereof

GPK (L) 2) The Registration of Titles Act (Cap. 281)

REGISTRATION OF TITLES ACT

REGISTERED AS No. C.R. 35178/1

Presented 11TH NOVEMBER 2002

TIME: 10.00AM

THE FOLLOWING INSTRUMENT HAS BEEN REGISTERED AGAINST THE TITLE

2

WAYLEAVE AGREEMENT IN FAVOUR OF THE RURAL ELECTRIFICATION AND RENEWABLE ENERGY CORPORATION OVER ERECTION OF POLES AND POWER TRANSMISSION LINES ON SAID LAND

Presentation No. 141 Date of Registration 18/1/2021 Registrar

S. K. Mwangi 503

CR/272/Vol C VIII/34

REPUBLIC OF KENYA

DISTRICT OF KILIFI

Locality S. W. of Takaungu T. Centre

Reference Map South. A. 37 / V. IV. 6. 7

Land Reference No.

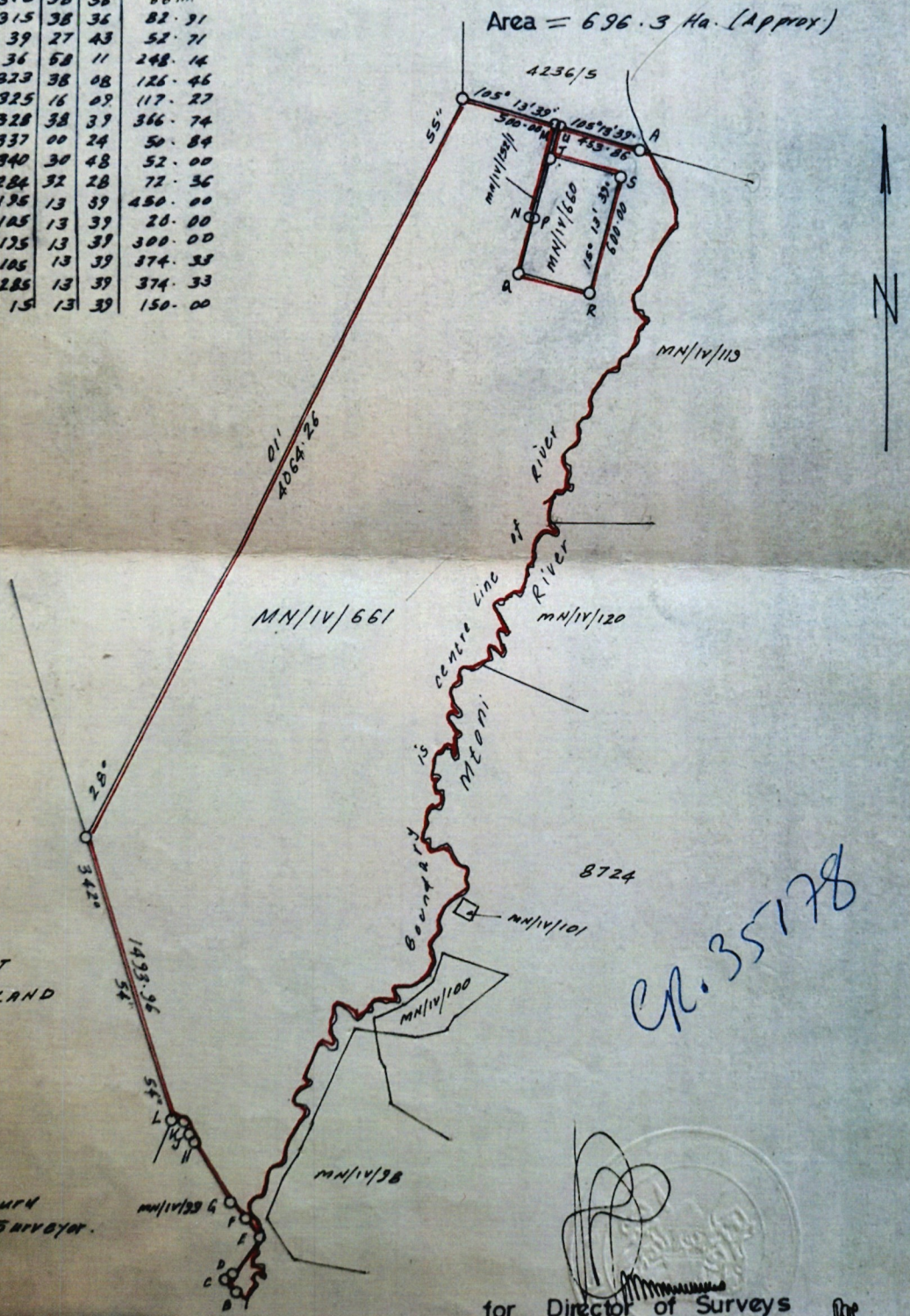
Orig No.

Sub division No. 661 (Orig No. 152/3)

of Section No. IV Mainland North

Area = 696.3 Ha. (Approx)

Bearing °	'	"	Distances Metres
A-BM	105	15	39	21 m.
BM-B	315	38	36	66 m.
B-C	315	38	36	82.91
C-D	39	27	43	52.71
D-E	36	58	11	248.14
E-F	323	38	08	126.46
F-G	325	16	09	117.27
G-H	328	38	39	366.74
H-J	337	00	24	50.84
J-K	340	30	48	52.00
K-L	284	32	28	72.36
M-N	195	13	39	450.00
N-P	105	13	39	28.00
P-Q	195	13	39	300.00
Q-R	105	13	39	374.33
S-T	285	13	39	374.33
T-U	15	13	39	150.00



E. M. J. Rigura
Licensed Surveyor.

Traced by
Compared by Kadenyi

Scale 1 in 25000

for Director of Surveys

Nairobi 22ND JUNE 19 2000

DEED PLAN No. 230596

CR. 35178

CO/2/2/Vol. VIII/34

REPUBLIC OF KENYA

DISTRICT OF KILIFI

Locality S. W. of Takaungu T. Centre

Reference Map South A. 37 / V. IV. 6

Bearing				Distances Metres
	°	'	"	
A-B	15	13	39	600.00

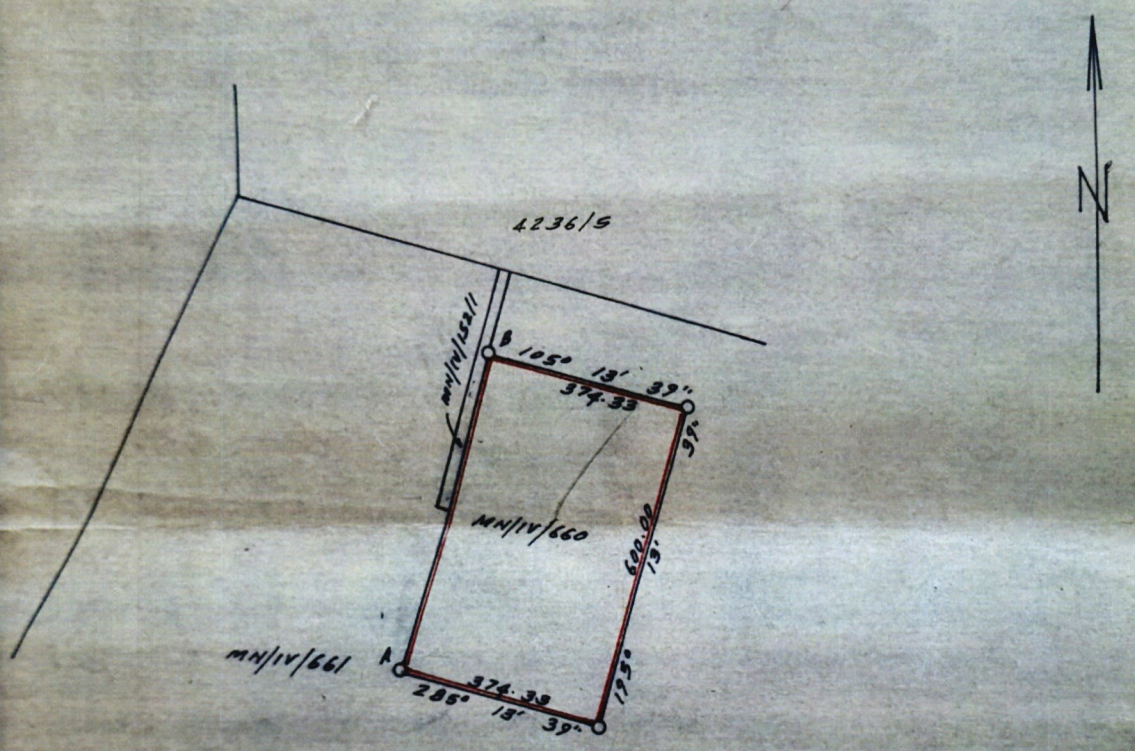
Land Reference No.

Orig No.

Sub division No. 660 (Orig No. 152/2)

of Section No. IV Mainland North

Area = 22.46 Ha. (Approx.)



C.P. 3/178

G. M. J. Kiguru
Licensed Surveyor

Entry 3

Scale 1 in 1000

for Director of Surveys

Nairobi 22nd June 19 2000

Traced by

Compared by Kadenyi

DEED PLAN No. 230595

A.C. SN/1922

To be inserted in Book.

No. 10915

THE [illegible]D PROTECTORATE OF KENYA.

LAND TITLES ORDINANCE, 1908.

SCHEDULE I. FORM B.

CERTIFICATE OF OWNERSHIP.

I JAMES DANDIE HUNTER Recorder of Titles do hereby certify that ALI RASHID MANTHRI as Administrator of the Estate of RASHID ALI MANTHRI Deceased (¼) KHAMIS MOHAMED EL-BASAMI as Administrator of the Estate of Mohamed KHAMIS EL-BASAMI Deceased (¼) MOHAMED RASHID EL-BASAMI (¼) MUARABU SALIM (1/16th) ISLAM ALI (3/32nds) & AHMED ALI (3/32nds) are in the undivided shares shewn in brackets opposite their names as above ~~is~~ the proprietors of an estate in fee (together with the mineral Rights) (1) in that piece of land situate in the Province of COAST at S.W. OF TAKAUNGU KILIFI DISTRICT and which is demarcated and delineated on the plan No. 75079 deposited in the Office of the Recorder of Titles at Mombasa and thereon numbered MK/IV/152 and containing 1776 acres or thereabouts and subject to such mortgages and other interests (if any) as hereunder written. (2)

IN WITNESS whereof I have hereunto set my hand and seal this 9th day of March ~~1st~~ 1962.

Certificate Fees £..35...10. 00

Survey .. £189. 12. 00

£225. 2. 00

RECORDER OF TITLES.

L. S.

Mortgages and other interests above referred to:

SUBJECT TO FIRST CHARGE IN FAVOUR OF GOVERNMENT OF KENYA FOR SHS: 4,502/-.

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

Certificate of Title

COLONY & PROTECTORATE OF KENYA

DISTRICT OF *KILIFI*

Locality *S.W of Takaungu Trading Centre*

Meridional District $\frac{\text{South. A 37}}{\text{V. IV. 6}}$ 7

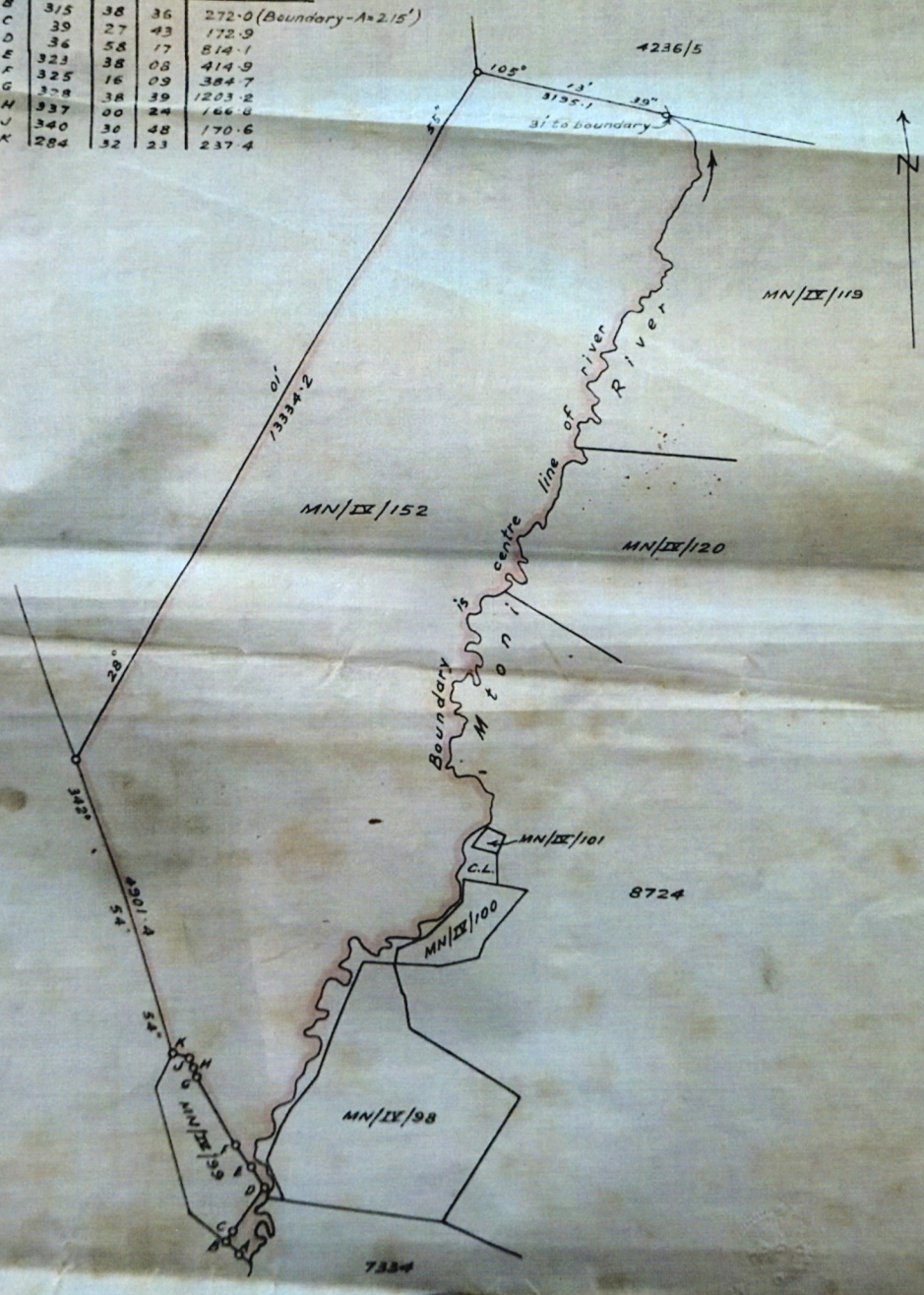
Scale: 1 in. *25000* or *2083·33* Feet to 1 Inch

Land Reference No. _____
(Orig. No. _____

Subdivision No. *152* (Orig. No. ____
of Section No. *IV Mainland North*

Area = *1776 Acres (Approx.)*

	Bearings °	'	"	Distances Feet
A-B	315	38	36	272·0 (Boundary-A=2.15')
B-C	39	27	43	172·9
C-D	36	58	17	814·1
D-E	323	38	08	414·9
E-F	325	16	09	384·7
F-G	328	38	39	1203·2
G-H	337	00	24	166·8
H-J	340	30	48	170·6
J-K	284	32	23	237·4



F. E. CHARNLEY
for Director of Surveys

Nairobi FEB 27 1962 1962

Recorder of Titles
9th March. 1962.

Traced by
Compared

Please quote this PLAN No. 75079

ANNEXURE IV

RESPONSE BY THE NATIONAL LAND COMISION

NATIONAL LAND COMMISSION

RESPONSE TO PETITIONS AND STATEMENTS REFERRED TO THE NATIONAL ASSEMBLY DEPARTMENTAL COMMITTEE ON LANDS

REPORT BY:

GERSHOM OTACHI BW'OMANWA
CHAIRMAN

15th APRIL, 2021

RE: PETITIONS REFERRED TO THE NATIONAL ASSEMBLY DEPARMENTAL COMMITTEE ON LANDS

Your letter REF. NA/DDC/LANDS/2021/(044) of 31st March, 2021 on the above refers.

1. Petition by Hon. Ken Kiti Chonga, MP on behalf of residents of Dindiri-Makata and Kaole Villages regarding dispossession of land belonging to Dindiri-Makata and Kaole residents in Chasimba Ward of Kilifi South Constituency.
2. Petition by Hon. Ken Kiti Chonga, MP on behalf of residents of Chidongo, Junju, Mirima Minne and Bodoi villages regarding resettlement of residents in Chidongo, Junju, Mirima Minne and Bodoi in Kilifi South Constituency.
3. Petition by Hon. Khatib A. Mwashetani, MP on behalf of the family of Mohamed Mwnyihaji Bwika regarding dispossession of Diani Complex land.

Honourable Chair, the Commission investigated the above three petitions and established the following findings and recommendations.

1. **Petition by Hon Ken Kiti Chonga, MP on behalf of residents of Dindiri-Makata and Kaole Villages regarding dispossession of land belonging to Dindiri-Makata and Kaole residents in Chasimba Ward of Kilifi South Constituency.**

The Commission received a claim dated 16th January 2019 from MAKAO Community Land Committee regarding Historical Land Injustices relating to Plot No. 152/IV/MN C.R 13774/4 situated at Takaungu West (a copy attached **Annex 1**)

A copy of another claim dated 28th November 2019 from MAKAO CBO to the Chairman, Parliamentary Committee on Lands was also received at our county office in Kilifi. The claim was regarding the ownership of Plot No. 152/IV/MN C.R 13774/4, measuring approximately 1,776 acres (Copy attached **Annex 2**).

In the petition, the CBO claimed that they have been living on the said parcel of land for many years undisturbed. However, they had discovered the existence of copies of title deed dated 1908 that allegedly assigns the ownership of the land to an absentee individual by the name of Mbarak Islam Abed.

Fact Finding

The Commission initiated due diligence from the relevant land offices and obtained the following information;

- That the said plot had a land title ordinance for 1908 registered under the Mbarak Islam Abed and others who are believed to be Mazrui's.
- On 8th May 1985 a provisional certificate of title was issued and then a transfer was done to the heirs of the original title holder.

- Later Plot No. MN/IV/152 CR 13774/1 was subdivided into 2 plots Nos. MN/IV/660 measuring approximately 55.49 acres registered under Mbarak Islam Abed and Plot No. MN/IV/661 registered under Rashid Ali 444 acres, Mohammed Khamis 444 acres, Mohammed Rashid 444 acres, Islam Ali 166.5 acres, Ahmed Ali 166.5 acres. (copy of documents attached **Annex 3**)

The Commission conducted a site visit to the area. We found out that the said parcel of land is located to the west of Takaungu off Mbogolo areas along Mombasa – Malindi highway. It is heavily squatted with mixed development of permanent, semi-permanent and temporary houses owned by local communities, the dominant being the Chonyi community.

The squatters claim to have been on the land for over 100 years and have built their homes, raised their children and even buried their loved ones there.

The land has been developed with public utilities e.g. Dindiri ECD, primary and secondary, Makata ECD and primary, Kaole ECD and primary, 10 churches, 2 mosques and 2 trading centres. In addition, the locals recognize that the said parcel of land was registered under Mbarak Islam Abeid and others as Mazrui's.

Conclusion and Recommendations

1. From ground visit it was established that this land has been squatted on for very many years and has several public institutions such as schools, churches and mosques as evidence of long settlement.
2. The Ministry of Lands and Physical Planning in collaboration with relevant stakeholders, through the Land Settlement Trustee Fund, should consider acquiring the land and settling the squatters who have lived on the land for many years, built their homes, raised their children and even buried their loved ones.

2. **Petition by Hon Ken Kiti Chonga, MP on behalf of residents of Chidongo, Junju, Mirima Minne and Bodoi villages regarding resettlement of residents in Chidongo, Junju, Mirima Minne and Bodoi in Kilifi South Constituency.**

The National Land Commission received a claim dated 23rd February 2015 from Chijumibo CBO which consists of Chidogo, Junju, Mirima Minne and Bodoi villages in Kilifi South Constituency requesting for regularization and/or allocation of the parcel No. 71/1/IV/MN. The parcel measures approximately 198.82 Ha equivalent to 491.28 acres (copy of the claim attached as **Annex 1**). They claimed that they have been living on the said parcel of land for many years undisturbed. They further claimed that the land has been developed with permanent, semi-permanent and temporary houses with an approximation of 1,300 households.

Fact Finding

Upon receipt of the claim, the Commission initiated due diligence by conducting a site visit in November 2015 to ascertain the ground status (copy of the ground report attached as **Annex 4**). Subsequently, the Commission wrote the following letters to the relevant land offices for facts finding purposes:

I. A letter dated 20th February 2017 to the Chief Officer in charge of lands, Kilifi County requesting for his comments/recommendation on the application. (Copy attached as **Annex 2**)
II. A letter dated 8th September 2017 to the Land Registrar, Mombasa seeking for information and records relating the subject parcel of land, i.e. official search and certified true copy of documents. (copy attached as **Annex 3**).

The Commission received a response dated 21st February 2017 from the Chief Officer in charge of lands on the matter (see the comments on **Annex 2**). The Commission did not receive any response from the Land Registrar, Mombasa even after several follow ups.

Thereafter the Commission summoned the CBO and a hearing was held at Mtwapa Country Resort on 11th September 2017. (Minutes attached as **Annex 5**). The meeting resolved that the Commission will place the said parcel 71/1/1V/MN on a public notice in the 3 local dailies as guided by the law for purposes of those claiming ownership to the parcel to avail their ownership documents within the stipulated time to National Land Commission for verification and confirmation. Failure to which the commission will declare the parcel as public land for allocation.

The parcel was advertised in the 3 local dailies but later the Commission realized that a wrong parcel number was inadvertently quoted in the advertisement as 71/IV/MN instead of 71/1/IV/MN (copy attached as **Annex 7**). A new public notice was drafted but was not advertised

because the then Chairman of the Commission was removed from the office before the notice could be published. (a copy attached).

On 26th February 2018, the then NLC Chairman noted that 3 families had visited his office claiming ownership of Plot No. 71/1/IV /MN. (Minutes attached as **Annex 8**)

The Commission thereafter received a certificate of confirmation of grant of the estate of Suleiman Ali deceased, issued to Awena Hemed Mohammed dated 17th July 2020 of Succession Case No. 29 of 2017 (copy attached as **Annex 9**).

The Commission then received a copy of a Letter of Allotment, Certificate of Title, and Plot No. MN/IV/71/1 CR 71107 registered to Muhia Daniel Kimeu, Lucas Chimerakenga, Francis Kipkogei Kemboi and Christopher Tuitoek Kiplagat issued on 19th March, 2020. A Copy of the official search dated 11th September 2020 and a Deed Plan are attached as **Annex 10**.

Conclusion and Recommendation

1. Ground visit established that the land is highly squatted with approximately 1,300 households.
2. The issue of ownership and conflicting interests should be resolved by the Ministry of Lands and Physical Planning in collaboration with the relevant stakeholders.
3. Once ownership details of the land are resolved, the Ministry of Lands and Physical Planning in collaboration with relevant stakeholders should settle the communities currently in occupation of the land.

3. **Petition by Hon. Khatib A. Mwashetani on behalf of the family of Mohamed Mwinyihaji Bwika regarding dispossession of Diani Complex land.**

A complaint by Tiwi aggrieved residents was presented to the National Land Commission in 2018 and was given a reference number NLC/HLI/486/2018. After admission of the claim, hearing was conducted on 28th August 2019 at Kenya School of Government, Mombasa.

The claimed parcel of land (LR. No. 13444) is within Tiwi area of Kwale County. During the hearing, the claimants were represented by Mwinyi Mohamed Bwika and Rashid Khamisi Bwika. They alleged that the land measuring 4.5 Ha was their ancestral land. They added that, they had been paying land rates to the County Government of Kwale for the land. They further alleged that their land was grabbed by a prominent person in government. They had also attempted to get official searches from the land registry in Kwale, Mombasa and Nairobi without success. The respondents to the matter did not make an appearance to the hearing by the commission.

Upon further investigations, the Commission could not prove who pays land rates as the County Government of Kwale did not have records of this land.

On the same day of the hearing, the Commission conducted a ground visit to the land (LR. No. 13444) claimed by the family of the late Mohamed Mwinyihaji Bwika of Kwale County. There were no developments on the ground then. Currently, the entire parcel of land is fenced with a stone wall perimeter fence all the way to the high water mark. However, there are no developments inside the fenced area.

Conclusion and Recommendations:

The Commission made the following recommendations pursuant to article 67 (2) (e) of the constitution and Section 15 of the National Land Commission Act No. of 2012.

i. The claim met the Historical Land Injustice criteria and was therefore admitted.
ii. Tiwi Beach Block 13444 to be restituted to Bwika family.
iii. The title to this land to be revoked so that the land is transferred to Mwinyi Mohamed Bwika and Rashid Khamisi Bwika.

These recommendations were subsequently gazzetted via Kenya gazette No 1995 of 1st March 2019.

The Commission to write to the Cabinet Secretary Ministry of Lands and Physical Planning requesting her to direct the Chief Land Registrar to comply with recommendations of the Commission as provided for by Section 15(10) of the National Land Commission Act, 2012.

Honorable Chair, I submit.

Gershom Otachi Bw'Omanwa
CHAIRMAN