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TWELFTH PARLIAMENT – FIFTH SESSION – 2021

DEPARTMENTAL COMMITTEE ON LANDS

REPORT ON-

(PUBLIC PETITION No 49 OF 2020)

BY RESIDENTS OF CHIDONGO, JUNJU, MRIMA MINE AND BODOI
VILLAGES OF KILIFI SOUTH CONSTITUENCY REGARDING
RESETTLEMENT OF THE RESIDENTS

DIRECTORATE OF DEPARTMENTAL COMMITTEES
CLERK'S CHAMBERS
PARLIAMENT BUILDINGS
NAIROBI

THE NATIONAL ASSEMBLY
AUGUST 2021
DATE: 10/08/2021 Tuesday

TABLED BY:	Nicechau person, DC on Lands
CLERK-AT THE-TABLE:	Cretnade Chabet

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CHAIRPERSON'S FOREWORD

Petition No. 49 of 2020 by residents of Chidongo, Junju, Mrima Mine and Bodoi Villages of Kilifi South Constituency regarding resettlement of residents of Chidongo, Junju, Mrima Mine and Bodoi 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 on 19th March 2021 during a field visit to Kilifi County, the Chief Administrative Secretary Ministry of Lands and Physical Planning on 21st April 2021 at Parliament Buildings. The Committee also met the Senior Registrar of Titles, Mombasa and the Secretary, Wakf Commissioners of Kenya during a retreat held in Mombasa on 27th July 2021. Finally, the Committee 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:

- a. Inquiries into the matter with a view to securing, with assistance of the National Land Commission, the revocation of the current title deed and subsequent allotment and subdivision of the parcel No. 71/1/IV/MN to the residents of Chidongo, Junju Mirima Mine and Bodoi Villages in Kilifi South Constituency.
- b. Secures the prosecution of all land officers and persons involved in the fraudulent allocation of the land to Messers Daniel Kimeu Muhia, Lucas Chimeza Kenga, Francis Kipkosgei and Christopher Tuitoek Kiplangat to discourage the repetition of similar incidents of impunity regarding land matters in the county.
- c. Makes any other order or direction that it deems fit in the circumstances of the matter.

The Committee made the following observations and findings:

- a. 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.
- b. The National Land Commission, following a request 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 those

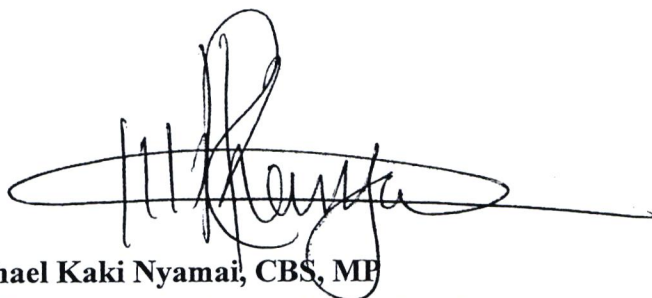
claiming ownership of the land in question to avail ownership documents to the commission for verification and confirmation on 21st November 2017.

- c. 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 MN/IV/71 instead of LR No. MN/IV/71/1.
- d. The submissions made to the Committee by the Ministry of Lands and Physical Planning, the National Land Commission and the Senior Land Registrar, Mombasa indicated that the circumstances relating to ownership of the land in question of LR 71/1/IV/MN 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. (Annexure I);
 - ii. The Ministry of Lands and Physical Planning further submitted that the records at the Mombasa Registry 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 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. The 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 registration number of the parcel of land as LR. NoMN/IV/Junju (Annexure II);
 - iv. 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.
 - v. 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, 23 years later also appears suspicious.

- vi. The fact that the National Land 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 71/IV/MN instead of LR 71/1/IV/MN may also raise doubt on the validity of the transaction relating to the land; and
 - vii. 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.
- e. 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.

The Committee recommends as follows:

- f. The Ethics and Anti-Corruption Commission considers investigating the circumstances surrounding the allocation of the land to the current registered owners and any other person and make the relevant recommendations thereof.
- g. The Chief Land Registrar ensures that there are no further transactions relating to the land in question L.R. MN/IV/71/1 until investigations by the Ethics and Anti-Corruption Commission are concluded.
- h. 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 of L.R MN/IV/71/1 through the Land Settlement Fund for the settlement of current occupiers within 90 days of tabling of this Report.



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

1.0 PREFACE

1.1 Mandate of the Committee

1. 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

2. The Committee is mandated to consider the following subjects:
 - a) Lands
 - b) Settlement

1.3 Oversight

3. The Committee oversees the Ministry of Lands and Physical Planning, and the National Land Commission.

1.4 Committee Membership

4. 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 George Risa Sunkuyia, MP
Kajiado West Constituency
Jubilee Party

Hon Joshua Kutuny Serem, MP
Cherangany Constituency
Jubilee Party

Hon. John Muchiri Nyaga, MP
Manyatta Constituency
Jubilee Party

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

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

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

Hon. Lilian Tomitom, MP
West Pokot County
Jubilee Party

Hon. Ahmed Kolosh, MP
Wajir West Constituency
Jubilee Party

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

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

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

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

Hon. Samuel Kinuthia Gachobe, MP
Subukia Constituency
Jubilee Party

Hon. Caleb Kipkemei Kositany, MP
Soy Constituency
Jubilee Party

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

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

1.5 Committee Secretariat

5. The Committee secretariat comprises:

Lead Clerk
Mr. Leonard Machira
Senior Clerk Assistant

Mr. Ahmad Guliye
Second Clerk Assistant

Dr. Kefa Omoti
Principal Researcher

Ms. Jemimah Waigwa
Legal Counsel I

Mr. Adan Abdi
Fiscal Analyst II

Mr. Joseph Okongo
Media Relations Officer

2.0 INTRODUCTION

6. Petition No. 49 of 2020 by residents of Chidongo, Junju, Mrima Mine and Bodoi Villages of Kilifi South Constituency regarding resettlement of residents of Chidongo, Junju, Mrima Mine and Bodoi was presented to the House through the Hon. Ken Kiti Chonga, MP (Kilifi South Constituency) on 3rd December 2020.
7. The Petitioners wished to draw the attention of the House to the following: -
 - a. The residents of Chidongo, Junju Mirima Mine and Bodoi Villages comprising over 2,300 people currently live on plot No. MN/IV/71/1 measuring 1776 acres in Kilifi Constituency.
 - b. The residents have lived on the land for many years as evidenced by graves and mature trees that are over one hundred years old.
 - c. The residents comprise various Mijikenda tribes including the Chonyi, the Giriama, the Jibe and the Kauma, who have intermarried and lived in peace and harmony during this time.
 - d. The residents grow crops such as maize, cassava, cashew nuts, mangoes, and coconut. The area also has 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, hotels saloons, shops, and other commercial establishments which were established as early as 1943.
 - e. In 2003, the community through the District Land Management Board applied to be allotted the said parcel of land and to be duly issued with title deeds, only to be informed that the process could not be executed because there was no information in the Land Registry.
 - f. On 23rd February 2015, the community through the Chijumibo Community Based Organization (CBO) applied to the National Land Commission seeking to have the squatters formally settled on the land. The National Commission investigated the matter and noted that the squatters had been living on the land and ought to settle on the land as no claimant to the land existed in the records at the Land Registry.
 - g. On 21st November 2017 the National Land Commission advertised the said parcel of land through the Kenya Gazette on seeking submission of ownership documents by any person claiming ownership of the land and by the expiry of the 30 – days timeline provided by the commission no individual or corporation made any claim to the land.

- h. However, the Community was not allocated the said parcel of land despite the expiry on the notice by the commission and no further communication on the matter was made to the community.
 - i. On 13th May 2020 the office of the NCL Coordinator, Kilifi County wrote to the NLC Headquarters seeking the placement of a second advert for submission on ownership documents for Land parcel No. MN/IV/71/1 but the request was not honored;
 - j. The residents conducted an official search on the ownership of the said parcel on 11th September 2020 and found out that the land was illegally and irregularly registered to Messers Daniel Kimeu Muhia, Lucas Chimeza Kenga, Francis Kipkosgei Kemboi and Christopher Tuitoek Kiplagat in 1995 under 999 years lease, yet in 2003 the District Land Management Board had claimed that no records on the land existed.
 - k. Efforts to have the matter addressed by the relevant authorities, including the National Land Commission and the Kilifi Lands Registry have been futile; and
 - l. The matters in respect of which the petition is made are not pending before any court of law or Constitutional body.
8. Therefore, the petitioners prayed that the National Assembly through the Departmental Committee on Lands:
- a. Enquires into the matter with a view to securing, with assistance of the National Land Commission, the revocation of the current title deed and subsequent allotment and subdivision of the parcel No. 71/1/IV/MN to the residents of Chidongo, Junju Mirima Mine and Bodoi Villages in Kilifi South Constituency.
 - b. Secures the prosecution of all land officers and persons involved in the fraudulent allocation of the land to Messers Daniel Kimeu Muhia, Lucas Chimeza Kenga, Francis Kipkosgei and Christopher Tuitoek Kiplagat to discourage the repetition of similar incidents of impunity regarding land matters in the county.
 - c. Makes any other order or direction that it deems fit in the circumstances of the matter.

3.0 SUBMISSIONS

3.1 Submissions by the Petitioners

9. The Committee met the Petitioners during a field visit to Kilifi South Constituency on 19th March 2021. During the meeting, the representatives of the affected four villages, the Chairperson Chijumibo CBO and the area Member of County Assembly on behalf of the residents informed the Committee that:
 10. The area is inhabited by 1300 households.
 11. The residents had lived on the land undisturbed for many years and believed that the land considered it to be ancestral land.
 12. The area occupied by the petitioners has 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, and churches.
 13. The residents had made attempts through the area District Commissioner to have the land allocated to them in vain.
 14. The petitioners conducted a postal search for the land in question and established that the land did not have any registered owner.
 15. Subsequently, they wrote to the National Commission seeking to be allocated the land and the commission through the chairperson issued an advert on 21st November 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 have been declared public land and therefore available for allocation. Nobody responded to the advert.
 16. However, the said advert had indicated the land in question as LR No. MN/IV/71 instead of LR No. MN/IV/71/1 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.
 17. 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.
 18. The Petitioners prayed that the government through the Ministry of Lands and Physical Planning and other relevant agencies initiate measures to have the land in question allocated to the residents. They added that any such allocation should be done according to current occupancy to avoid displacement from their current homes.

Brief by the National Land Commission Coordinator, Kilifi County

19. During the field visit to Kilifi South Constituency, the National Land Commission Coordinator, Kilifi County briefed by the Committee on the issues raised in petition as follows:
20. The NLC Kilifi County office received a 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.
21. The claim by the Community Based Organization indicated that the area is inhabited by 1300 households and that the residents had lived on the land undisturbed for many years.
22. 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.
23. The coordinator referred the matter to the NLC headquarters and the commission, through the chairperson, issued public notice in the print media 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. The Commission did not receive any response to the said public notice.
24. However, the commission officials later realized that the said advert had indicated the land in question as LR. No MN/IV/71 instead of LR No. MN/IV/71/1 but the commission did not readvertise a notice containing the correct land registration number.
25. 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 was issued to four individuals namely: Daniel Kimeu Muhia, Lucas Chimera Kenga, Francis Kipkosgei Kemboi, Christopher Tuitoek Kiplagat in 1995.
26. The NLC Coordinator later advised the Petitioners to seek redress through the court due to emerging ownership claims.

3.2 Submissions by Ministry of Lands and Physical Planning

27. The Committee met the Chief Administrative Secretary Ministry of Lands and Physical Planning on 20th April 2021. The Chief Administrative Secretary stated that:
28. According to the records at the Ministry the registered proprietors of LR. No. MN/IV/71/1 measuring 198.82 Hectares are Muhia Daniel Kimeu, Lucas Chimera Kenga, Francis Kipkogei Kemboi and Christopher Tuitoek Kiplagat.

29. The said persons obtained a 999-year lease for the 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.
30. However, 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.
31. Records at the Mombasa Registry also indicate that the land in question MN/IV/71/1 was reserved as Wakf property to the heirs of Mohamed bin Juma and their children forever.
32. The committee was also informed that issuance of a 999-year lease for a new grant in respect of the said land on 1st March, 2018 to Messers Daniel Kimeu Muhia, Lucas Chimeza Kenga, Francis Kipkosgei Kemboi and Christopher Tuitoek Kiplagat was suspicious as the Ministry had stopped issuing 999 year leases for new grants since 2010.
33. The Committee was further informed that the Ministry could not ascertain whether a site inspection of the land in question was conducted prior to the issuance of the said new grant as the correspondence file for the said parcel was missing from the records at the Ministry.
34. In conclusion, the Chief Administrative Secretary stated that the Ministry through the Land Registrar, Mombasa, intended to establish the authenticity of the lease documents presented for registration by Messers Daniel Kimeu Muhia, Lucas Chimeza Kenga, Francis Kipkosgei Kemboi and Christopher Tuitoek Kiplagat regarding the land in question, LR No. MN/IV /71/1.

3.3 Submissions by the Chairperson, National Land Commission

35. The Committee received written submissions from the Chairperson National Land Commission dated 15th April 2021. The Chairperson informed the Committee that:
36. The Commission received a claim from Chijumibo CBO on behalf of the residents of the four villages seeking regularization of the land in question for allocation to the residents requesting for regularization and or allocation of the parcel No. 71/1/IV/ MN.
37. The claim by the Community Based Organization indicated that the area was inhabited by approximately 1300 households and that the residents had lived on the land undisturbed for many years.
38. Consequently, the commission 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 2017 and 8th September 2017, respectively.

39. Thereafter the Commission placed a public notice in the print media for purposes of those claiming ownership of the land in question LR No. MN/IV/71/1, to avail ownership documents within the stipulated time to the commission for verification and confirmation.
40. However, it was later realized that the said advert had indicated the land in question as LR No. MN/IV/71 instead of LR No. MN/IV/71/1 but the commission did not readvertise a notice containing the correct land registration number because the then Chairman of the Commission was removed from office before the notice could be published.
41. 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 in Succession Case No. 29 of 2017 in which the land in question was part of the estate but the Land Reference Number in the document indicated as LR No MN/IV/71/Junju.
42. The Commission also received a copy of a letter of allotment, Certificate of Title for plot No MN/71/1, CR 71107 indicating that the said parcel of land is registered to Muhia Daniel Kimeu, Lucas Chimera Kenga, Francis Kipkogei Kemboi and Christopher Tuitoek Kiplagat.
43. A ground visit undertaken by the Commission established that the land is highly squatted with 1,300 households.

3.4.Submissions by the Senior Registrar of Titles, Mombasa Land Registry

44. The Committee met the Senior Registrar of Titles, Mombasa on Tuesday 27th May 2021. He informed the Committee that:
45. 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 forwarded 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.
46. Records held at the Land Registry in Mombasa indicate that an entry made by the Record of Titles in 1924 indicates 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.

47. 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.
48. There is need for the ascertainment of the legitimate heirs of Mohamed binn Juma with the aim of procuring the title document and proper administration of the land as intended.
49. 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.
50. 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 2010.
51. 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.

3.5 Submissions by the Secretary Wakf Commissioners of Kenya

52. The Committee met the Secretary Wakf Commissioners of Kenya on 27th July 2021. The Secretary, accompanied by Mohamed Shari, Administrator, Wakf Commissioners of Kenya informed that Committee, that:
53. 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.
54. 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 administered both private and public wakf. The Islamic teachings allow for individuals to register private wakf.
55. Given that the parcel of land is wakf, the lease of 999 years issued to is not valid since the sanction of the wakf Commissioners of Kenya had not been obtained contrary to section 14 of the Wakf Commissioners of Kenya Act, Cap 109.

56. 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 then administer the same on behalf of the heirs of Mohamed bin Juma.
57. 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.

4.0 OBSERVATIONS / FINDINGS

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.

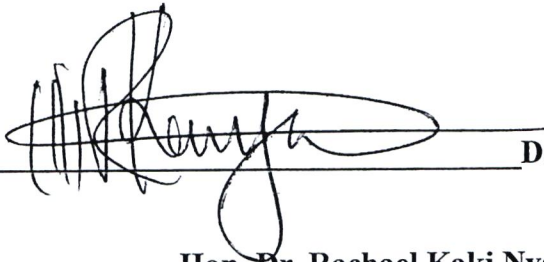
- iv. The issuance of a 999-year lease for a new grant in respect of the said land commencing 1st January 1995 and a certificate of Title No. C. R. 71107 in respect of the said land was issued on 1st March 2018.
 - v. The correspondence file for the plot could not be traced at the records section at 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.

5. COMMITTEE RECOMMENDATIONS

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

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.

Sign



Date

10/8/2021

Hon. Dr. Rachael Kaki Nyamai, C.B.S, MP
Chairperson, Departmental Committee on Lands



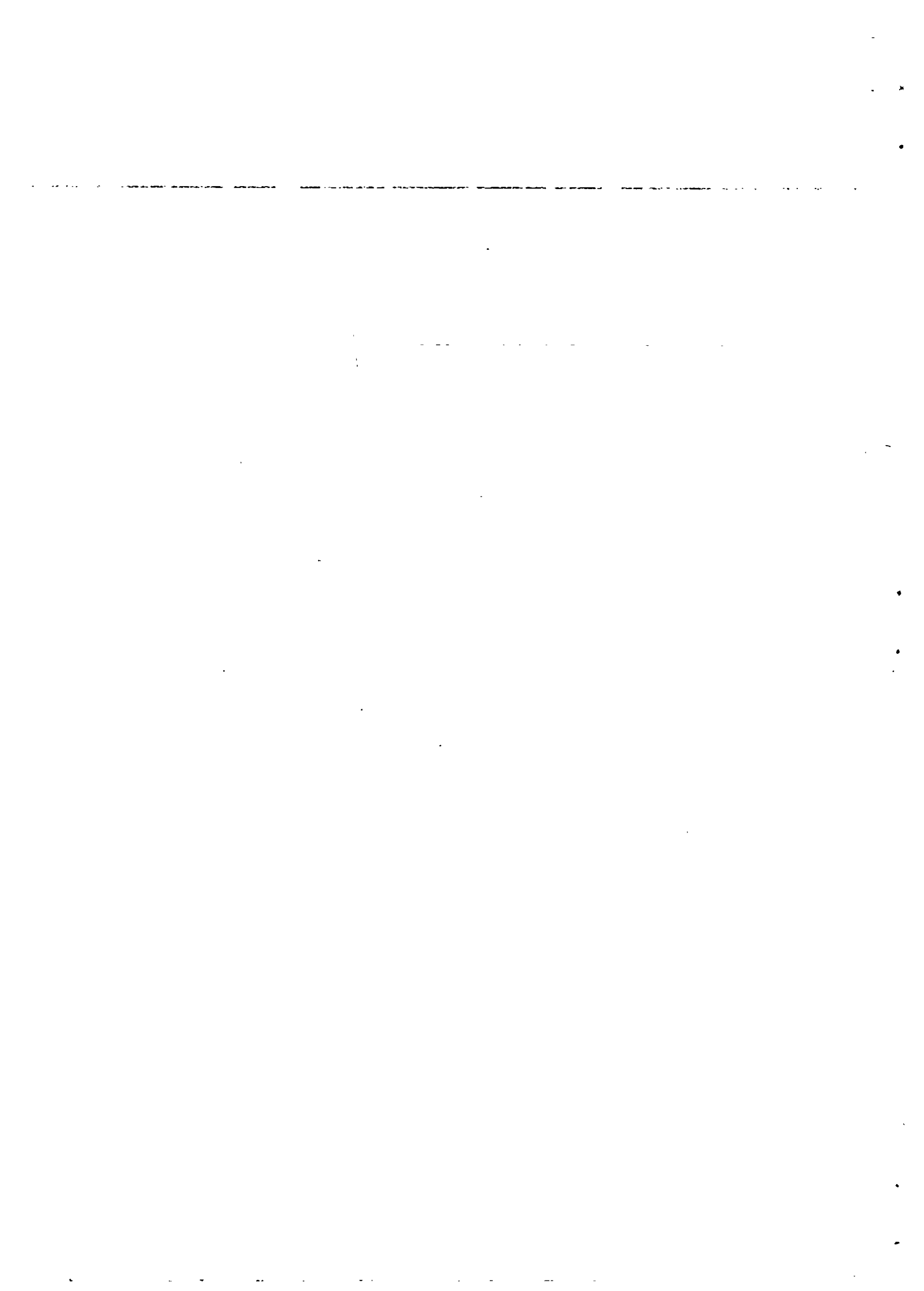
REPUBLIC OF KENYA
KENYA NATIONAL ASSEMBLY
TWELFTH PARLIAMENT

DEPARTMENTAL COMMITTEE ON LANDS
Adoption List

Report on the Petition regarding settlement of Chidongo, Junju, Mirima Mine villagers in Kilifi South Constituency

Date: 28/07/2021

	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 19TH MARCH, 2021 AT COUNTY COMMISSIONER 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 COMMISSION

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 villiges 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 villiges 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.

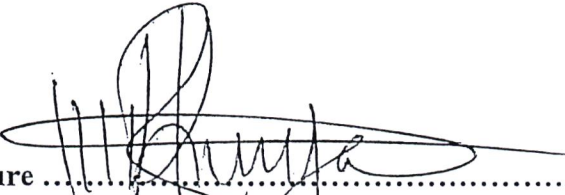
Suspect insertion in the area survey map: The surveyor who had accompanied the delegation from the Ministry of Lands and Physical Planning informed the Committee that an amendment had been made to the survey map for the area in question that appeared to have been by free hand writing that inserted /1 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.

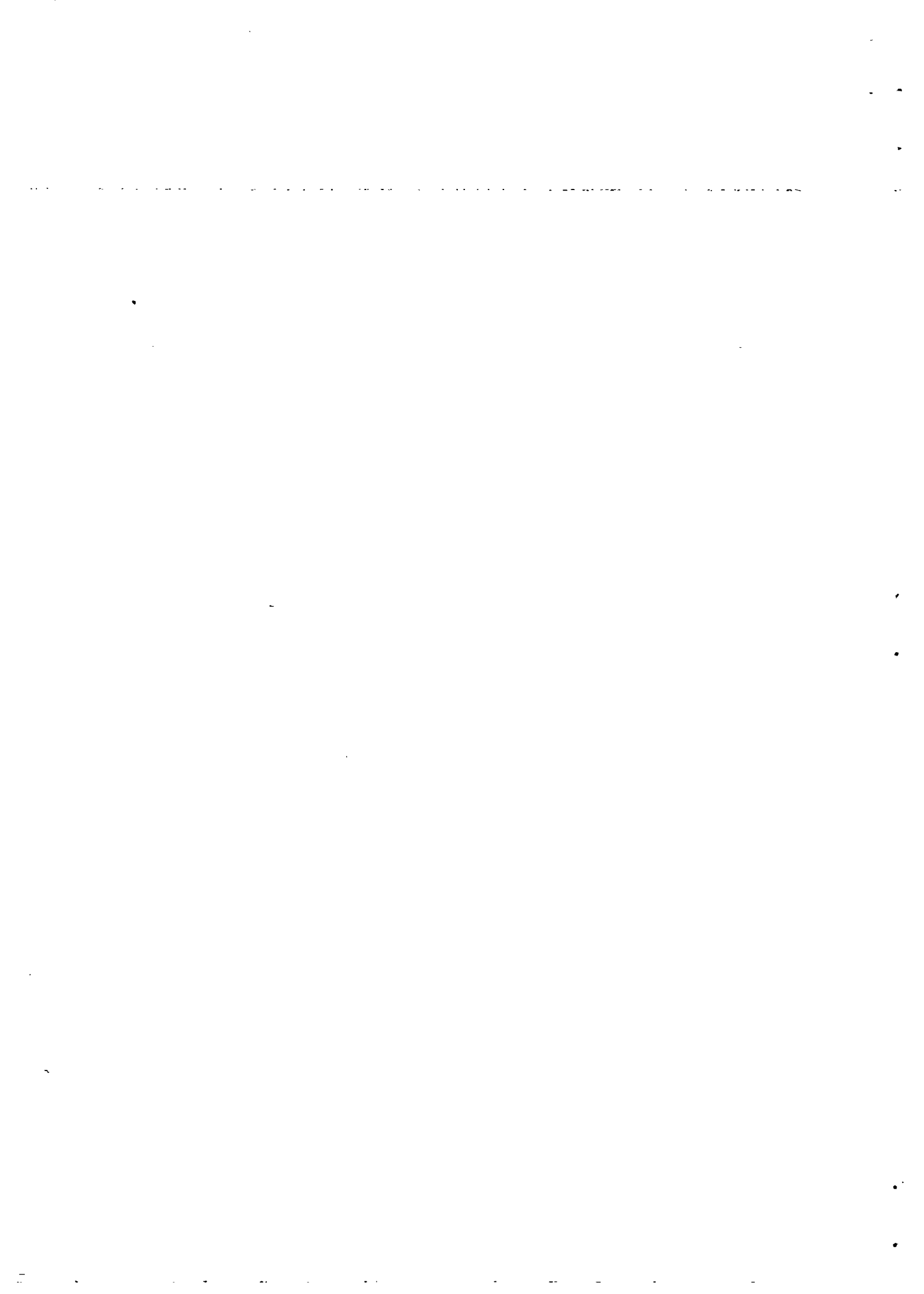
MIN. NO. NA/DCS/LANDS/2021/035: ADJOURNMENT

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 19TH 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 COMMISSION

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 villiges 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 villiges 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:

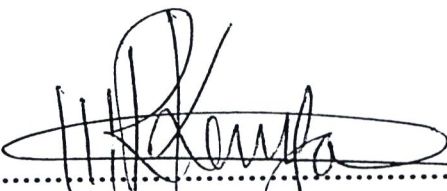
- i. They stated that the area was inhabited by approximately 1300 households
- ii. The residents had lived on the land undisturbed for many year and believed that the land was government land;
- iii. They residents had made many attempts through the area District Commissioner to have the land allocated 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 = 444 acres)
 - b. Mohamed El Basami as the Administrator of the Estate of Mohamed Khamis El-Basami (1/4 = 444 acres)
 - c. Mohamed Rashid El- Basami (1/4 - 444 acres)
 - 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**

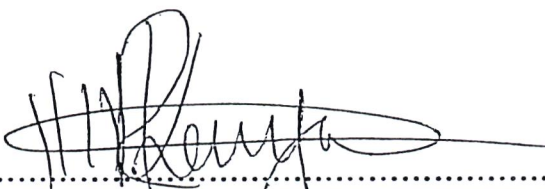
The Secretary, Wakf Commissioners of Kenya informed the Committee as follows:

- 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.

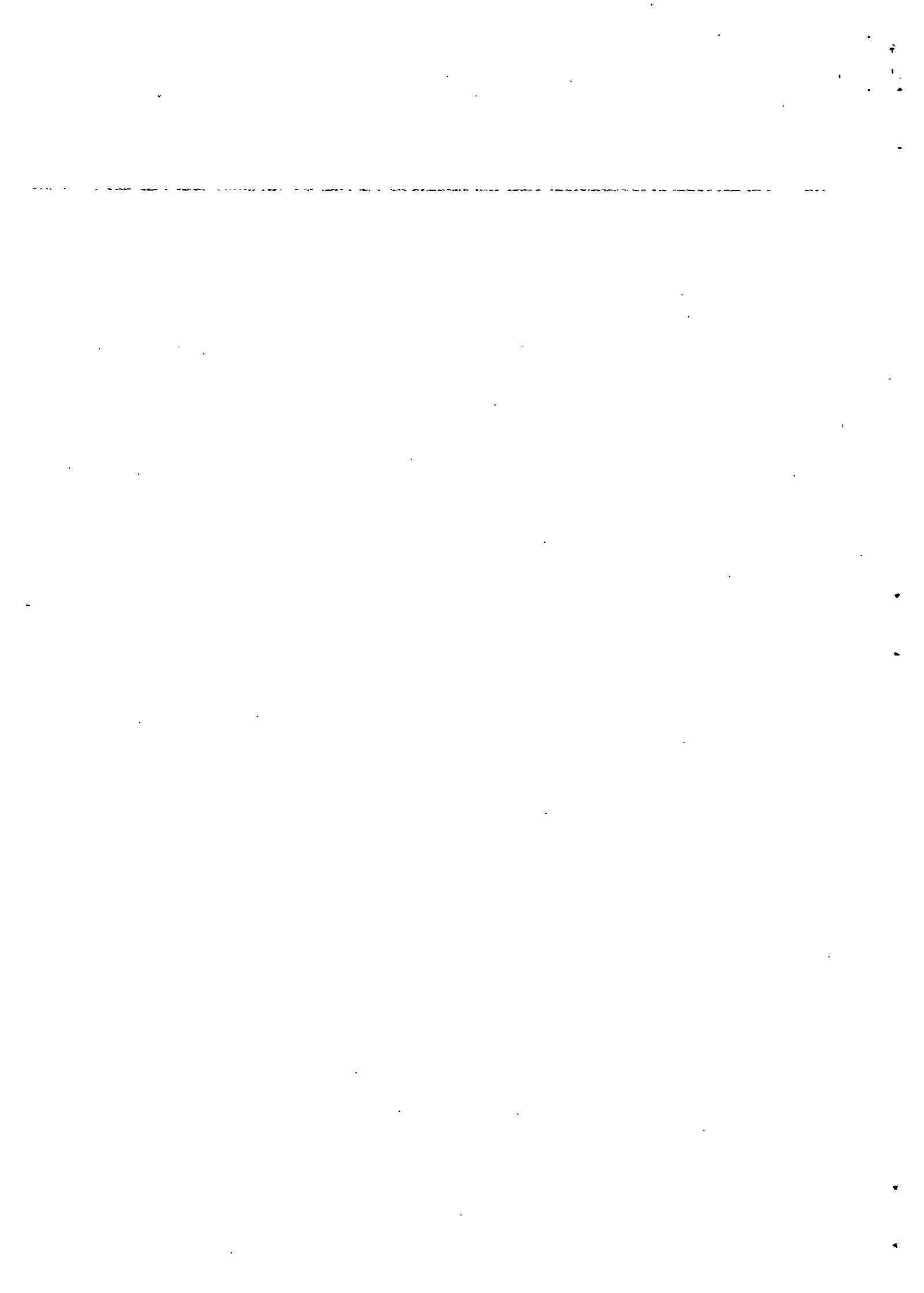
MIN. NO. NA/DDC/LANDS/2021/108: ADJOURNMENT

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/TV /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, Mrima 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.

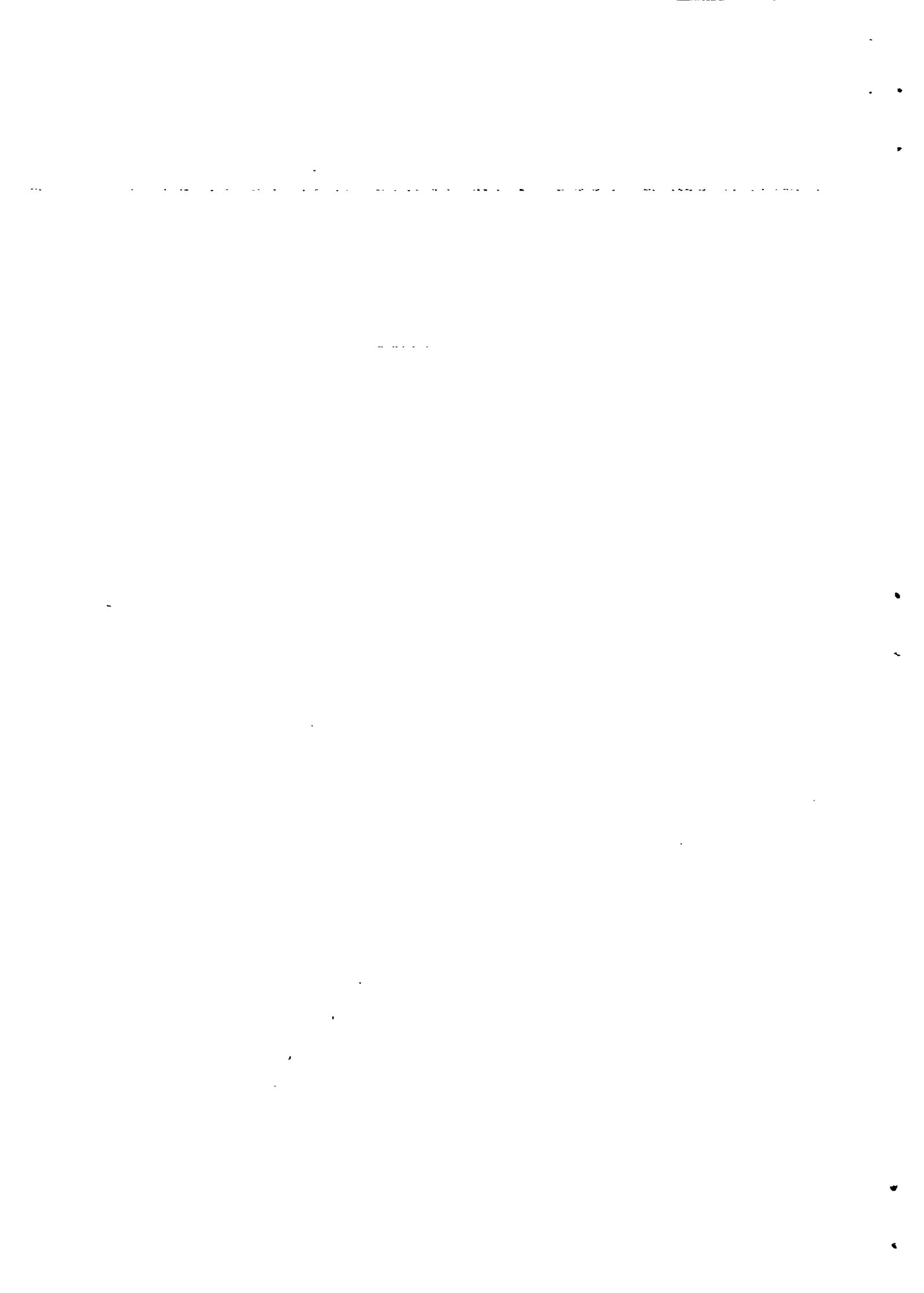
MIN. NO. NA/DDC/LANDS/2021/117: ADJOURNMENT

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





Approved
BNA
SNA
3/12/2020

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

PUBLIC PETITION

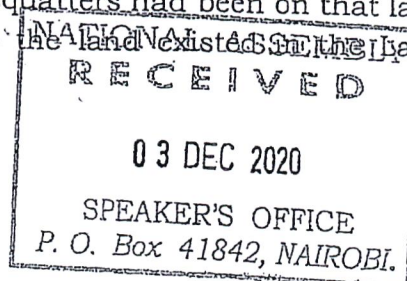
(No. 49 of 2020)

REGARDING RESETTLEMENT OF CHIDONGO, JUNJU, MIRIMA MINE AND BODOI
VILLAGERS IN KILIFI SOUTH CONSTITUENCY

I, the **UNDERSIGNED**, on behalf of residents of Chidongo, Junju, Mirima Mine and Bodoi Villages of Kilifi South Constituency;

DRAW the attention of the House to the following: -

1. **THAT**, the residents of Chidongo, Junju, Mirima Mine, and Bodoi Villages comprising of a population of over 2,300 people currently live on their ancestral land registered under plot no 71|1|IV|MN and measuring approximately 1,776 acres in Kilifi South Constituency;
2. **THAT**, the residents have lived on this parcel of land for decades as evidenced by graves and mature trees that are over 100 years old, and are primarily composed of various Mijikenda tribes including the Chonyi, the Giriama, the Jibana, and the Kauma who have intermarried and lived in peace and harmony during this time;
3. **THAT**, the community is composed mainly of farmers who have grown crops such as maize, cassava, cashew nuts, mangoes and coconut, and has expanded exponentially to the point of establishing 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, hotels, saloons, shops and other commercial establishments some of which were started as early as 1943;
4. **THAT**, in 2003, the community through the District Land Management Board applied to be allotted the said parcel of land and to be duly issued with title deeds, only to be informed that the process could not be executed because there was no information in the Land Registry;
5. **THAT**, on 23rd February 2015, the community through the Chijumibo Community Based Organization (CBO) made another application to the National Land Commission (NLC) to have the squatters formally settled on this land, whereupon the NLC investigated the matter and noted that the squatters had been on that land and ought to be duly settled since no claimant to the land existed in the Land Registry records;



PUBLIC PETITION
REGARDING RESETTLEMENT OF CHIDONGO, JUNJU, MIRIMA MINE AND BODOI
VILLAGERS IN KILIFI SOUTH CONSTITUENCY

6. **THAT**, on 21st November 2017, the NLC advertised this parcel of land through the *Kenya Gazette*, and by the expiration of the 30-day timeline that had been provided, no individual or corporation made any claim to the land;
7. **THAT**, despite the expiration of this notice the community was not allocated the land, with the NLC making no additional communication on the matter;
8. **THAT**, on 13th May 2020, the Office of the NLC Coordinator in Kilifi County wrote to the NLC seeking a second placement of parcel No. 71/1/IV/MN in the *Kenya Gazette*, but the request was not honoured;
9. **THAT**, the residents were utterly dismayed when an official search of the ownership of the land on 11th September 2020 revealed that their land had been illegally and irregularly registered under Messers Daniel Kimeu Muhia, Lucas Chimeza Kenga, Francis Kipkosgei Kemboi and Christopher Tuitoek Kiplagat commencing in 1995 under a 999 years lease, yet in 2003 the District Land Management Board had claimed that no records on the land existed;
10. **THAT**, efforts to have this matter addressed by the relevant authorities, including the National Land Commission and the Kilifi Lands Registry, have been futile;
11. **AND THAT**, the matter in respect of which this petition is made is not pending before any Court of Law or Constitutional body.

NOW THEREFORE, your humble petitioners pray that the National Assembly through the Departmental Committee on Lands: -

- i. Enquires into the matter with a view to securing, with the assistance of the National Land Commission, the revocation of the current title deed, and the subsequent allotment and subdivision of parcel No. 71/1/IV/MN to residents of Chidongo, Junju, Mirima Mine and Bodoi Villages of Kilifi South Constituency and the issuance of title deeds to them;
- ii. Secures the prosecution of all land officers and persons involved in the fraudulent allocation of the land to Messers Daniel Kimeu Muhia, Lucas Chimeza Kenga, Francis Kipkosgei Kemboi and Christopher Tuitoek Kiplagat so as to discourage repetition of such incidents of blatant impunity regarding land matters in the country; and
- iii. Makes any other order or direction that it deems fit in the circumstances of the matter.

And your **PETITIONERS** will ever pray.

PRESENTED BY


HON. KEN KITI CHONGA, MP

MEMBER FOR KILIFI SOUTH CONSTITUENCY

Date 3/12/2020

PUBLIC PETITION

REGARDING RESETTLEMENT OF CHIDONGO, JUNJU, MIRIMA MINE AND BODOI VILLAGERS IN KILIFI SOUTH CONSTITUENCY

We, the undersigned, hereby append our signatures in support of this Petition:

	Name	I/D No.	Telephone No.	Signature
1	MAURICE KATUNGO TSUMA	8657629	0723-358-655	
2	CATHERINE KANZE KUMBE	4428054	0722628710	
3	PETER MUNGA MWAMBWA	26565133	0793541243	
4	FERRY EDISON KUMBE	31779081	0702013809	
5	JIMMY NGALA	23506716	0746124227	
6	Mario Zireki	25073146	0723 163900	
7	JUSTUS MRABU	32830029	0796095820	
8	HERMANN KALALA	26661763	0717884116	
9	LATANA KALALA	97712229	0710259477	
10	SONJE MLAGOIRO	22618053	0769881738	
11	DAMIAN KASHI	24826895	0701008506	
12	JACOB MUKGA WASHI	22284772	0764041309	
13	BUSMARK KUMBE	28607123	0708602365	
14	ALEXANDER M. ZIRU	1603671	0721477144	
15	ANTHONY MZUMBU	27219373	0726263824	
16	JAMES C DECHÉ	4578348	0769038611	
17	ROLLENCE ATENKO	31054157	0700348367	
18	STANLEY M. LATSUMA	34494734	0742493505	
19	SEBESTIEN R. HONTO	27143075	0703736508	

Hon. Speaker
You may approve
H.T.O.
13/12/2020



Approved
BAT
SNA
3/12/2020

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

PUBLIC PETITION

(No. 49 of 2020)

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2. THAT, the residents have lived on this parcel of land for decades as evidenced by graves and mature trees that are over 100 years old, and are primarily composed of various Mijikenda tribes including the Chonyi, the Giriama, the Jibana, and the Kauma who have intermarried and lived in peace and harmony during this time;
3. THAT, the community is composed mainly of farmers who have grown crops such as maize, cassava, cashew nuts, mangoes and coconut, and has expanded exponentially to the point of establishing 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, hotels, saloons, shops and other commercial establishments some of which were started as early as 1943;
4. THAT, in 2003, the community through the District Land Management Board applied to be allotted the said parcel of land and to be duly issued with title deeds, only to be informed that the process could not be executed because there was no information in the Land Registry;
5. THAT, on 23rd February 2015, the community through the Chijumibo Community Based Organization (CBO) made another application to the National Land Commission (NLC) to have the squatters formally settled on this land, whereupon the NLC investigated the matter and noted that the squatters had been on that land and ought to be duly settled since no claimant to the land existed in the Land Registry records;

NATIONAL ASSEMBLY
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SPEAKER'S OFFICE
P. O. Box 41842, NAIROBI.

PUBLIC PETITION
REGARDING RESETTLEMENT OF CHIDONGO, JUNJU, MIRIMA MINE AND BODOI
VILLAGERS IN KILIFI SOUTH CONSTITUENCY

6. **THAT**, on 21st November 2017, the NLC advertised this parcel of land through the *Kenya Gazette*, and by the expiration of the 30-day timeline that had been provided, no individual or corporation made any claim to the land;
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NOW THEREFORE, your humble petitioners pray that the National Assembly through the Departmental Committee on Lands: -

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PRESENTED BY


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PUBLIC PETITION

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

PUBLIC PETITION

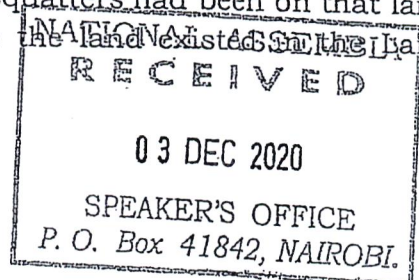
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Hon. Speaker
You may approve
HTO.
13/12/2020

PUBLIC PETITION
REGARDING RESETTLEMENT OF CHIDONGO, JUNJU, MIRIMA MINE AND BODOI
VILLAGERS IN KILIFI SOUTH CONSTITUENCY

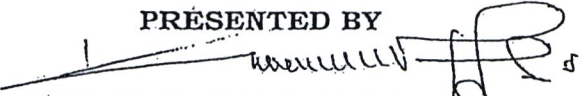
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NOW THEREFORE, your humble petitioners pray that the National Assembly through the Departmental Committee on Lands: -

- i. Enquires into the matter with a view to securing, with the assistance of the National Land Commission, the revocation of the current title deed, and the subsequent allotment and subdivision of parcel No. 71/1/IV/MN to residents of Chidongo, Junju, Mirima Mine and Bodoi Villages of Kilifi South Constituency and the issuance of title deeds to them;
- ii. Secures the prosecution of all land officers and persons involved in the fraudulent allocation of the land to Messers Daniel Kimeu Muhia, Lucas Chimeza Kenga, Francis Kipkosgei Kemboi and Christopher Tuitoek Kiplagat so as to discourage repetition of such incidents of blatant impunity regarding land matters in the country; and
- iii. Makes any other order or direction that it deems fit in the circumstances of the matter.

And your **PETITIONERS** will ever pray.

PRESENTED BY


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

Date 3/12/2020

PUBLIC PETITION

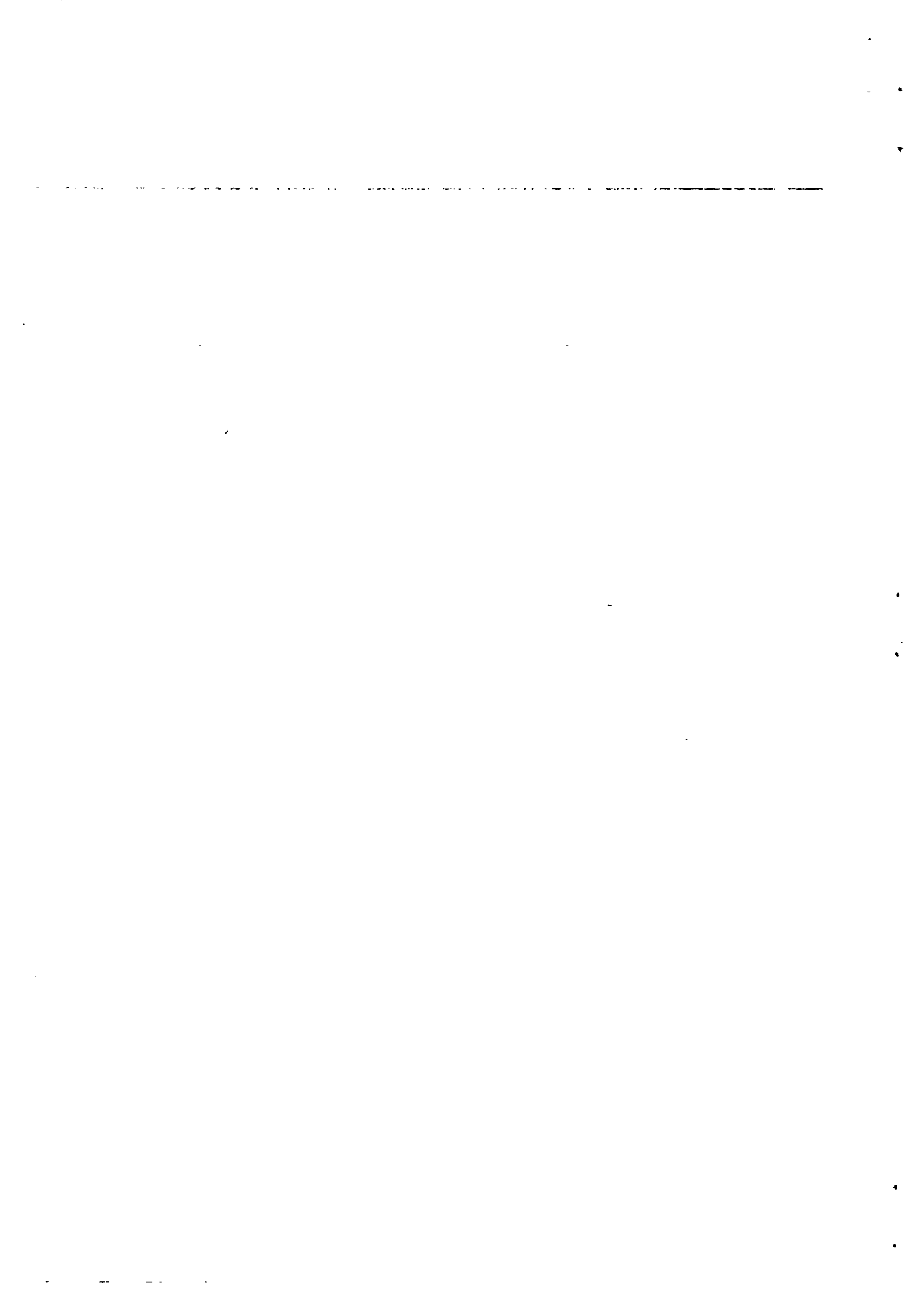
REGARDING RESETTLEMENT OF CHIDONGO, JUNJU, MIRIMA MINE AND BODOI VILLAGERS IN KILIFI SOUTH CONSTITUENCY

We, the undersigned, hereby append our signatures in support of this Petition:

	Name	I/D No.	Telephone No.	Signature
1	MAURICE KATUNGO TSUMA	8657629	0723-358-655	
2	CATHERINE KANZE KUMBE	4628054	0722628710	
3	PETER MUNGA MWAMBWA	26565133	0793641243	
4	FERRY EDISON KUMBE	31779081	0702013809	
5	JIMMY NGALA	23506716	0746124227	
6	MARCO ZINCHI	25073146	0723 163900	
7	JUSTUS MRABU	32830029	0796095820	
8	HERMANN KALALA	26661763	071785496	
9	LATIANA KATUNGO	9772229	0710259477	
10	SONJE MLAGO KUMBE	22618053	0769291738	
11	DAMIAN WASHI	24826845	070008506	
12	JACOB MUKGA WASHI	22284772	0764041309	
13	BENJAMIN KUMBE	28607123	070860236	
14	ALEXANDER M. ZIBU	1603671	0721477144	
15	ANTHONY MZUNGU	27219373	0726263824	
16	JAMES C DECHÉ	4578348	0769038611	
17	FLORENCE ATENGO	3054157	0700348567	
18	STANLEY M. LATSUMA	34474734	074247359	
19	SEBESTIEN K. HONTO	27143075	0703736508	

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/Kiandongoro 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.

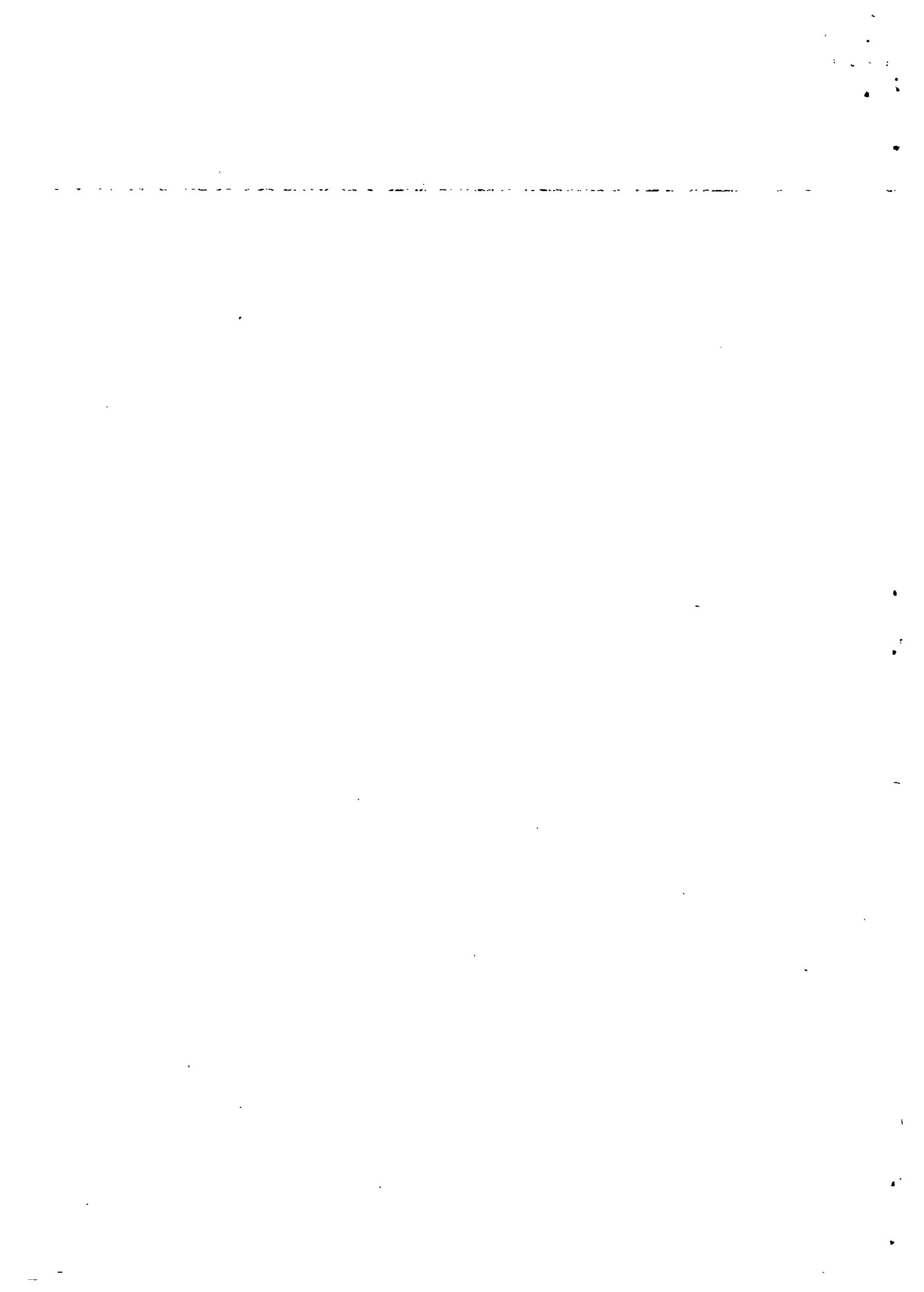
The Ministry wishes to clarify that based on the status of Kulalu Ranch as national government land, outcomes of the planning, survey and settlement processes will be a national government decision. Nevertheless, given the importance of public participation in success of development projects, such decisions 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



FILE No. 6442 TOWNSHIP M. North PLOT No. 71 SECTION No. 4

TERM YEARS FROM
METHOD OF ALIENATION
CLASS
USER
RACIAL RESTRICTION
AREA
RENTAL

C.R. 7827 = 71/2
A/C 81N/1920 = 71/1

NAME OF HOLDER

71/1 - Waqf to the heirs of
Mohamed bin Jama and
their children for ever
491.28 acres

71/2 - res no. 135/IV

FILE No. 5622 TOWNSHIP M. North PLOT No. 72 SECTION No. 4

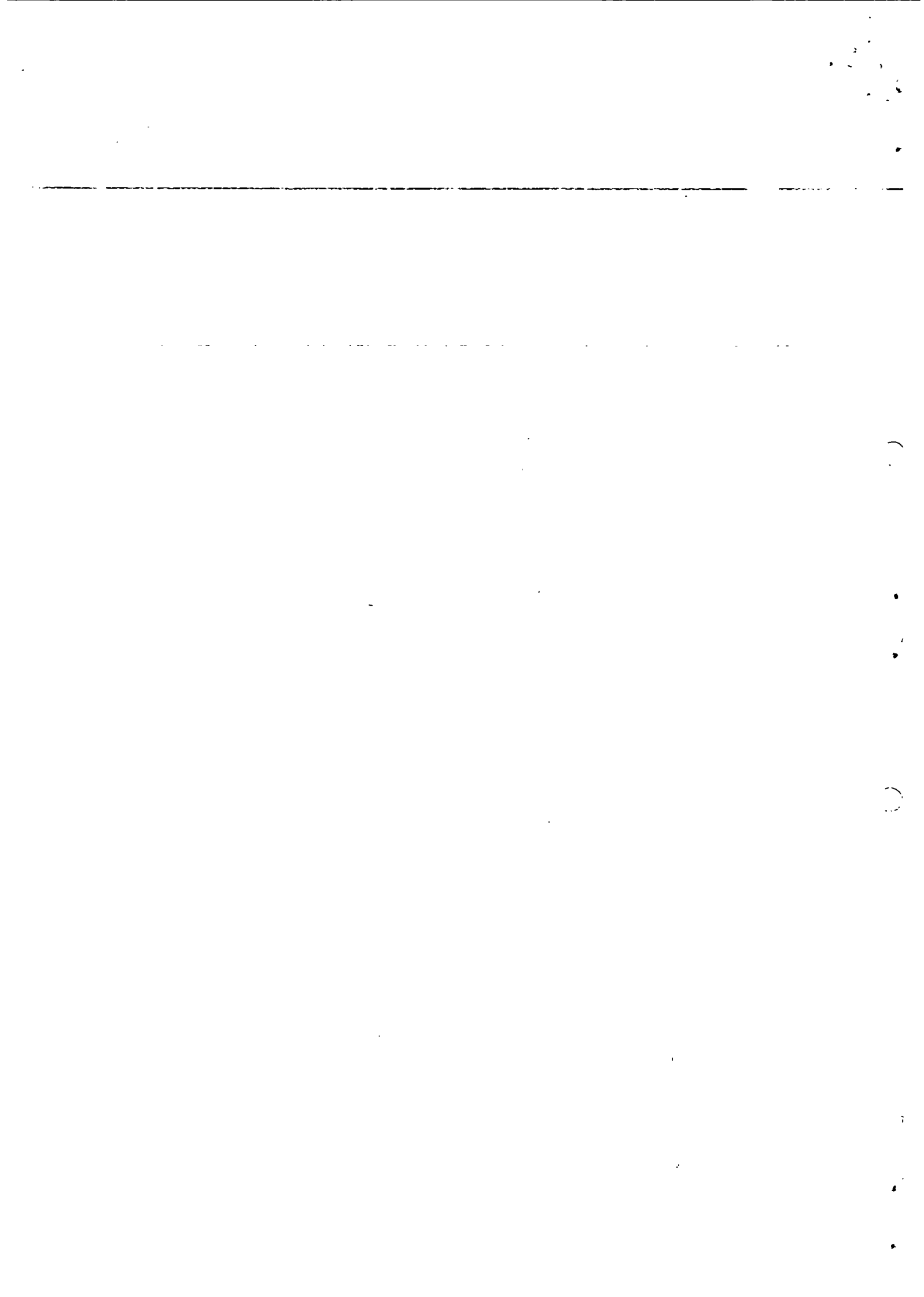
TERM YEARS FROM
METHOD OF ALIENATION
CLASS
USER
RACIAL RESTRICTION
AREA
RENTAL

911.0 acres
R. 6637

NAME OF HOLDER

Sheikh bin Ali & Fatia bin Ali
in behalf of themselves and others

Subdivided :-
72/1 - 131/IV
72/R - 130/IV





MINISTRY OF LANDS AND PHYSICAL PLANNING

Telegrams: "MINILANDS", Nairobi

Telephone: Nairobi 2718050

ARDHI HOUSE

1st NGONG AVENUE ROAD
OFF NGONG ROAD

P.O. BOX 30089-00100

Ref: 76195/ GEN/II/64

20th April 2021

The District Land Registrar

MOMBASA

RE: L.R. NUMBER MN/IV/71/1 (C.R. 71107) KILIFI COUNTY

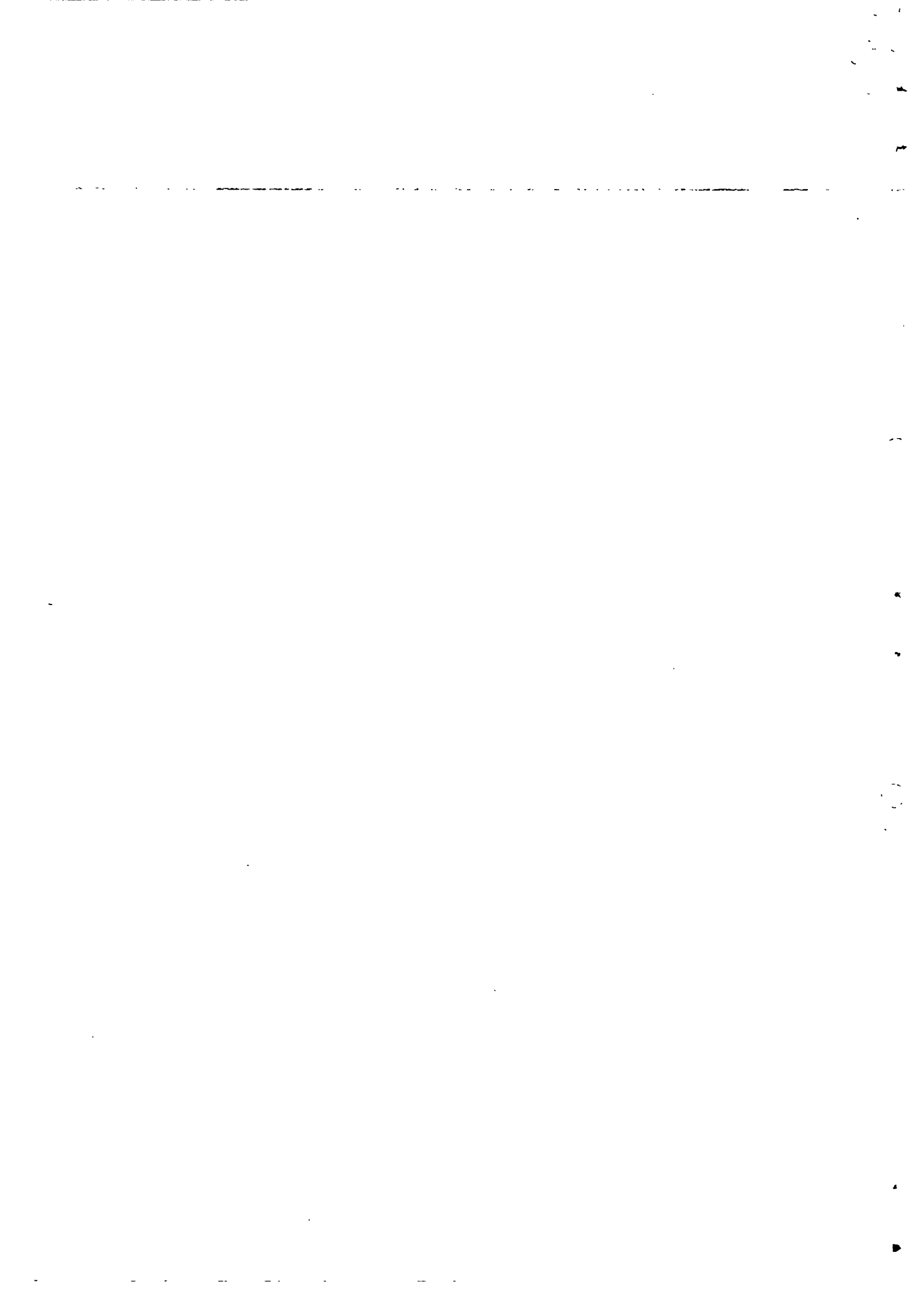
The above plot is the subject of an investigation by this office following a petition from Parliament vide a letter Ref. NA/DDC/LANDS/2021/ (046) dated 31st March 2021.

It appears that a lease document for the plot in favour of Muhia Daniel Kimeu, Lucas Chimera Kenga, Francis Kipkogei Kemboi and Christopher Tuitoek Kiplagat all of P.O. Box 52 Kilifi was processed in correspondence file (C.F) number 183166 and forwarded to the Mombasa Lands Registry sometime in the year 2018 for registration. The same was registered and issued with C.R. 71107. The C.F. for the plot can however not be traced at our Records section and survey details are also missing from the Ministry's survey offices. There was also an indication from your office that the land was under Wakf to the heirs of Mohamed bin Juma and their children forever.

In view of the foregoing, please consider summoning the registered proprietors to present documents pertaining to allocation and ownership of the above plot pursuant to Section 79 (2) of the Land Registration Act, 2012 with a view of establishing the authenticity of the lease presented for registration that led to C.R.71107.

Kamau J.H.M

For Director Land Administration



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.

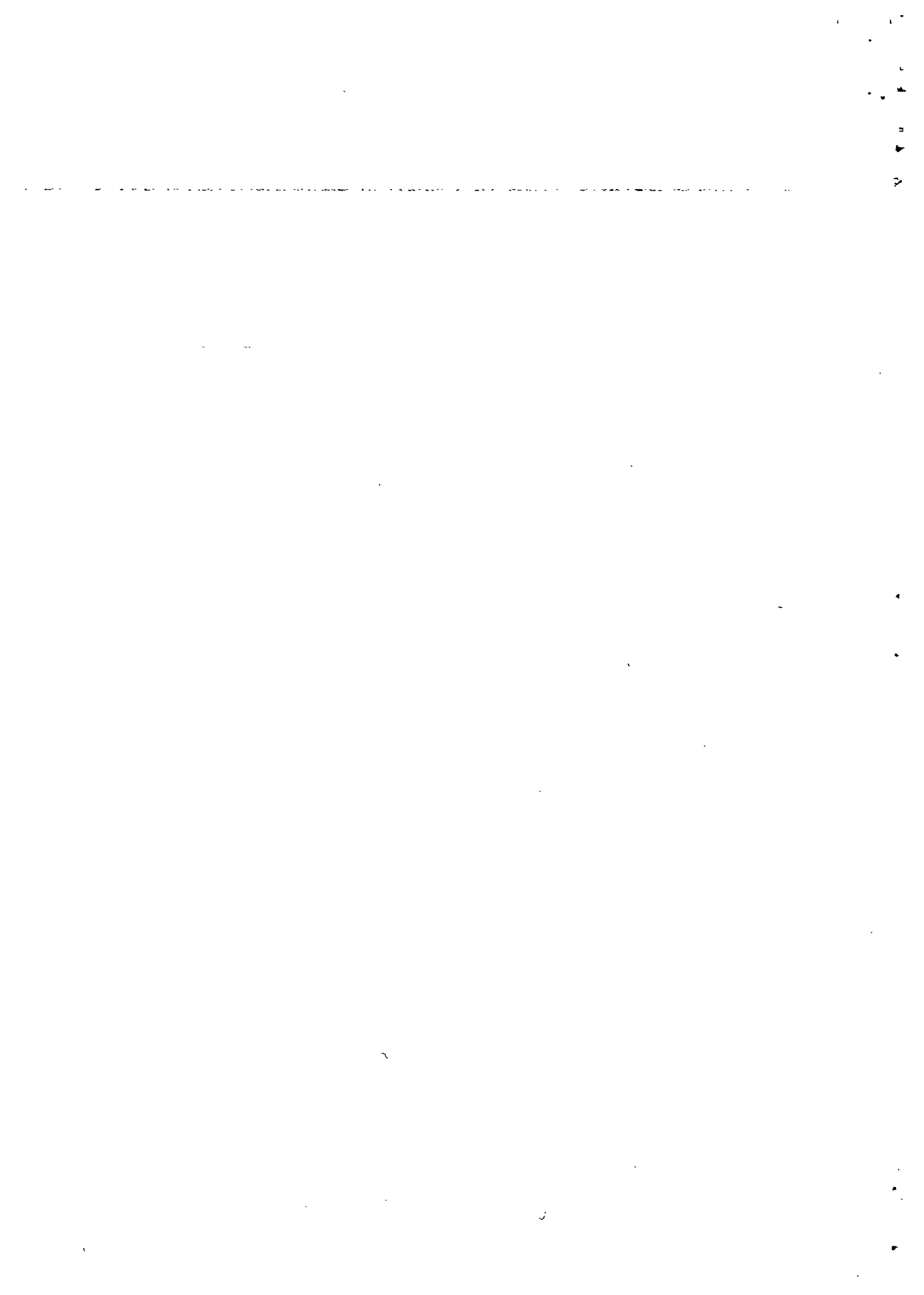
This is further to the oral submissions offered by the undersigned to the Committee sitting held on Tuesday 27th July, 2021 at English Point Marina hotel.

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 $\frac{1}{4} \times 1776 = 444$ Acres)



2. KHAMIS MOHAMED EL-BASAMI (As Administrator of the estate of MOHAMED KHAMIS EL-BASAMI) $\frac{1}{4}$ share (Constituting $\frac{1}{4} \times 1776 = 444$ Acres)
3. MOHAMED RASHID EL-BASAMI – $\frac{1}{4}$ share (Equivalent to $\frac{1}{4} \times 1776 = 444$ Acres)
4. MUARABU SALIM – $\frac{1}{16}$ share – (Equivalent to 111 Acres)
5. ISLAM ALI - $\frac{3}{32}$ share (Equivalent to $\frac{3}{32} \times 1776 = 166.5$ Acres)
6. AHMED ALI - $\frac{3}{32}$ share (Equivalent to $\frac{3}{32} \times 1776 = 166.5$ 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 $\frac{1}{16}$ owned by the deceased was transferred to his heirs in Law in respective shares as follows:-

- a) OMAR ALI SALIM – $\frac{3}{6}$ share ($\frac{3}{6} \times 111$) = 55.5 Acres
- b) MOHAMED RASHID BASAMI – $\frac{1}{6}$ share ($\frac{1}{6} \times 111$) = 18.5 Acres
- c) HAIDAR MOHAMED RASHID BASAMI – $\frac{1}{6}$ share ($\frac{1}{6} \times 111$) = 18.5 Acres
- d) AHMED MOHAMED RASHID – $\frac{1}{6}$ share ($\frac{1}{6} \times 111$) = 18.5 Acres

Pursuant to a transfer dated 31st October, 1986 the $\frac{3}{6}$ 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 $\frac{1}{16}$ 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 proprietary 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.

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LA No. 6 of 2012
(to be completed in quadruplicate)

Presentation Book Date received for registration:



KENYA
0000 FORM LA
REVENUE PAID
Pounds KSh.

Registration Fees: KSh.

Paid on 20.....

Receipt No:

CF NO.183166



REPUBLIC OF KENYA

THE LAND REGISTRATION ACT

(No. 3 of 2012)

THE LAND ACT

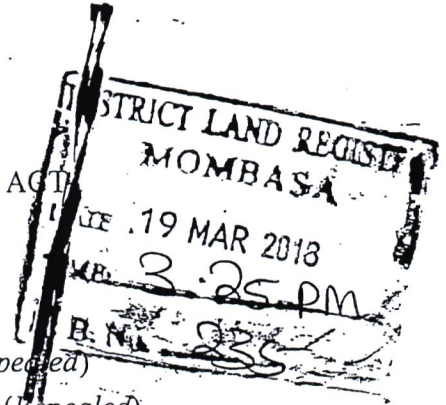
(No. 6 of 2012)

REGISTERED LAND ACT (Repealed)

REGISTRATION OF TITLES ACT (Repealed)

CERTIFIED TRUE COPY
FEES PAID VIDE REVENUE KSH
DATE: 23/2/2021

[Handwritten signature]



LEASE

(This LEASE is issued pursuant to the transitional provision in Sections 160 and 161 of the Land Act and Section 108 of the Land Registration Act)

REGISTRATION UNIT MOMBASA..... PARCEL No...MN/IV/71/1.....

NATIONAL GOVERNMENT/COUNTY GOVERNMENT OF.....KILIFI.....

in consideration of the sum of Kenya Shillings .2800000.00.....

by way of stand premium paid on or before the execution hereof

HEREBY LEASES to MUHIA DANIEL KIMEU, LUCAS CHIMERA KENGA.....

FRANCIS KIPKOGEI KEMBOI, CHRISTOPHER TUITOEK KIPLAGAT.....

BOX 52 KILIFI.....

hereinafter called the lessee .

ALL THAT piece of land comprised in the Registry Index Map No..... /Deed Plan

No ...421180.containing by measurement approximately .198.82..... hectares or

thereabouts for the term of999..... years

from the1st..... day ofJanuary..... 1995 payable

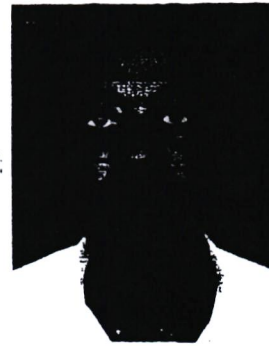
at the annual rent of Kenya shillings .PEPPERCORN.....

in advance on the first day of January in each year and subject to the following special conditions

SPECIAL CONDITIONS

1. No buildings shall be erected on the land nor shall additions or external alterations be made to any buildings otherwise than in conformity with the plans and specifications previously approved in writing by the National Government/County Government. The National/County Government shall not give its approval unless it is satisfied that the proposals are such as to develop the land adequately and satisfactorily.
2. The Lessee shall within six(6) calendar months of the actual registration of the lease submit in triplicate to the National Government/County Government building plans (including block plans showing the positions of the buildings and system of drainage for the disposal of the the sewage, surface and sullage water), drawings, elevations and specifications of the buildings the Lessee proposes to erect on the land and shall within 48 months of actual registrations of the lease complete the erection of such buildings and the construction of the drainage system in conformity with such plans, drawings, elevations and specifications as amended (if such be the case) by the PROVIDED that notwithstanding anything to the contrary contained in or implied by the Land Act no 6 of 2012 if default shall be made in the performance or observance of any of the requirements of this condition it shall be lawful for any person authorized by it on behalf of the National and County Governments to re-enter into and upon the land or any part thereof in the name of the whole and thereupon the term hereby created shall cease but without prejudice to any right of action or remedy of the National and/or County Government in respect of any antecedent breach of any conditions herein contained.
3. The Lessee shall maintain in good and substantial repair and conditions all buildings at any time erected on the land.
4. Should the Lessee give notice in writing to the National/County Government that the lessee is unable to complete the buildings within the period aforesaid the National/County Government shall at the lessee's expense accept a surrender of land comprised herein PROVIDED FURTHER that if such notice is aforesaid shall be given (1) within twelve months paid in respect of the land or (2) at any subsequent time prior to the expiration of the said of the actual registration of period the Government shall refund the Lessee twenty-five per centum of the said stand premium. In the event of notice being given after the expiration of the said building period no refund shall be made
5. The land and buildings shall always be used for **Agricultural purposes**
6. The buildings shall not cover~~more than 90.% of the~~ area of the land or such lesser area as may be prescribed by the National Government/County Government Development Control Regulations
7. The land shall not be used for any purpose which the National or County Government considers to be dangerous or offensive
8. The Lessee shall not subdivide, change or extend use of the land, without prior written consent and approval of the National Government or County Government.
9. The Lessee shall not sell, transfer, sublet, charge or part with possession of the land or any part thereof or any building thereon except with prior consent in writing of the National Government/County Government.

SIGNED by the lessee
IN THE PRESENCE OF:



Signature

[Handwritten signature]

[Handwritten signature]

[Handwritten signature]

ID/PASSPORT NO 10885463 13733944 11200143

PIN NO A003215479Y, A003052740 A002678851

SIGNATURE

[Handwritten signature]

ID/PASSPORT NO 0284833

PIN NO A001171430R



I CERTIFY that the above-named appeared before me on the day

of FEBRUARY, 20 18 and being known to me/being identified by ID PO: 10885463, ID PO: 13733944, ID PO: 11200143, ID PO: 0284833 acknowledged the above signature or marks to belong to the lessee and that the lessee freely and voluntarily executed this instrument and understood its contents.

Signature and Designation of Person Certifying

[Handwritten signature]
M. O. BON...
Nairobi, Kenya.

REGISTERED this day of 20

Land Registrar

Name

DRAWN BY: [Handwritten name]
CERTIFIED TRUE COPY
TILES PAID VIDE REVENUE KSH
DATE 29/7/2021
LAND REGISTRAR
P. O. BOX 30089
NAIROBI

LAND TITLES REGISTRY - MSA
REGISTRATION OF TITLES ACT
REGISTRY NO CR... 711071
PRESENTED 19th MARCH 2018
Time... 3:25 PM
[Handwritten signature]
Registrar of Titles



32202191

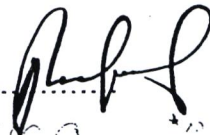
E79665EA-A951-4144-B8EC-90380DEF4D2C



10. The Lessee shall from time to time pay to the National/County Government on demand such proportion of the cost of maintaining all roads and drains serving or adjoining the land as the National Government/County Government may assess.
11. The Lessee shall pay such rates, taxes, charges, duties, assessments or outgoings of whatever descriptions as may be imposed charged or assessed by the Commission on behalf of the National/County Government upon the land or the buildings erected thereon, including any contribution or other sum paid.
12. The National Government or respective County Government or such other person or authority as may be appointed for the purpose shall have the right to enter upon the land and lay and have access to water main service pipes and drains, telephone wire, fiber optic and electric mains of all descriptions whether overhead or underground and the Lessee shall not erect any buildings in such a way as to cover or interfere with any existing alignments of main or services pipes or fiber optic or telephone wires and electric mains.
13. The National/County Government may revise the annual ground rent payable. Such rental shall be at a rate to be determined by the National/County Government of the unimproved value of the land.

Dated this 2nd day February, 2018

SIGNED BY: _____



For: CHIEF LAND REGISTRAR

COMMON SEAL of the lessee was affixed hereto in the presence of:

CERTIFIED TRUE COPY
DUES PAID VIDE REVENUE K/S
DATE 23/7/2021





CERTIFIED TRUE COPY
TAXES PAID VIDE REVENUE KR/1
DATE 3/2/2021

REPUBLIC OF KENYA

THE LAND REGISTRATION ACT

(No. 3 of 2012, Section 108)

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 (If demanded) (Revisable)

I hereby certify that MUHIA DANIEL KIMBU, LUCAS CHIMERA KINGA,

FRANCIS KIPKOGEI KEMBOI, CHRISTOPHER TUITOEK KIPLAGAT
of P.O. Box 52, Kilifi

in the Republic of Kenya, pursuant to section 108 of the Land Registration Act is/are now registered proprietor(s) as 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
two thousand and
Ninety Five

ALL that piece of land situate in the Takaungu Municipality in the Kilifi District

containing by measurement One Hundred and Ninety Eight Decimal Eight Two
(198.82)

hectares/~~acres~~ (less road reserve of Ha/Ac) or thereabouts and being land Reference

Number MN/IV/71/1 (original Number) as delineated on Land Survey Plan

Number 421180 annexed hereto. **SUBJECT** however to the revisable annual rent

of shillings PEPPERCORN and to the Act(s) special conditions, Encumbrances and other matters specified in the Memorandum hereunder written.

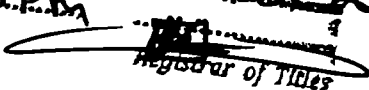
IN WITNESS whereof I have hereunto set my hand and seal this 19th day of March

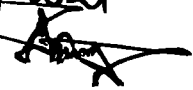
Two Thousand and Eighteen

Registrar of Titles

MEMORANDUM

1. The Land Registration Act, No. of 2012
2. The Land Act No. 6 of 2012
3. The Special conditions contained in Lease No. 32202191
4. The Government Land Act (Cap. 280) (Repealed)
5. The Registration of Titles Act (Cap. 28) (Repealed)
6. The Land Titles Act (Cap. 282) (Repealed)

LAND TITLES REGISTRY - MSA
REGISTRATION OF TITLES ACT
REGISTER NO. 711071
PRESENTED 19TH MARCH 2018
Time 3:25 PM

Registrar of Titles

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


FILE No. 4304 SEL. TOWNSHIP

M. North

PLOT No. 11
SECTION No. 4

TERM YEARS FROM

METHOD OF ALIENATION

CLASS

USER

RACIAL RESTRICTION

AREA

RENTAL

C.R. 7827 - 71/2
a/c 87N 1920 - 71/1

NAME OF HOLDER

71/1 - Wate to the heirs
Mohamed bin
their children
491.28 acres.

71/2 - new no. 130/IV

FILE No. 5622

TOWNSHIP M. North

PLOT No. 72
SECTION No. 4

TERM YEARS FROM

METHOD OF ALIENATION

CLASS

USER

RACIAL RESTRICTION

AREA

RENTAL

911.0 acres.

C.R. 6637

NAME OF HOLDER

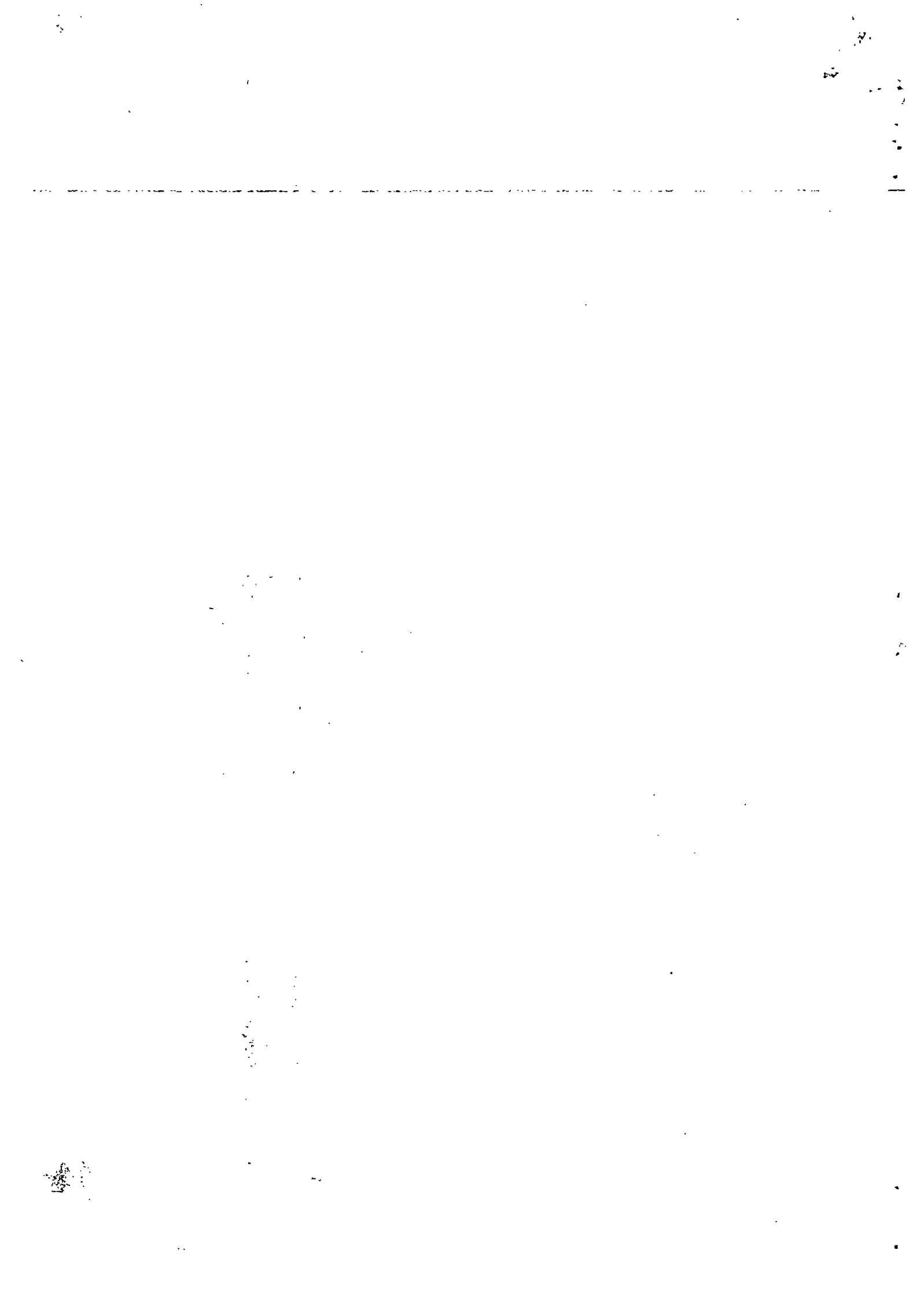
Sheikh bin Ali & Faher bin
on behalf of themselves and of

Subdivided :-

72/1 - 131/IV
72/2 - 130/IV

CERTIFIED TRUE COPY
TAXES PAID VIDE REVENUE KEYS
DATE

[Signature]



TERM _____ YEARS FROM *In*

METHOD OF ALIENATION

CLASS

USER

RACIAL RESTRICTION

AREA *2158.0 acres*

RENTAL

C. R. 7827

*Khamis bin Mohamed bin Juma
El-mutwafy*

FLOT No. *136 25/3/55*
SECTION No. *4*

FILE No. *1280*

TOWNSHIP

M. North

TERM *999* YEARS FROM *1. 10. 1930*

METHOD OF ALIENATION

CLASS

USER

RACIAL RESTRICTION

AREA *249.5 acres*

RENTAL *50/- revisable*

C. R. 8714

NAME OF HOLDER

*Grass Land
~~Abindina bin Mohamed bin Juma~~*

*Leased by ... for ...
of the plot.*

CERTIFIED TRUE COPY
TAXES PAID VIDE REVENUE KSH

DATE *27/7/2021*

[Signature]

e

THE COLONY AND PROTECTORATE OF KENYA

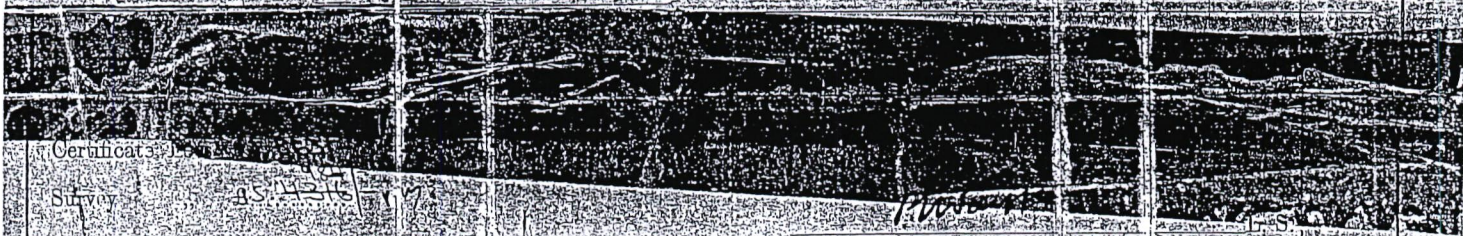


LAND TITLES ORDINANCE, 1908.

SCHEDULE I. FORM B.

CERTIFICATE OF OWNERSHIP.

I, Thomas Ernest Welfer Acting Recorder of Titles do hereby certify that Administrateur General as Administrateur of the Estate of Mohamed bin Juma deceased is the proprietor of an estate in fee (together with the mineral Rights) in that piece of land situate in the Province of Coast and delineated on the plan No. 2257 deposited in the Office of the Recorder of Titles at Mombasa and containing one acre or theabouts and subject for such mortgages and other interests (if any) as hereunder written.



Certificate of
Survey No. 45-4316

Welfer
RECORDER OF TITLES

Mortgages and other interests above referred to:

1st Charge in respect of the sum of Sh. 1847/- due to Govt.

DEPT. OF LANDS, E.A.F.

HEES PAID
Welfer
20th March 1939

Land Registration Division
Mombasa
20th March 1939

THE FOLLOWING INSTRUMENT HAS BEEN REGISTERED AGAINST THIS TITLE

R. 283/39
conferred to Mohamed bin Juma bin Welfer

20/3/39 Date of Registration 20/3/39 REGISTRAR OF TITLES

THE FOLLOWING INSTRUMENT HAS BEEN REGISTERED AGAINST THIS TITLE

Transfer of land to Mohamed bin Welfer
(with other lands)

No. 706 Date of Registration 27-3-38

Welfer
Registrar of Titles

1950

1950

1950

Caveat dated 19th March 1966
The said Hussein claiming a purchased interest
in the land

140 Date of Registration 21-5-66 REGISTRAR OF TITLES
THE FOLLOWING INSTRUMENT HAS BEEN REGISTERED AGAINST THIS TITLE
Deed of Assignment dated 14th February 1966
of Hussein Mohammed Athman Decedent
to Khalisa Athman Mohammed as representative

141 Date of Registration 5-9-66 REGISTRAR OF TITLES
THE FOLLOWING INSTRUMENT HAS BEEN REGISTERED AGAINST THIS TITLE
Transfer dated 22nd August 1966

142 To Khalisa Athman Mohammed in respect of 1/2 undivided
share of Athman Mohammed Athman as Beneficiary
under his wife's will

143 Date of Registration 5-9-66 REGISTRAR OF TITLES
THE FOLLOWING INSTRUMENT HAS BEEN REGISTERED AGAINST THIS TITLE
Caveat dated 12th October 1967 by Ag

144 Registrar of Titles, Mea claiming
improper dealing under section 77 (D)
of PUA absolutely

145 Presentation No 49 Date of Registration 13-10-67 REGISTRAR OF TITLES
THE FOLLOWING INSTRUMENT HAS BEEN REGISTERED AGAINST THIS TITLE

146 Date of Registration 23/4/68 REGISTRAR OF TITLES
THE FOLLOWING INSTRUMENT HAS BEEN REGISTERED AGAINST THIS TITLE

147 Transfer dated 27th November 1967
To 1. Kalam Hussein 2. Mohamed Hussein 3. Sulek Hussein
4. Abdalla Hussein 5. Hasham Hussein 6. Yusuf Hussein and
7. Ayub Hussein as common tenants in equal shares
For 47,000/- Registered under S. 65(1)(a)
Presentation No 79A Date of Registration 23-4-68 REGISTRAR OF TITLES

148 Caveat dated 9th April 1980 by East
African Power and Lighting Company
claiming a grant of easement

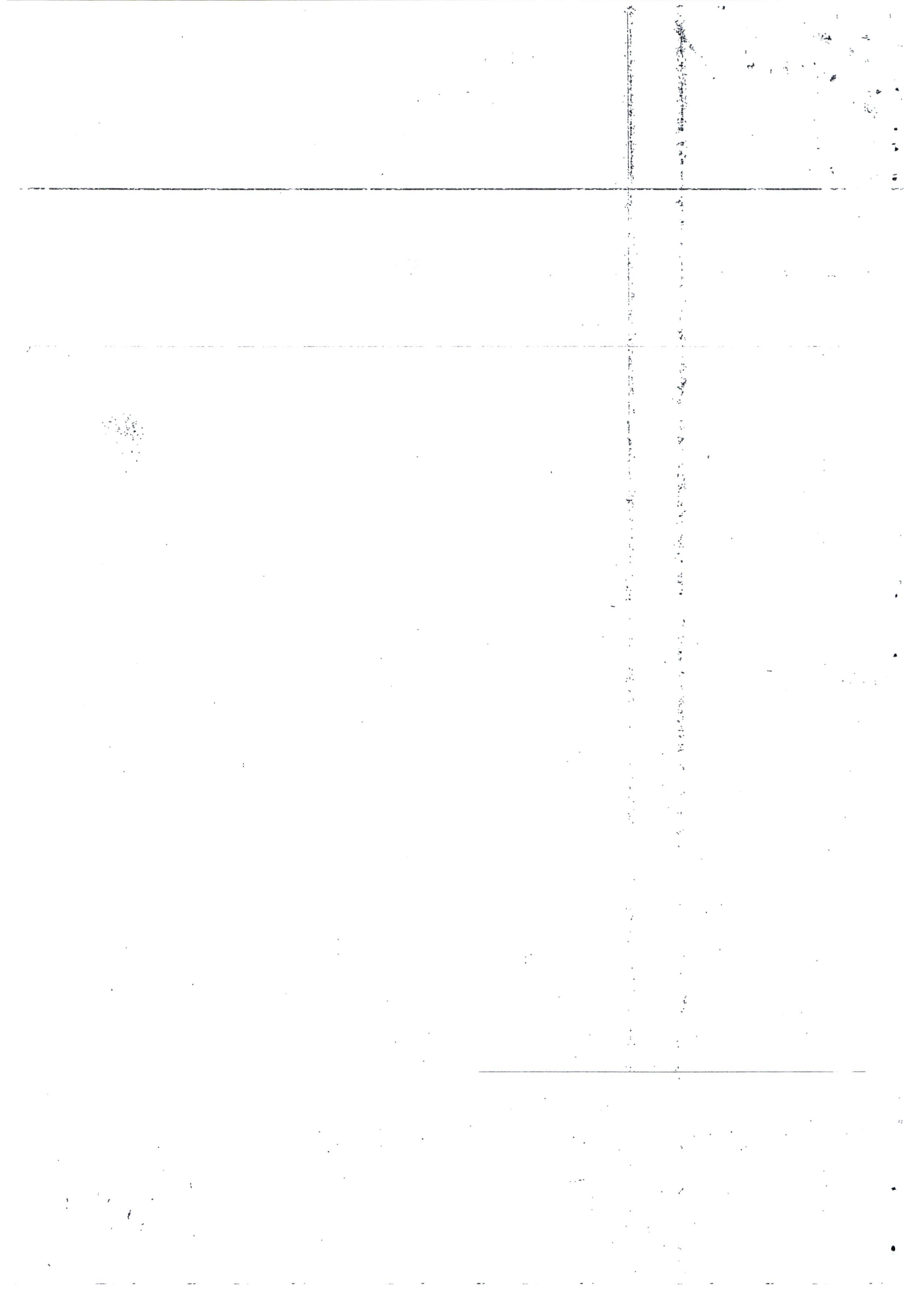
149 Presentation No 87 Date of Registration 9-5-80 REGISTRAR OF TITLES

150 THE FOLLOWING INSTRUMENT HAS BEEN REGISTERED AGAINST THIS TITLE
Transfer dated 6th August 1976 To
Settlement Fund Trustees for sh
KSh 200K (with other land)

151 Presentation No 130 Date of Registration 17-11-81 REGISTRAR OF TITLES
THE FOLLOWING INSTRUMENT HAS BEEN REGISTERED AGAINST THIS TITLE
Transfer dated 20th May 1987 To EDGAR INAN DATE 27-11-2021
MANASSEH and JANE MWANJE MANASSEH
S. 65(1)(a) Sec. IV (b)
Presentation No 432 (orig. No 1351)

5
6
7
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12
13

REGISTAR OF TITLES
CERTIFIED TRUE COPY
FEES PAID VIDE REVENUE KSH
27-11-2021
[Signature]



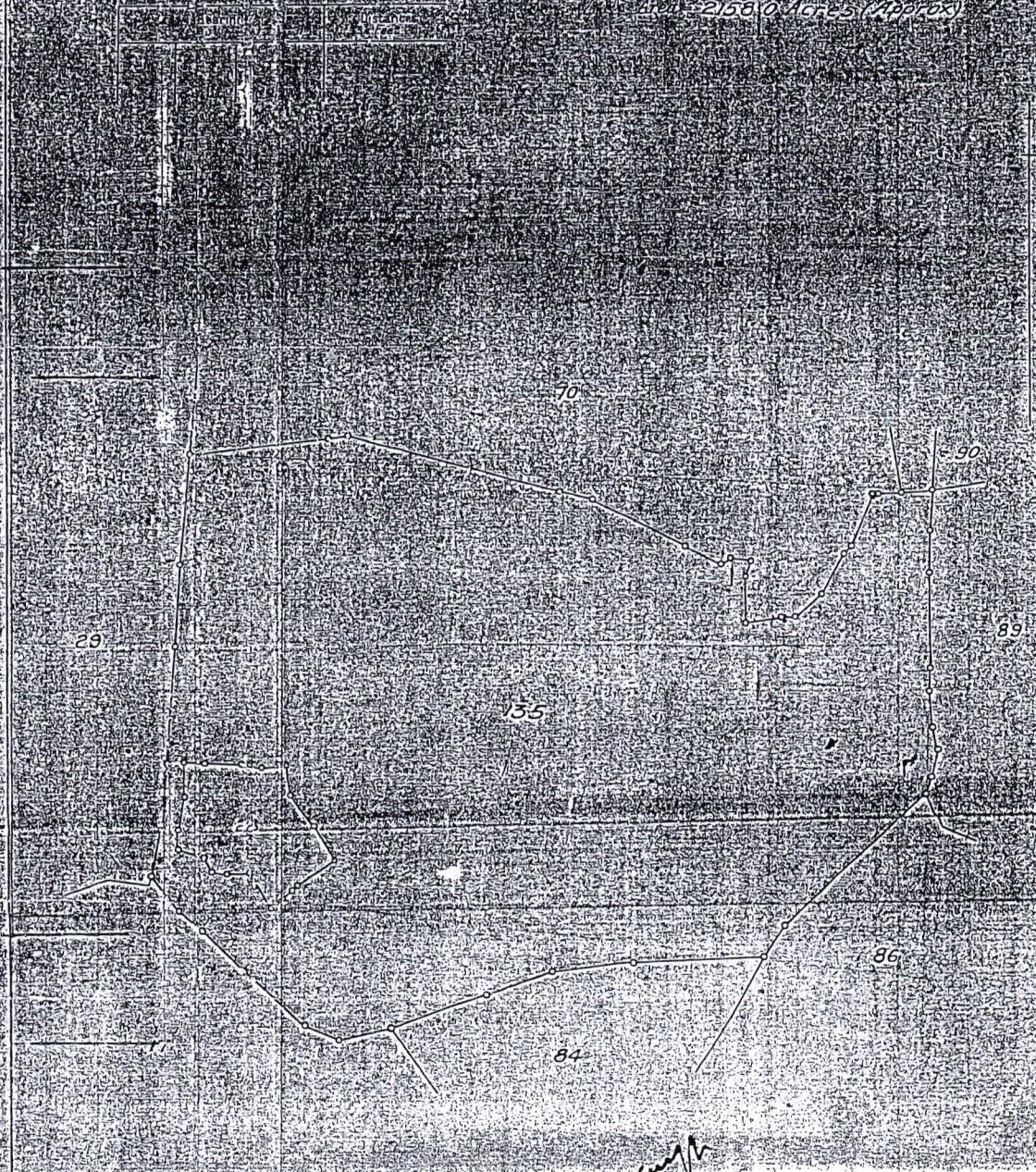
PROVINCE OF COAST
DISTRICT OF MALINDI

LOCAL GOVERNMENT

Scale 1:250,000 or 200333

Re Subdivision No. 135 (Original)
of Section No. IV, Meru and North
of Portland No. 1
of Meru District
South A 376
1/4 V.C.

Area - 2158.0 Acres (Approx)



Handwritten signature
of

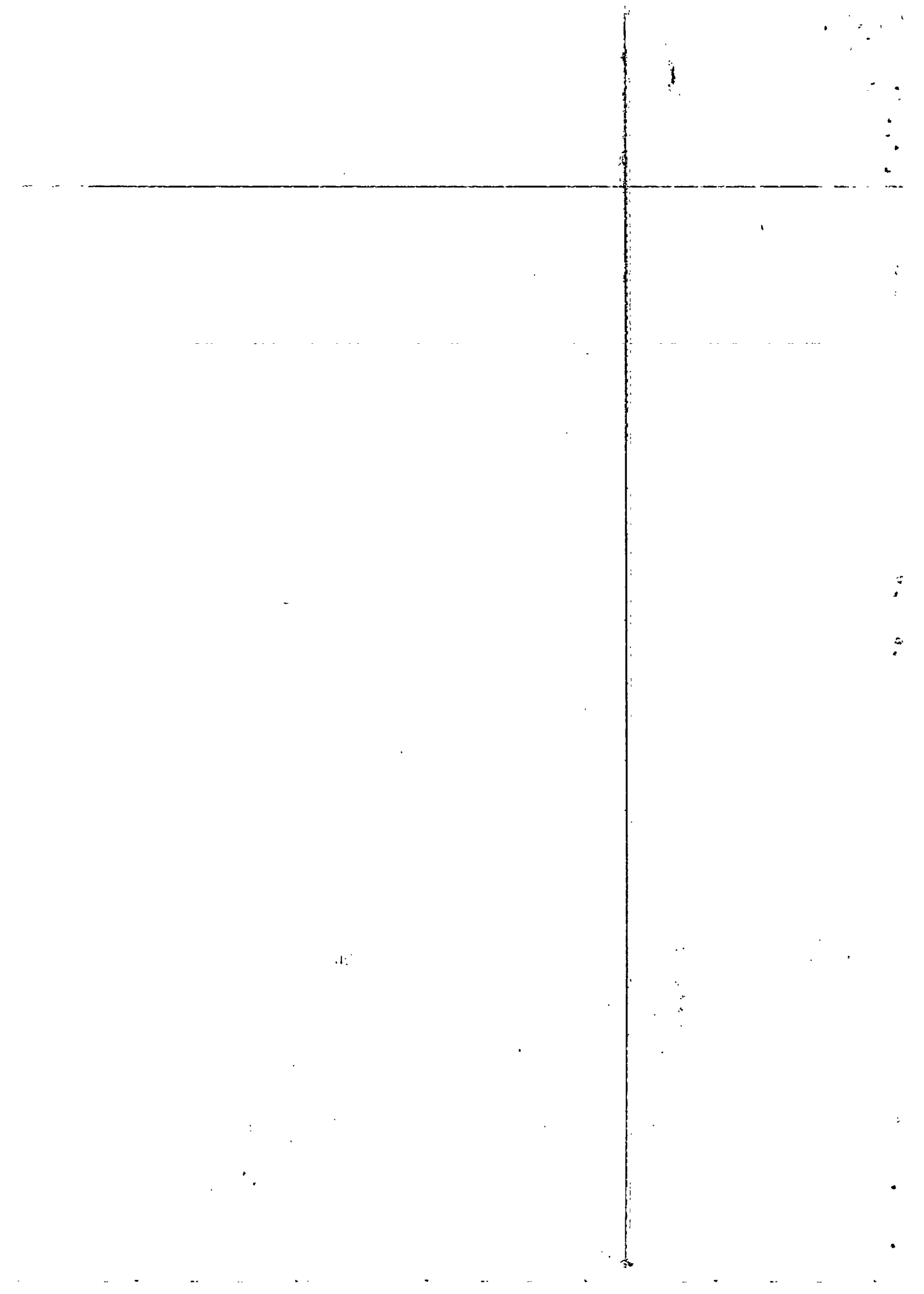
C.O. Gilbert
Director of Land Surveys
Nairobi 4th December 1924

Please quote this PLAN No 22577.

Traced by *M.H.*
Compared by *A.S.*

WATTS & LOW & CO. ENGINEERS, LONDON, DUNDEE & NAIROBI.

CERTIFIED TRUE COPY
FEES PAID VIDE REVENUE KSH.
DATE... 27/7/2021
Handwritten signature



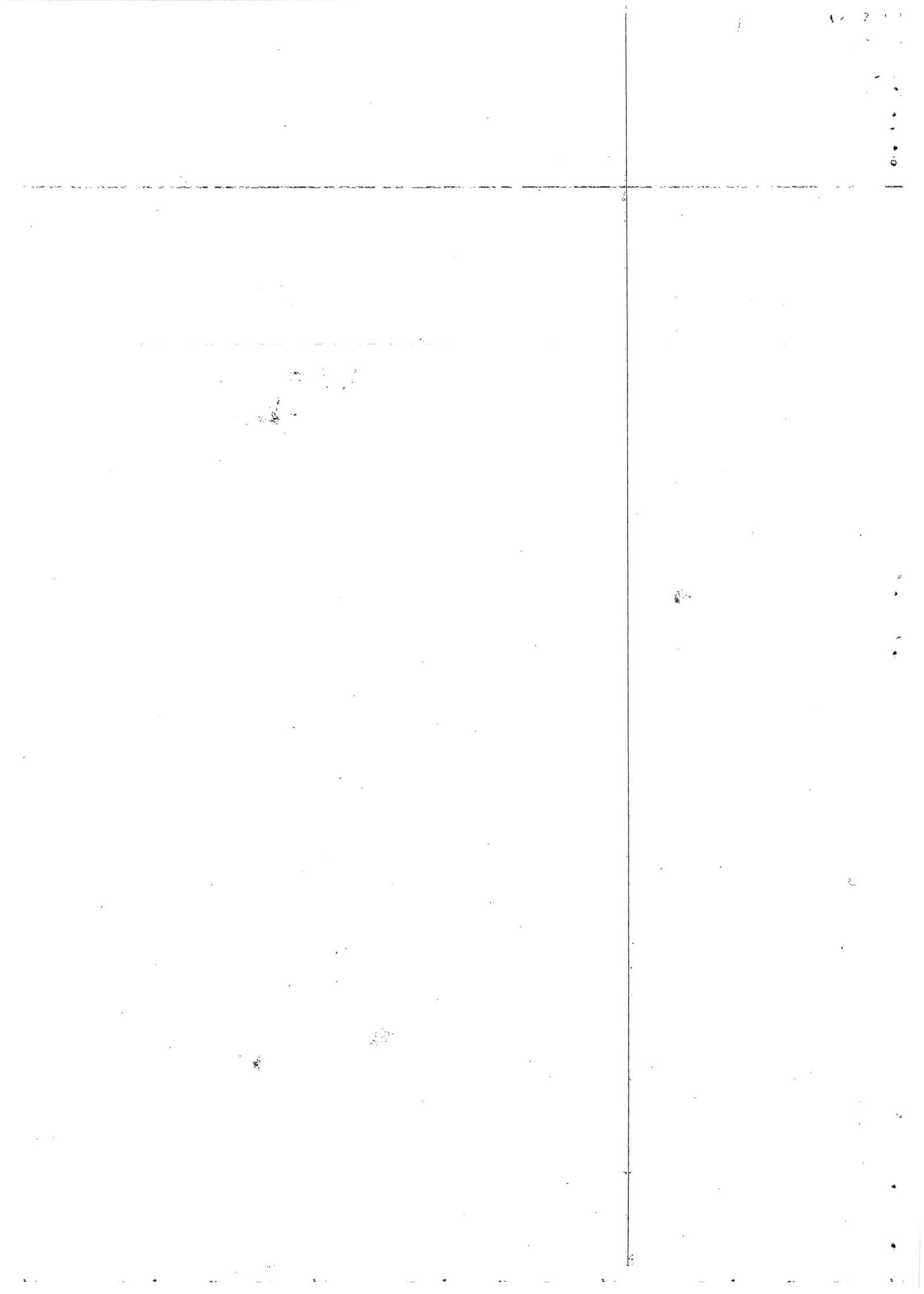
14.

10 - Brown mmbai Dyalgo, Sub. Div.
no. 438 (ing no. 135/2) Sec. 10 main land unit
area: 6.078 ha. for Ksh. 5650/-
val. at 18341 15/10/01
Registration No. 380 Date of Registration 25.11.87 Registrar

15.

THE FOLLOWING INSTRUMENT HAS BEEN REGISTERED AGAINST THE TITLE
Certificate dated 4th March 1992 for
Gwendencia Akumu, Land Reference
no. 15362, area 5.822 ha.
for Ksh. 5650/-
val. at 22204 15/10/01
Registration No. 844 Date of Registration 10-3-92 Registrar

CERTIFIED TRUE COPY
FEES PAID VIDE REVENUE KSH. 5.00
DATE 27/7/2001
[Signature]



REPUBLIC OF KENYA

IN THE MATTER OF LAND REGISTRATION ACT NO 3 OF 2012

IN THE MATTER OF LAND ACT NO. 6 OF 2012

THE REGISTRATION OF TITLES ACT

CAP.281 (REPEALED)

CERTIFICATE OF POSTAL SEARCH AS ON 27TH JULY, 2021

PLOT NUMBER : 135/IV/MN


TITLE NUMBER : CR. 7827

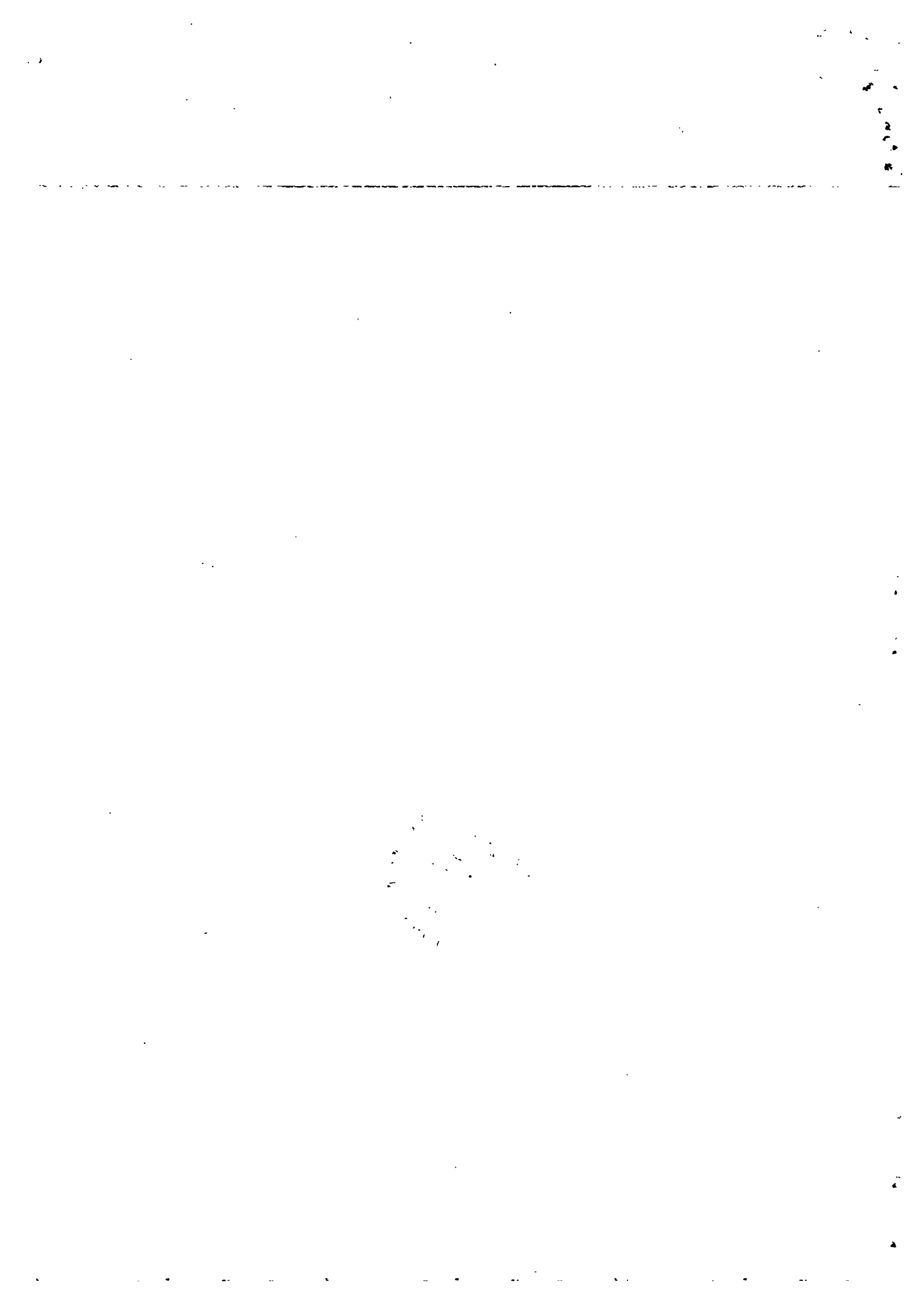
AREA : 2,158.0 HA.

TENURE : FREEHOLD

REGISTERED OWNER : SETTLEMENT FUND TRUSTEE

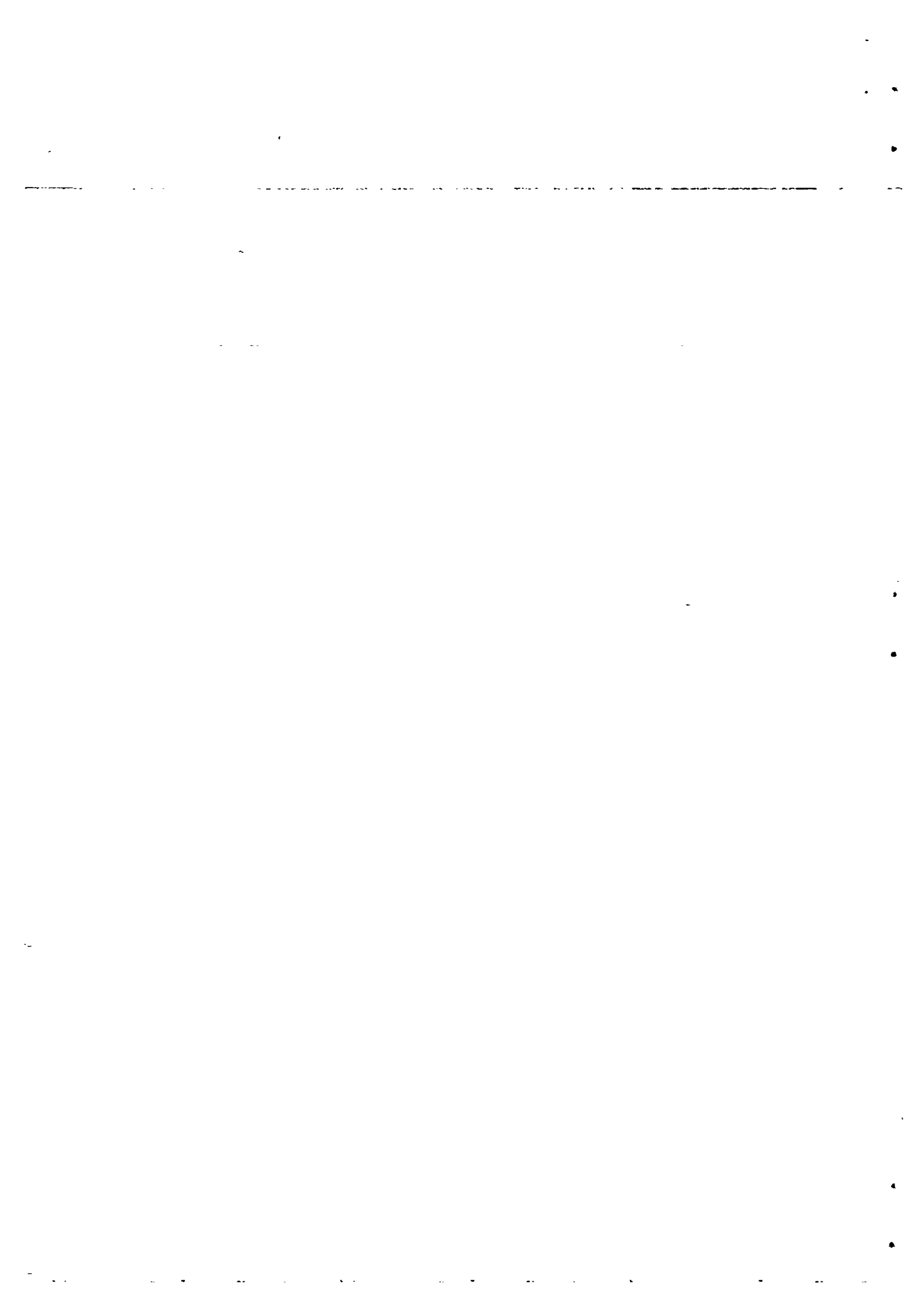
ENCUMBRANCES : THE PLOT HAS BEEN SUBDIVIDED AND
SUBPLOTS NO.432 (AREA 5.174 HA),
438 (AREA 6.078 HA) and
15362 (AREA 5.822 HA) TRANSFERED OUT


REGISTRAR OF TITLES
R. Mwangi



ANNEXURE III

RESPONSE BY THE NATIONAL LAND COMMISSION





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 DEPARTMENTAL 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/IV/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.

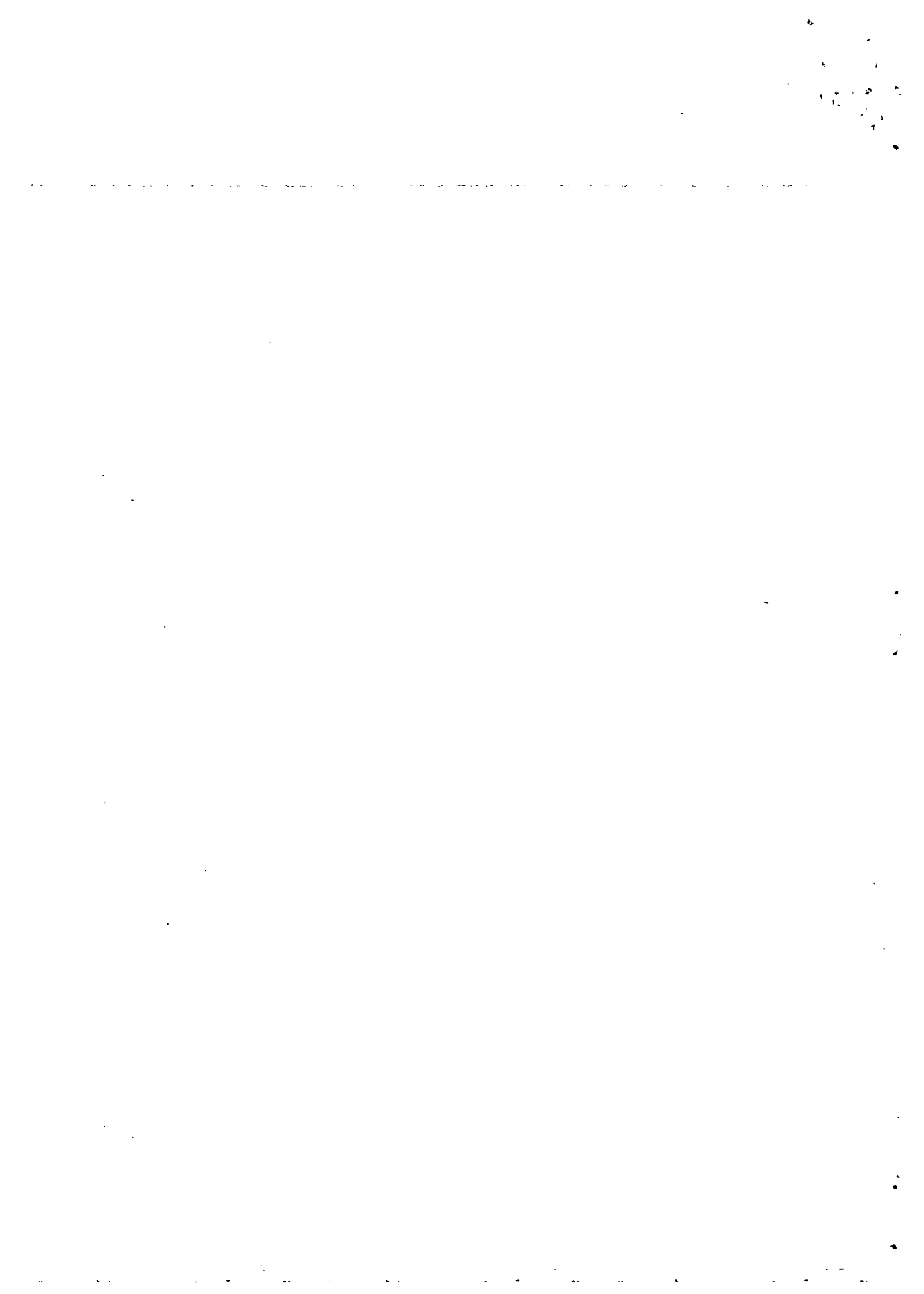
The Commission to write to the Cabinet Secretary Ministry of Lands and Physical Planning requesting her to direct the Chief Land Registrar to comply with recommendations of the Commission as provided for by Section 15(10) of the National Land Commission Act, 2012.

Honorable Chair, I submit.





Gershom Otachi Bw'Omanwa
CHAIRMAN



LAST ONE

Annex 1


CHIDONGO, JUNJU, MIRIMA MINNE AND BODOL VILLAGES

RECEIVED

P.O. Box 177

Mtwara

23rd February 2015

Received.
9th September 2015
at 11.35 am
during the 2nd Kilifi
CLMS Meeting.

04/01/15

CHAIRMAN,
NATIONAL LAND COMMISSION,
P.O BOX 44417
NAIROBI.

MEMORADUM PLOT 71/1/1V/MN

We wish to bring to your attention that we are residents of Chidongo, Junju, Mirima Minne and Bodol villages in Kilifi South Constituency, living in the above highlighted plot 401 acres that were left undivided and reserved for locals.

Ref :-

PLAN 74489(89/67) & 75573(90/185

Folio No:- 8

Register No.157

Currently there are about 1300 residents who are above 18 years old and have identity cards. According to the survey map done in 1920 this mentioned plot 71/1/1V/MN neighbouring

- Plot 70 for Burhan Abulaziz
- Plot 72 for Junju
- Plot 91 Habib Bin Said
- Crown land on the northern side *forest given to vipingo sisal estate

All other neighboring plots with owners were acquired by the government and made into Kibwapa settlement scheme. Plot 71/1/1V/MN was not acquired by the government because there was no owner.

The residents of this area started settling here way back in 1900. More came to settle here after 1914 from Galana where they had resisted going to fight in the first world war and had to fight the then regime led by D.C Champion alias (Chembe) in "viha vya Orange".

Since then, we have lived and established our lives on the land without any interference.

- The first school, Junju primary school was started by the Methodist mission in 1943.
- The second school in the area was Bodoi primary school built in 1985
- The first secondary school was started in 2001 at Junju.

We have several burial places, churches and permanent homes and established infrastructure like roads, power and water lines.

Families in the area have maintained their local boundaries ever since and have access roads to their individual sub plots which are developed as is seen by the coconut, cashew-nut, mango plantations in the said plot and some keep cattle and rear fish and chicken.

There are four main shopping areas, mainly bodoi, mirna mirna, Chidongo, and Junju.

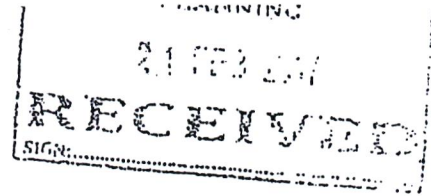
In 1993, the D.C KILIFI ordered for a census for people living in plot 71/1/1V/MN under supervision of the then Chief Aleck Nyinge. Names were collected and taken to the D.C Kilifi but nothing happened.

Ten years later in the year 2003, residents formed a committee to look into ways on how they could push to secure titles for their portions; however the process stalled because of lack of information in the lands registry hence they couldn't make any progress.

Again the community formed CHIJUMIBO CBO in 2014 to look into ways on how they can acquire title deeds for their portions as an organization.

We have been able to meet:-

Annex 2



Telephone: 0720 711 743
Email: umi.kugula@landcommission.go.ke
REF: No: KLF/NLC/VOL 2 (20)

NLC COORDINATOR,
KILIFI COUNTY OFFICE,
P.O. BOX 519-80108,
KILIFI.

20th February, 2017

✓ THE CHIEF OFFICER
LANDS, HOUSING AND URBAN DEVELOPMENT,
COUNTY GOVERNMENT OF KILIFI,
P.O. BOX 519 -80108,
KILIFI.

Dear Sir,

RE: REQUEST FOR RECOMMENDATION FOR CHIJUMIBO: PLOT 71/1/IV/MN

Your kind attention is drawn to the above matter.

Chijumibo CBO from Junju location, brought to our office an application for allocation of the above named parcel. (Copy attached)

In this regard, I hereby ask you for your recommendation on the same before it goes for NLC head office for consideration. Your

Thank for your co-operation.

Kind Regards,

~~20 FEB 2017~~

UMI KUGULA
NLC COORDINATOR - KILIFI COUNTY
FOR CHAIRMAN - NATIONAL LAND COMMISSION

CC. Chijumibo CBO

Co-ordinator NLC

The said plot 71/1/IV/MN was already allocated to Lucas and over to allotment letter from

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 (CBO)

This is to Certify that

HAKAO C.B.O

Group Name / Project

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

Registration No.

NG'OMBENI

Sub-location / Ward

ZIANI

Location

CHONYI

Division

KILIFI SOUTH

Constituency

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

Name **DORAH CHEVU**

County / Sub County Social Development Officer

26TH AUGUST 2019

Date of Issue



Signature



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



KENYA

ANNEX 2



GOVERNMENT OF KILIFI
OFFICE OF THE COUNTY EXECUTIVE COMMITTEE MEMBER FOR
LAND, ENERGY, MINES AND PHYSICAL PLANNING

Land Office, P.O. Box 1001

PO BOX 1001

PO BOX 1001

KILIFI COUNTY GOVERNMENT

29/01/2016

Order No. KIL/CO/EP/MP/1001/2016

STATE OF THE LAND REPORT ON PARCEL No. 11/11/1/1001/1001

A STATE OF THE LAND REPORT was granted by the Chief Officer in Charge of Land, Housing, Energy and Physical Planning to the above site following a request by the residents. The report was made by the Chief Officer in Charge of Land, Housing, Energy and Physical Planning by the name of the Chief Officer in Charge.

SCOPE

- To determine the location
- To determine the nature and type of land tenure of the parcel
- To determine the natural features found within the parcel of land
- To determine the natural development associated to the land
- To determine the settlement patterns of the residential, commercial and social facilities on the parcel.

THE PARCEL

The parcel is situated on the No. 11/11/1/1001/1001. The parcel was surveyed on 15/01/2016 and was completed on 15/01/2016.

NOTES

The site is situated on the South side of the road, known as the 'Main Road' in the vicinity of the village of ... The site is bounded to the North by the road, to the South by the road, to the East by the road, and to the West by the road. The site is bounded to the North by the road, to the South by the road, to the East by the road, and to the West by the road. The site is bounded to the North by the road, to the South by the road, to the East by the road, and to the West by the road.

On the ground a search of the ... but we found no documents showing the ownership of the land (other than the parcel).

The site is served by a sewer, roads, water pipes and electricity connected to the main grid.

Southwest part of the Parcel has a swampy area ... with poisonous snakes. (See Map attached).

There is a small part of the parcel which would be a ... cable cutting area. (See map attached).

West/Southwest part of the Parcel is covered by coconut and mango plantation. The ground terrain is undulating.

Most of the area of the parcel is swampy (see map attached). Buildings are sparsely scattered within the parcel.

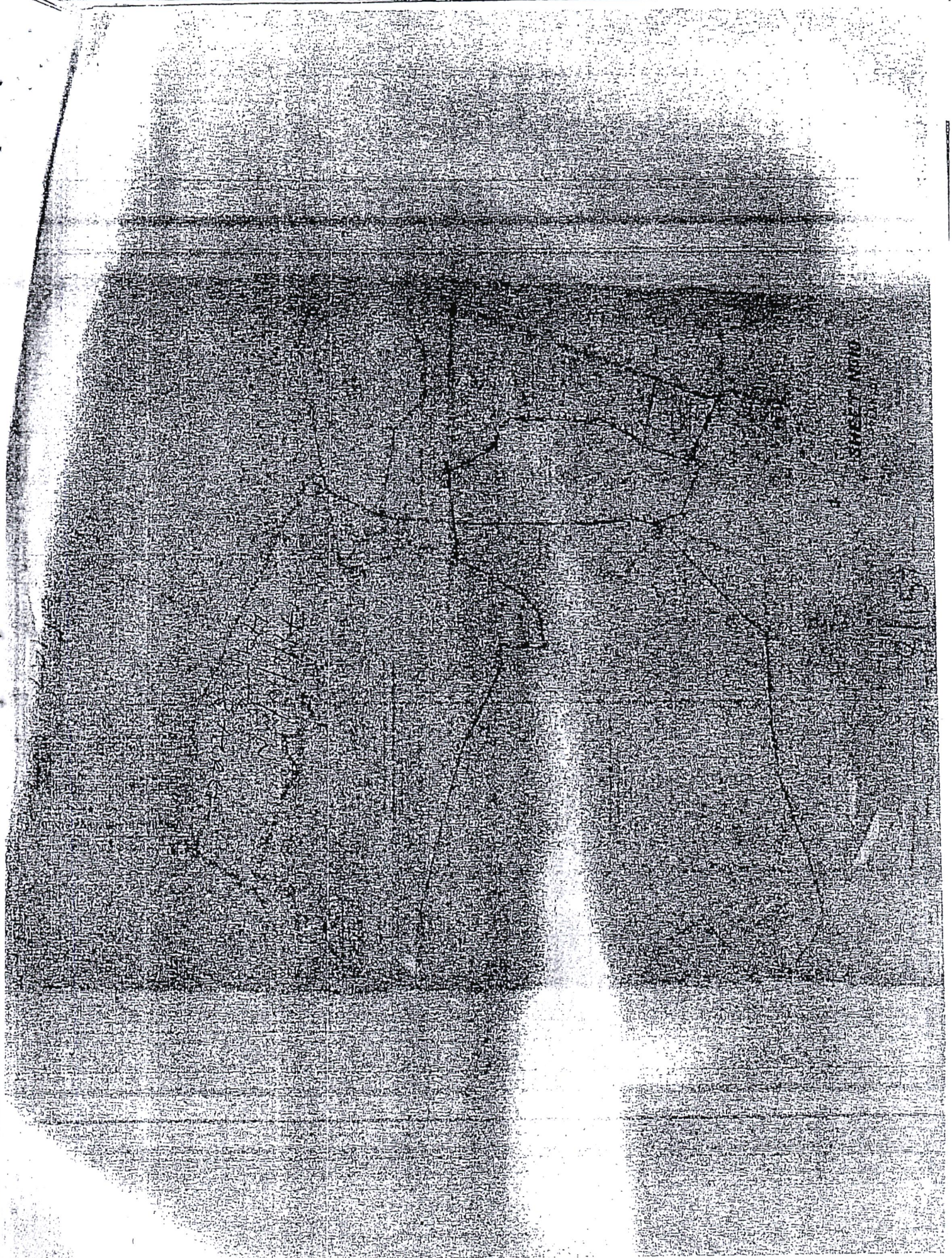
Approx. 10% of the structures within the land are permanent. There is a seasonal river passing within the parcel.

RECOMMENDATION

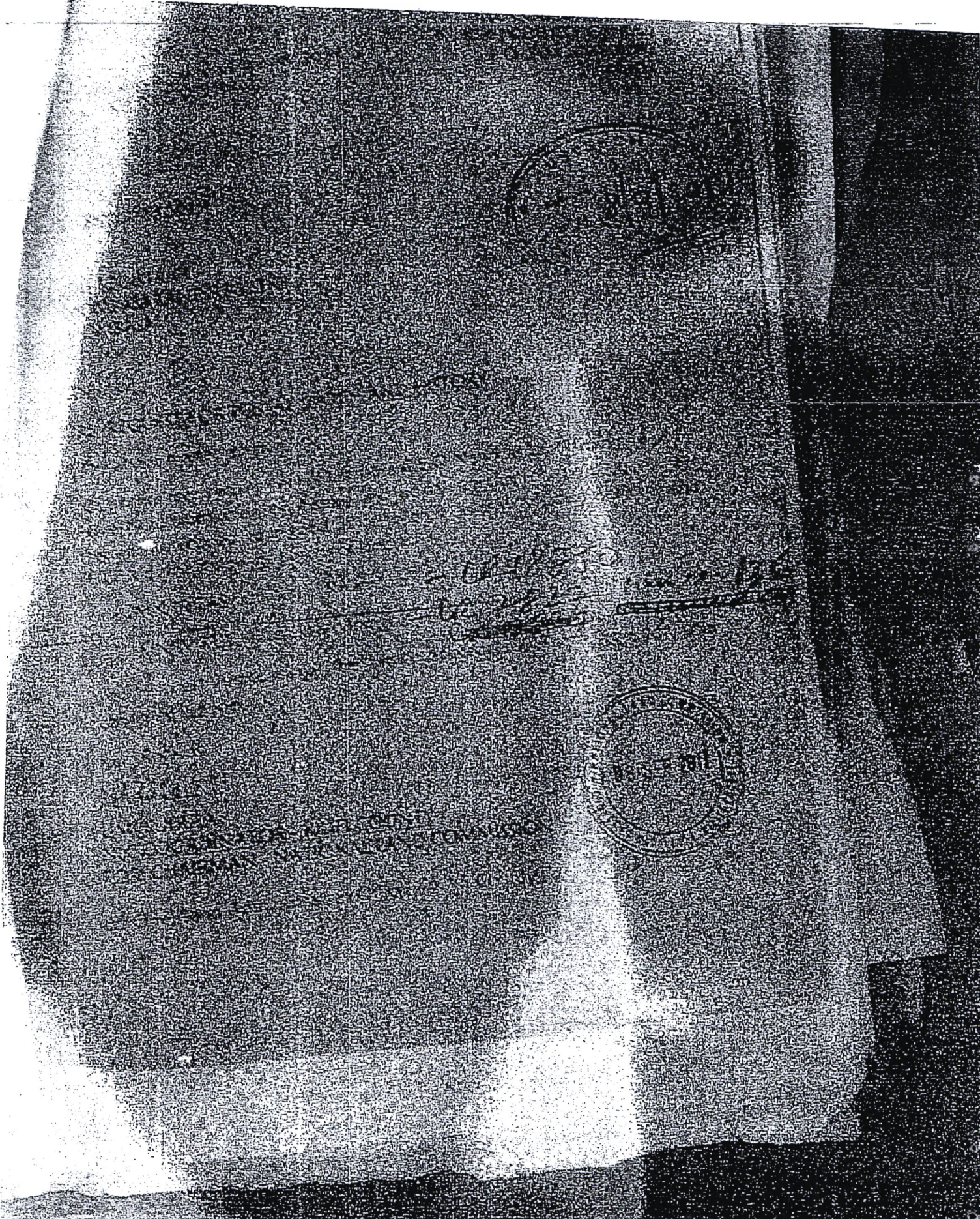
A site survey should be carried out covering all geographical features within the site before a master plan is drawn.

A detailed investigation of the parcel should be done before any subdivision is carried out. Environmental aspects should be protected when planning for human settlement.

DATE: 2011/07/27
BY: SAHIL K. ...
MR. ...



ANNEX 3



MINUTES ON ADR HEARING SITTING ON LAND ISSUES HELD AT MTWAPA COUNTRY RESORT, KILIFI SOUTH SUB COUNTY ON MONDAY 11TH SEPTEMBER, 2017 AT 12.50 PM.

MEMBERS PRESENT

1. Prof. Muhammad Swazuri -Chairman NLC
2. UmiKugula -NlcCounty Coordinator -Kilifi County
3. Charles DaduKarisa-CECM lands -Kilifi County
4. Karungo Kamau-DCC -Malindi Sub-County
5. Elijah Ongerigigogo -ACC-Kikambala, Kilifi South
6. Rose Kabibi Kadenge -Chief Mtwapa
7. Leonard Mwangala -Officer -NLC Kilifi office
8. Concerned parties -List Attached

AGENDA:

1. Review of Case
 - p) Development application for regularisation on plot L.R no. M-313 Malindi.
 - q) Development application for regularisation on plot at Msabaha, Malindi by Mchedzifunze.
 - r) Development application for regularisation on plot at Mijikenda village by Malindi Mijikenda fishermen.

INTRODUCTION.

The meeting was called to order at 12.55pm by UmiKugula, County Coordinator Nlc Kilifi and prayers were led by Rose Kadenge Area Chief Mtwapa. The Coordinator thanked and welcomed all officials in attendance for the meeting. She then requested them to make their remarks before she welcomed the Chairman Professor Swazuri to give out his remarks and then take over the meeting. The chairman Nlc briefed the officials on having briefing session on the cases before commencing the hearing.

The chairman told members that he has dealt with most of the cases before him and this was just a mop up on the cases. He further said that he was to come on Wednesday 9th August, 2017 for ground visits on various parcels but due to security issues he was forced to postpone. Due to time limit and the number of cases before him, the chairman told members that he will only deal with cases for Kilifi South Sub-County and directed the rest of the cases to be scheduled for Monday, 18th September, 2017 at the Deputy County Commissioner's boardroom, Malindi.

MIN. 1/11/9/NLC KILIFI/2017: REVIEW OF CASES

CASE 1:

Mtwapa Tenants Vs The family of Kalume Kitsaumbi on plot LR No. MN/111/742 Mtwapa. Masha Biryia on behalf of Mtwapa tenants told members that there was an order issued by the court instructing all titles issued after number 742/111/MN were illegally acquired and should be revoked by the registrar of titles, Mombasa and parcels be handed over to public trustee as the Administrators of the estate of Kalume kitsaumbi. Then presented a copy of the order for perusal.

Observations.

- i) From the order; Letter of Administration granted and issued to Billy and Jumwa Kalume Kitsaumbi on 25/1/1984 and confirmed on 14/9/1989 on the said parcel no. MN/111/742 was revoked.
- ii) The parcel was handed over by the court to public trustee as the Administrators of the said estate.

request for an allocation of the said land to the provincial commissioner coast region by then Mr. Ernest Mwinyi.

Mr. Ernest Mwinyi took an initiative to appoint a task force to work on the matter then bring a comprehensive report before him on the same.

A report dated 6th April 2010 done by the task force was presented to him and the following recommendation were made:

Observation

-The parcel was initially owned by Jack Paul where currently no one knows his where about.

Way forward.

-The chairman NLC to write a letter to registrar of titles Mombasa requesting for history and current official searches on the parcel.

-Chairman Jumba ruins self-help group to bring copy of title for Jack Paul.

CASE 8

l) Mohamed TeziTsuma Vs Ibrahim on plot no. Kilifi/Mtwapa/663 Kikambala.

Mohamed TeziTsuma –claimed he is the the original owner of the said plot in dispute and reside on the parcel with his family. He further stated that they have been always threatened by police sent by Saida Ibrahim Yusuf a daughter to Ibrahim Yusuf who is now deceased. A time he was given an eviction order by lawyer claiming that he was residing at his client parcel of land illegally while he had sold the land. TsumaTezi he further stated that he first met with Ibrahim Yusuf when he was a charcoal vendor at his farm when Mr Ibrahim Yusuf claimed to be interested with the land. Mr Tezi told him if he was interested in buying the land he will sell half of the land to him which was 6 acres and him to remain with 6 acres with a an agreed purchase price of Ksh. 500,000/-.

They later made an agreement of sale where Mr. Yusuf requested for the original title to produce a copy for use in application of postal search for confirmation of ownership but unfortunately he did not return the original title deed as they had initially agreed with Mr. Tezi tsuma. at the same time there was an agent known as Mr. Kimani who Mr. Ibrahim introduced him to Mr. TsumaTezi to be a link between the two parties in every transaction made. He further stated that since the agreement was made he had never received even a single coin from Ibrahim only for him to realise that Mr. Kimani was receiving money from Mr. Ibrahim Yusuf claiming to be sent by him and signing receipts on his behalf without his knowledge and consent. Mr Tezi also claimed that the matter is in court and it has taken too long without being mentioned or heard since it was petitioned.

Observations

-the case is in court where it hasn't been heard and determined since it was petitioned.

Way forward

-The chairman NLC to write a letter to registrar Mombasa high court to ascertain the status of the case.

CASE 9:

m) Development application for regularisation on plot L.R no.71/1/IV/MN New No. 135 C.R 7827 Vipingo by CHIJUMIBO CBO.

On behalf of Chijumibo Augustine Kashero he claimed that they currently reside and have lived there for many years as squatters since their forefathers. He further claimed that the land is said to have been allocated to one man known as Lucas whom they actually do not know, seen him or know his where about for all those years. They had applied for regularisation since 2015 to NLC. They were also the were directed to get current postal search on the said parcel at Mombasa registry but there was no file on the same to show records. He also stated that site visit was already done by NLC Kilifi office and the county government of Kilifi land department. Reports are in place.

Observations

-Ground visit was already done by NLC Kilifi office and county government land department and reports are available.

-no records were found at the Mombasa registry after several attempts to search for them.

Way forward

-The chairman NLC to write a letter to the director land administration NLC to publish the said parcel in local dailies given two weeks' time.

-in 14 days, if no one claims ownership on the parcel then NLC in conjunction with the county government of Kilifi land department will allocate the land to squatters.

CASE 10

n) Development application for regularisation on plot L.R no. 284/R/111/MN C.R 7172 Kikambala by Maweni 'A' group.

Allan Jando on behalf of Maweni 'A' group claimed that they had applied for regularisation on the said parcel to NLC since 2015 this was just a follow up on the same.

Observations

-The application has been worked on by national land commission in conjunction with the county government of Kilifi land department almost in last stage.

-the CECM lands Kilifi county to give his recommendations on the parcel

Way forward

-CEC lands Kilifi County to write a recommendation on the said parcel then forward it to NLC for action

CASE 11

o) Nelson VukoKahindi Vs Canon Assurance ltd on plot L.R no. 748/111/MN adjacent to Sultan palace, Kikambala.

Nelson KahindiVuko- Claimed they have lived in the said parcel with his family for more than 30 years undisturbed. In 2012 a perimeter walling fence was built around by one canon assurance claiming ownership on the parcel. He further stated that where they reside there about 40 coconut trees which were planted by his father now deceased.

Francis, the manager canon assurance ltd claimed that the land belong to canon assurance ltd with all necessary ownership documents in place. He further stated that the claimant doesn't reside in their parcel, he lives outside their demarcat

CASE 12

p) Development application for regularisation on plot L.R no. M-313 Malindi.

Due to time limit, the case was referred and to be heard on Monday, 18th September, 2017 at the Deputy County Commissioner's boardroom, Malindi.

CASE 13

q) Development application for regularisation on plot at Msabaha, Malindi by Mchedzifunze.

The case was referred and to be heard on Monday, 18th September, 2017 at the Deputy County Commissioner's boardroom, Malindi.

- Office of the Senator
- County Lands cabinet secretary has visited the area in view to making a ground report.

Our plea to the commission is that;-

- considering that these families have settled and established their lives in plot 71/1/1V/MN since 1900 without any threat, interference or intimidation of any kind to this date,

all residents with established sub plots be given titles of ownership and be accorded an opportunity to live as other Kenyans do, that is with **title deeds**.

Kindly find annexed copies of the 1920 survey plan, list of residents and certificate of registration of CHIJUMIBO CBO.

Looking forward to your favorable consideration,

Yours faithfully,



RICHARD MUNGA MWAMBURA

CHAIRMAN CHIJUMIBO CBO 0722850707

Annex 6



NATIONAL LAND COMMISSION

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

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

REF: NLC/CHAIRMAN/VOL.XIX/206

Date: 12th September, 2017

Director Land Administration (NLC)

DISPUTE OVER LAND MN/IV/71 - KILIFI COUNTY

We are investigating ownership of the above parcel that is wholly occupied by squatters, but there is an alleged unknown owner.

Kindly advertise this land in the daily papers for intended allocation, and if nobody turns up within 14 days, the NLC shall allocate the subject land in conjunction with the Kilifi County.

M.Swazuri

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

C.C.

NLC Coordinator - Kilifi County

ANNEX 7

21 2017

NYONGU BOI KO

AD 22

THE NATIONAL LAND COMMISSION

ARCHBISHOP'S 1ST NGONG AVENUE, OFF NGONG ROAD
P.O. BOX 4417-00100, NAIROBI Telephone: 2718090

NOTICE OF INTENTION TO ALLOCATE LAND (Land Act 2012, Sec. 14(1)(2))

The National Land Commission on behalf of the County Government of Kilifi, hereby gives notice of intention to plan and allocate parcels numbered MN/10377 situated within Kilifi County measuring approximately 29 hectares subject to terms and conditions available at the Commission's office in Nairobi.

The allocation will be confined to the applicants who are already named in the subject file.

Members of the public and any interested parties are invited to submit their comments to the office of the Chairman, National Land Commission situated at First Floor, Ngong Road, Nairobi, Kenya, on or before the date of publication.

Walter O. Ochieng, PhD, DCM
Chairman, National Land Commission
Nairobi, Kenya



MINISTRY OF EDUCATION

State department of vocational and technical training

STATEMENT OF INTENTION NOTICE
(S.I.N.) (IFB)
BIDDING

SGR C launch

1,300 Kenyans and 550 Chinese employees have completed training and are learning to operationalise the high-speed rail commercial services.

EGERT

1998-2017

1998-2017

1998-2017

1998-2017

1998-2017

1998-2017

1998-2017

1998-2017

1998-2017

ANNEX 8

annex 8

MINUTES BETWEEN 3 FAMILIES AND THEIR REPRESENTATIVES HELD AT BARISHEBA PHASE 5 ON 21ST JANUARY 2018.

AGENAD PLOT NO : MN/IV//71

FAMILIES

- 1) Mbuto Chitu
- 2) Bewanje Jembe
- 3) Hemed Mohamed Hemed Juma

26 FEB 2018
Received

M/C Coorziator,
Kilifi
What are we to do
with this matter?

MN/
21/2/18

REPRESENTATIVES

- 1) Mbuto Chitu:
 - a) Isaac Nyawa Mbuto Cell: 0729 529 146 Id No. 24684146
- 2) Bewanje Jembe
 - a) Alphonce wanje Jembe Cell : 0712667268 Id No. 3450704
- 3) Hemed Mohammed Hemed Juma
 - a) Suleiman Mohammed Suleiman Cell : 0720 869177 Id No. 11459482

MEMBERS IN ATTENDANCE

- 1) Hemed Mohammed Hemed Juma Cell Tel: 0733 621 493 Id No. 4968059
- 2) Joseph Kitsao Chirongo Mbuto Id No. 4578400
- 3) Ramla Mohammed hemed Juma Id No. 0652118
- 4) Shuwekha Suleiman Ali Id No. 2147182
- 5) Amon Bongo Jembe Id No. 10422432
- 6) Mwangala Wanje Kalenga Id No. 4978014
- 7) Nichodemus Lywayo Amani Id No. 13595114



MINUTES

MIN 1

On 21st January all family had a length talk and agreed that plot No. MN/IV//71 has been invaded by Squatter making it impossible to claim the land.

MIN 2

The family noted that the squatters families be settled on the land as long as government can compensate the three families.

SIGNATORIES FOR THE 3 FAMILIES


1) MBUTO CHITU

Isaac Nyawa Mbuto


.....

2) BEWANJE JEMBE

Alphonse Wanje Jembe


.....

3) HEMED MOHAMMED HEMED JUMA

Suleiman Mohammed Suleiman


.....

HII NDIYO HISTORIA YA PLOT 71 SEC.IV MN JUNJU / KILIFI
COUNTY

MAMBO YALIANZA HIVI

Mimi Joseph Kitsao Chirongo Id No. 4578400. Mimi ni mkaaji wa Junju – Mto mkuu kata ndogo, kata ya Junju Kilifi County. Mimi ni Mwanaume mtu mzima mwenye akili timamu. Naishi na kulima na kujipatia riziki katika maisha ya mashambani katika junju na nimeruhusiwa na mbari ya Amwayura na Amwabuta kwa jinsia yao. Sanduku la barua la jambo hili la kuomba au (claim) itakuwa kupitia kwa P. O.Box 11 MTWAPA. Wamwanyura na wamwabuto katika shamba hii PLOT 71 SEC.IV MN JUNJU / KILIFI COUNTY, ninaeleza ya kwamba, hii shamba ya Khamis Bin Juma na Alii Mohamed Bomani /Kireme Junju Mto Mkuu kata ya Kilifi County. Alikuwa mwaka wa 1909 akaomba alime shamba hii ya PLOT 71 SECIV MN ili apande mtama maana wakati huo kulikuwa hakuna mbegu ya mahindi. Na akapewa ni babu yangu mimi Joseph Kitsao Chirongo Mbutu ambaye alikuwa akiitwa Mbutu Mumbo. Alilipa kiasi ya pesa za kukodishwa wakati huo zilikuwa zikiitwa (KIANDA) pesa aslimu rupia 12 kwa kilimo cha mwaka mmoja (1). Hiyo ni kuonyesha ya kwanza wao Khamis Bin Juma na Alii Mohamed Bin Juma hawakubuni shamba hii au kuanzisha. Aliyeianzisha shamba hii ni Chitu Mbutu baba ya Mbutu Mumbo. Hii kukodishwa shamba wakati huo ilikuwa ikiangaliwa ikiwa umarafiki, kujuana kwa karibu au urika kuzaliwa kwa mwaka mmoja na mwenzako. Sasa Alii Mohamed na Chitu Mbutu walikuwa ni rika moja na Khamis Mohamed alikuwa rika moja na Nyawa Mbutu. Khamis Mohamed na Alii Mohamed walikuwa ni watoto wa Juma Bin Kombo, Khamis Ngurube Bin Kombo, Mohamed Pangawizi Bin Kombo na Khamis Kombo Bin Kombo hawa walikuwa ni watoto wa Kombo Bin Atanny. Hawa watu wote niliowataja hapo juu walizaliwa kata ya Mtwapa, jumba la Mtwana na aliyekuja hapa Mtwapa hata akazaa kizazi hiki ni Kombo Bin Atanny kutoka Lamu.

hamis Kombo Bin Kombo, alipokuwa barobaro akatunukiwa na utawala wa Mjibana na

Mchonyi Mombasa akachukuliwa akiwa karani wao hapo Mombasa Ngomeni na kuandika kesi na mambo ya Nchi. Mwangosi Meri akiwa Mjibana na Mwangirya Chiro akiwa Mchonyi na wakamuweka Mombasa Ngomeni akiwa kama mlimzi wa hapo na kuangalia mambo ya nchi nakazi zinginezo sababu yeye alikuwa anajua kusoma na kuandika. Sasa Khamis Kombo alipozaliwa Jumba la Mtwana kata ya Mtwapa na Mbuto Mumbo akazaliwa katika kijiji cha Kidongo Chilulu kata ndogo ya Junju Mto-Mkuukata ya Junju wakapendana kama chanda na pete na walipokuwa wakikata kesi za Wajibana na Wachonyi hapo Mombasa Ngomeni walikuwa hawawezi kumkosa, hasa huyu Khamis Bin Kombo kumkosa rika lake Mbuto Chitu hata siku moja. Mjibana na Mchonyi walikuwa wakimaliza kukata kesi hawa wakina Mwangosi Meri na Mwangirya Chiro^M a watu wao walikuwa wakipitia na njia ya nguu tatu na kuenda huko Mombasa Ngomeni, ilikuwa wakati wakienda Mombasa Ngomeni kwa kukata kesi, wakikosa kuenda bila Mbuto Mumbo ndipo waanze kesi na jina la asili au wakati huo Mombasa ilikuwa ikiitwa kisiwani kwa sababu mahali pale pamezungukwa na maji ya bahari. Wakati huo kulikuwa hakuna utawala wa Mwarabu wala Mzungu, utawala ulikuwa wa mwenyewe Miji tisa yaani Mijikenda.

warabu wa kwanza aliyeanza kuingia Mombasa kisiwani ni Bakari Mohidiny na Bakari

MMaruani hapo Mombasa kisiwani wakafukuzwa na Khamis Kombo, pia alikuwa mahali pa kulima ametoka Kilwa kununua watumwa (15) sasa akaingia Mombasa kisiwani kwa kutaka mahali alime. Khamis Kombo akamfukuza kwa sababu alikuwa na watumwa wengi. Na akamwambia nikikupa mahali ulime na uko na watumwa wengi mahali pale utapafanya kwako basi nenda zako sina mahali pa kukupa. Akafika mahali kunaitwa Kinung'una na akaja Kidutani Jibana kwa Mwangosi Meri Mjibana. Hapo Baali Mjibana akatoa Barua tena akampa Khamis Kombo. Baali Mjibana alikuwa^M ameuandikia barua Khamis Kombo ya kwamba hawa Waarabu wawili basi wamefika Kidutani kwetu nyumbani kabisa kwa hivyo sisi hatuwataki watu hawa.

po wakafukuzwa tena na kuvushwa Mto-Mkuu kuelekea matokeo ya jua akaja Chidongo Chilulu akamkuta mzee Mumbo akamwambia tuokote, Bakari Mohidiny na Bakari Maruani akaulizwa unatoka wapi? Akasema tunatoka Kilwa kununua watumwa 15 na tulipofika Mombasa kisiwani tulifukuzwa na Khamis Kombo nikaja Kinung'una vilevile nikafukuzwa na ndipo sasa nimevushwa mto. Ndipo nikasikia kuwa kuna mji mmoja hapo Chidongo Chilulu wa mzee Mbuto hivyo nimekuja kwako niokote. Ndipo mzee Mbuto Mumbo akamuuliza wewe sasa hivi uko na watumwa wangapi? Bakari Mohidiny na Bakari Maruani wakasema tuko na watumwa 15. Akaambiwa na mzee Mbuto Mumbo ya kwamba sasa mimi nikikupa mahali wewe hutapafanya kwako? Akasema mimi sitapafanya kwangu, sisi tunataka kulima mtama tu. Ndipo akaambiwa, wacha tukafanye shauri na mwenzangu Khamis Kombo ndio tuone kuwa tutamuweka wapi.

Khamis Kombo na Mbuto Mumbo walipofanya mashauri wakakubaliana ya kuwa wote wawili Bakari Mohidiny na Bakari Maruani watengeneze pesa rupia 12 kwa kilimo kimoja kwa mwaka. Ndipo alipoenda pamoja nao mpaka kwa Khamis Kombo. Khamis Kombo naye akasema watu hawa basi niliwafukuza mimi. Khamis Kombo akasema mara hii ni yaⁿne na nimewafukuza. Sasa lete hizo rupia 12 ulime, hizo zikawashinda ndipo wakatoa mzigo wa mpunga kima chake ni KL 20 na ilikuwa inahesabiwa Gizila 1 na riale 1. Riale hii ilipewa mzee Mbuto Mumbo na Gizila 1 ya mchele akachukua Khamis Kombo. Khamis Kombo na mzee Mbuto Mumbo wakawaweka mwakandi kwa Said Mavi na kisima chake kilikuwa kikiitwa kisima cha funza hata leo kiko. Na jina likabadilika hapo pakaitwa Bomani/Kireme kwa sababu alitengeneza boma la kuweka watumwa wao 15 pamoja na hao wawili. Mwangondo na Said Mavi walipakana hapo Kireme na ilikuwa ikiitwa Kaya Madzayani na ikawa hii kaya Madzayani ilikuwa haiwezekani kwa sababu ya^mizuka yake ndipo ikaitwa Kireme maana ya kimijikenda ni pameremeza. Mwangondo amepakana na Mwatundo naye ameenda mpaka mamba. Said Mavi na Mwangondo walipokufa shamba zao zilikuwa zikimilikiwa ni mzee Mbuto Mumbo. Baada ya

mzee Khamis Kombo na familia yake kumalizika kufa, na mzee Mbuto Mumbo nao kumalizika kufa akiwa na nduguze. Hii ilifanyika wakati wa vita vya dunia kumalizika 1914 - 1945. Ndipo sasa hawa watoto walipoachwa Alii Mohamed na Khamis Mohamad huu ni mlango wa Khamis Kombo na chitu Mbuto na nyawa Mbuto ni mlango wa Mbuto Mumbo.

Kufikia hapo ndipo alipokuja mzungu anaitwa Mackline ndipo alipokata shamba PLOT 69 SEC IV MN hii ni ya Bomani/Kilifi. Na pia akakata PLOT 68 SEC IV MN ya Kireme/Kilifi Khamis Mohamed akachukua hii plot PLOT 68 SEC IV MN ekari 1,500. Na plot PLOT 69 SEC IV MN ya Bomani/Kilifi Ekari 1,050. Halafu akapasua PLOT 71 SEC IV MN ekari 491.28 Mtwapa /Kilifi ndani ya Junju location ndipo akaiweka wakfu wa familia hizi mbili familia ya Mbuto Mumbo na familia ya Wanje Jembe. Sasa katika vizazi hivi vya Wamwanyura na Wamwambuto ndio waliowekwa wakfu huu ni Mohamed Bin Ali. Sasa katika mlango huu wa Khamis Kombo aliyebaki sasa ni Khamis Bin Athumani Bin Ulan mlango wa Mbuto Mumbo ni Joseph Kitsao Mbuto, John na Kuze Nyawa. Mlango wa Wanje Jembe ni Emmanuel Jembe na James Kalenga Muganga. Alii Mohamed na Khamis Mohamed ndiyo Waarabu waliogawanya pwani yote mashamba na kuwapa Wadzomba wenzao.

Na Wamazurui walikuja waume 7 na hawana wake na wakaokotwa mikimani Kauma ni mzee Kiringi na mzee Deri.

MINUTES BETWEEN 3 FAMILIES AND THEIR REPRESENTATIVE
HELD AT BARISHOBA PHASE 5 ON 21ST JANUARY 2018.

A GENDA PLOT NO. 71/10 MM.
FAMILIES.

- 1) MBUTO CHITU.
- 2) BEWANTE JEMBE.
- 3) HEMED MOHAMMED HEMED JUMA.

REPRESENTATIVES.

- 1) MBUTO CHITU;
- 2) ISAAC NYAWA MBUTO CELL: 0729-529146 I.D. No. 2468414.
- 2) BEWANTE JEMBE;
- 2) ALPHONCE WANTE JEMBE CELL 0712-667268 I.D. No. 3450704
- 3) HEMED MOHAMMED HEMED JUMA.
- 2) SULEIMAN MOHAMMED SULEIMAN CELL 0720869177 I.D. No. 11459482

MEMBERS IN ATTENDANCE.

- 1) HEMED MOHAMMED HEMED JUMA I.D. No. 4968059.
- 2) JOSEPH KITSAO CHROGO MBUTO I.D. No. 4578400.
- 3) DAMLA MOHAMMED HEMED JUMA I.D. No. 0652118.
- 4) SHUSEKHA SULEIMAN ARI I.D. No. 2147182.
- 5) AMON BONGO JEMBE I.D. No. 10422432.
- 6) MURANGARA WANTE KALENCA I.D. No. 4978014.
- 7) MICHOSEMUS KYWAND AMANI I.D. No. 13595114.

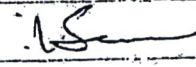
MINUTES.

- 1) On 21st January all family had a lengthy talk and agreed that plot no. 71/10 MM has been invaded by squatter making it impossible to claim the land.
- 2) The family voted that the squatter families be settled.

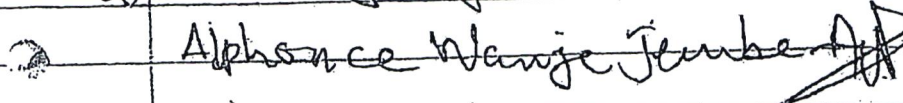
On the land as long as the government can
compensate the three families.

SIGNATORIES FOR THE 3 FAMILIES:

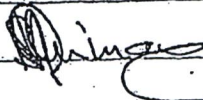
1) MBUTO CHITU

ISAAC NYAWA MBUTO 

2) BOWANJE JEMBE



3) MOHAMMED MOHAMMED MOHAMMED JUMA

Suleiman Mohamud Suleiman 

MINUTES BETWEEN 3 FAMILIES AND THEIR REPRESENTATIVE
HELD AT BARISHOBA PHASE 5 ON 21ST JANUARY 2018.

AGENDA PLOT NO. 71/1 MM.
FAMILIES.

- 1) MBUTO CHITU.
 - 2) BEWANTE JEMBE.
 - 3) HEMED MOHAMMED HEMED JUMA.
- REPRESENTATIVES.

- 1) MBUTO CHITU;
- 2) ISAAC MYATA MBUTO CELL: 0729-529146 I.D. No. 2468414.
- 2) BEWANTE JEMBE;
- 2) ALPHONCE WANJE JEMBE CELL 0712-667268 I.D. No. 3450704
- 3) HEMED MOHAMMED HEMED JUMA.
- 2) SULEIMAN MOHAMMED SULEIMAN CELL 0720869177 I.D. No. 11459482

MEMBERS IN ATTENDANCE.

- 1) HEMED MOHAMMED HEMED JUMA I.D. No. 4968059.
- 2) JOSEPH KITSAO CHIRUGO MBUTO I.D. No. 4578400.
- 3) RAMLA MOHAMMED HEMED JUMA I.D. No. 0652118.
- 4) SHUWEKHA SULEIMAN ARI I.D. No. 2147182.
- 5) AMON BONGO JEMBE I.D. No. 10422432.
- 6) Mwangala WANJE KARENKA I.D. No. 4978014.
- 7) NICHOLEMUS HYWAYO AMANI I.D. No. 13595114.

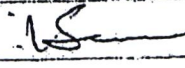
MINUTES.

- 1) On 21st January all family had a lengthy talk and agreed that plot no. 71/1 mm has been invaded by squatter making it impossible to claim the land.
- 2) The family voted that the squatter families be settled.



On the land as long as the government can
compensate the three families.

SIGNATORIES FOR THE 3 FAMILIES:

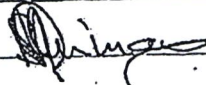
1) MBUTO CHITU

ISAAC NYANZA MBUTO 

2) BOWANJE JEMBE

 Alphonse Wanje Jembe 

3) MOHAMED MOHAMMED MOHAMED JUMA

Suleiman Mohamud Sulaiman 

Annex 9

Form 54

0.41(5)



REPUBLIC OF KENYA

IN THE CHIEF MAGISTRATE'S COURT OF KENYA
AT MALINDI

SUCCESSION CAUSE NO. 29 OF 2017

IN THE MATTER OF THE ESTATE OF SULEIMAN ALI (DECEASED)

RECTIFIED CERTIFICATE OF CONFIRMATION OF GRANT

I hereby verify that the above-written Grant of representation to the estate of the late SULEIMAN ALI - Deceased issued to AWENA HEMED MOHAMED therein named has this 17th day of July, 2020 been confirmed by this Court pursuant to the provisions of section 71 (1) and (3) of the Law of Succession Act. Dated at Malindi this 17th day of July, 2020


CHIEF MAGISTRATE

SCHEDULE OF DISTRIBUTION

<u>PROPERTY</u>	<u>HEIRS</u>	<u>SHARES</u>
1. LR NO. 4238 33-ROKA	1. AWENA HEMED MOHAMED	
2. LR NO. 4238 32-ROKA	2. MOHAMED HEMED MOHAMED	EQUAL
3. LR NO. 1513 263-TAKAUNGU	3. THUWEBA HEMED MOHAMED	SHARE
4. GROUP XV- ROKA		
5. LR NO. 1513 315-TAKAUNGU		
6. 71/IV/MN/JUNR		

Witnessed and signed this 17th day July, 2020.



REPUBLIC OF KENYA

REGISTERED

DEPARTMENT OF LANDS

NO. 100/3089

LUCAS CHEMERA KENGA, FRANCIS KIROGEL, DANIEL
 MUIHA KIMBU, COSMAS NYALE & KAPULANGA BUALAA DUNI
 P.O. BOX 52, KILIFI

25th January 1988

Ref. No. 70474/IV

SIR(S) MADAM,

RE: AGRICULTURAL LAND KOMBASA L.S. NO. 201/IV/71/1 - SOUTH OF TAKAGONGI, VIZINGO
 LETTER OF ALLOTMENT

I have the honour to inform you that the Government, on behalf of County Council, hereby offers you a grant of the above plot shown edged red on the attached plan No. subject to your formal written acceptance of the following conditions and to the payment of the charges as prescribed hereunder

AREA	198.82	hectares (approximately)	
TERM	ABSOLUTE	years from the	
STAND PREMIUM SH	6,500,000/-		[Subject to adjustment on survey, but there is no claim for reduction in area on survey
ANNUAL RENT SH	1,100,000/-		

GENERAL: This Letter of Allotment is subject to and the grant will be made under the provisions of the Government Lands Act (Cap. 281 of the Revised Edition the Laws of Kenya) and title will be issued under the Registration of Titles Act (Cap. 281) or the Registered Land Act (Cap. 309)

SPECIAL CONDITIONS: See attached.

2. I should be glad to receive your acceptance of the attached conditions together with banker's cheque for the amount as set out below within thirty (30) days of the postmark

		Sh
Stand Premium		6,500,000/-
Rent from 1.1.1998 to 31.12.1998		1,100,000/-
Conveyancing Fees		1,750/-
Registration Fees		250/-
Rates on demand		-
Stamp Duty		266,000/-
Survey Fees		-
Road and Road Drains on demand		-
Others approval fees		2,000/-

Receipt No. _____ Left Deposit _____
 Total Sh 8,089,000/-



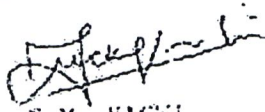
...and payment... will be considered...
...the offer herein contained will be considered...
...at the time you commence...
...to ensure that any buildings or other works are contained within...
...of the plot for should you inadvertently overstep the...
...the cost of removal and reconstruction must be borne by you.

The title of the Government grant or lease will be undertaken as soon as circumstances permit.

Your full name(s) in BLOCK LETTERS should be given for the purpose of the grant which will be submitted later to you. The attached special conditions form part of the offer which should be accepted in writing. The Government shall not accept any liability whatsoever in the event of prior commitment or otherwise.

I have the honour to be,
Sir(s)/Madam
Your obedient servant.

Authority: Government

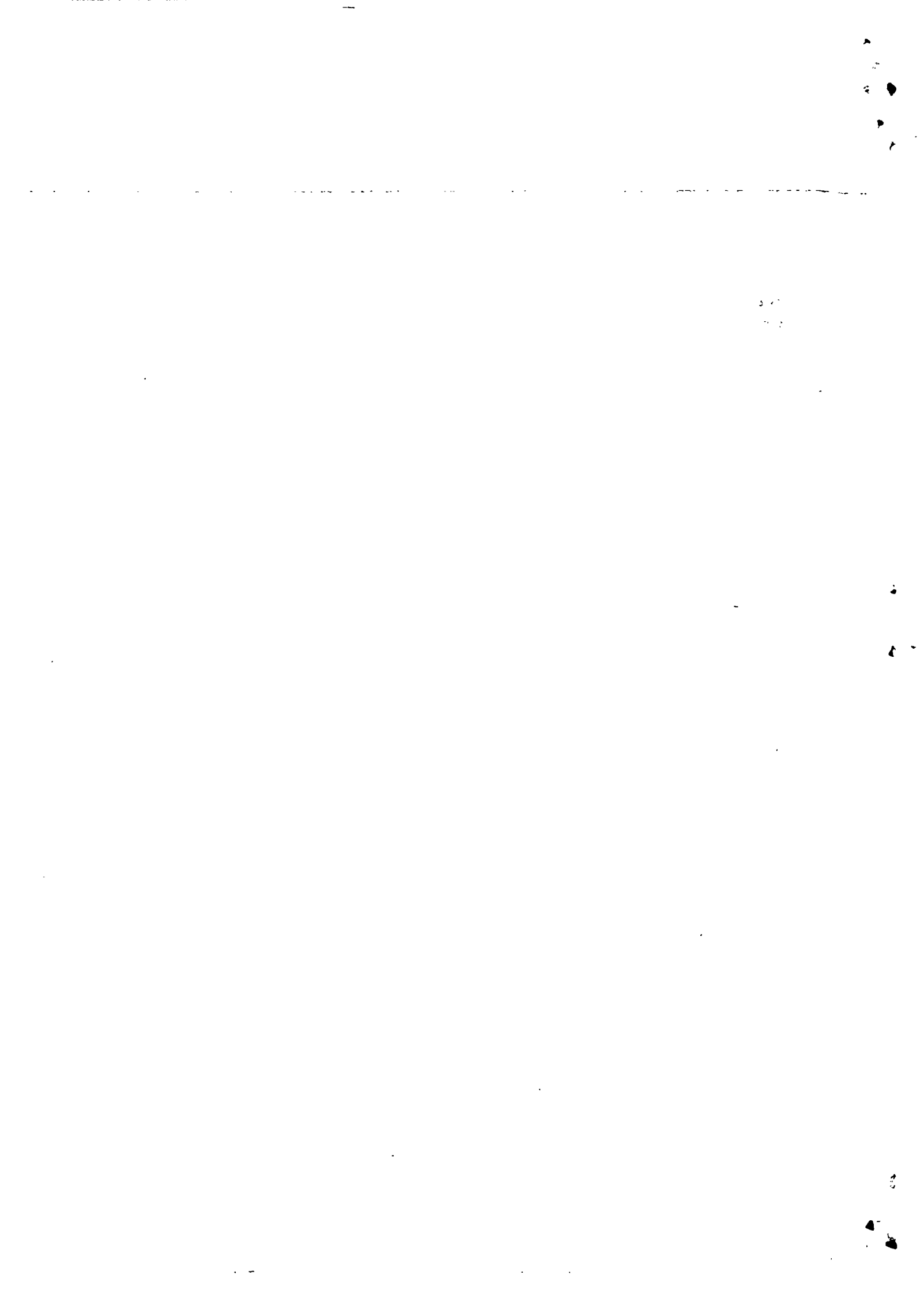

S.M. KAGGI
for Commissioner of Lands

- Encl.
- 10 P/S Ministry of Lands and Settlement, Nairobi
- The Director of Surveys, Nairobi
- The Town Clerk. KILIFI
- The Clerk to the Council, County Council of
- The District Commissioner KILIFI
- The Director of Physical Planning, Nairobi.
- District Land Officer KILIFI
- O/C Land Rents.
- Rates Assistant.
- The Accountant.
- O/C Records.
- Senior Plan Record Officer.
- Plot File.

All to note.

ANNEXURE IV

**RESPONSE BY THE WAKF COMMISSIONERS OF
KENYA**





PETITION
RESETTLEMENT OF THE RESIDENTS
OF CHIDONGO, JUNJU, MIRIMA MINE & BODI IN KILIFI SOUTH
CONSTITUENCY WAKF OF: MOHAMED BIN JUMA
27TH JULY, 2021 – 02:30 PM AT MARINA HOTEL, NYALI MOMBASA.

Ref: Communication from: Clerk to the National Assembly No:
NA/DDC/LANDS/2021(082) of 21st July, 2021.

Issue: Report on *Plot No: MN/IV/71/I* – Kilifi South Constituency.

(1) *Plot No: MN/IV/71/I* – Kilifi Constituency *is NOT registered* with this Institution as Wakf Property as required under *Section 10 (2) of Cap. 109.*

Thus the *PLOT does NOT appear in our records.*

Prior to communication from Clerk to the National Assembly (referred to above) no *Complaints/Information/Report* has been received from any quarters on the Land.

(2) Given, *the PLOT is WAKF*, the *LEASE for Nine Hundred Ninety Nine (999) Years* with effect from *01st January, 1995* is *NOT VALID*, since the *SANCTION* of the Wakf Commissioners of Kenya was *NOT* obtained – which is contrary to *Section 14 of Cap. 109.*

(3) It is our considered opinion, subject to the official *declaration/decision* of the Departmental Committee on Lands (*National Assembly*), the Parcel of Land *MN/IV/71/I* subject of the Petition, should be handled in compliance with the provisions in Cap. 109.

Dr. Ibrahim Balushi
Secretary

WAKF COMMISSIONERS OF KENYA.



