Republic v Attorney General & 2 others; Kayanda (Interested Party); Mwanzia (Exparte) (Judicial Review E005 of 2022) [2023] KEELC 17503 (KLR) (16 May 2023) (Judgment)

Neutral citation: [2023] KEELC 17503 (KLR)

REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT KITUI

JUDICIAL REVIEW E005 OF 2022

LG KIMANI, J

MAY 16, 2023

IN THE MATTER OF: ARTICLES 35, 47 AND 159 OF THE CONSTITUTION OF KENYA 2010

AND

IN THE MATTER OF: FAIR ADMINISTRATIVE ACT NO.4 OF 2015, SECTIONS 7,8,9, 10, 11 AND 12

AND

IN THE MATTER OF: LAND ADJUDICATION AACT CAP 284 LAWS OF KENYA SECTIONS 12 AND 19

IN THE MATTER OF: ENVIRONMENT AND LAND COURT ACT NO.19 OF 2011, SECTION 1

BETWEEN

REPUBLIC ..... APPLICANT

AND

THE ATTORNEY GENERAL ..... 1ST RESPONDENT

THE CABINET SECRETARY, MINISTRY OF LANDS AND PHYSICAL PLANNING ..... 2ND RESPONDENT

THE DEPUTY COUNTY COMMISSIONER, MUMONI SUB-COUNTY ..... 3RD RESPONDENT

AND

JOSEPH MANZI KAYANDA ..... INTERESTED PARTY

AND

JOSHUA MWANGAGI MWANZIA ..... EXPARTE

JUDGMENT

1. The *Ex parte* Applicant's Notice of Motion dated 24th March 2022 seeks the following orders:

    1. A Judicial review order of certiorari be and is hereby issued to remove into this Court for purposes of quashing and to quash the 3rd Respondent's decision made in Katse Adjudication Section Appeal to the Minister Appeal Case No.37 of 2019 in respect of parcel No.4946, Katse Adjudication Section between the Ex parte Applicant and the Interested Party.

    2. A Judicial Review order of mandamus be and is hereby issued to compel the 3rd Respondent to consider and determine the Ex-parte Applicant's Appeal to the Minister in respect of parcel No.4946, Katse Adjudication Section being Katse Adjudication Section Appeal to the Minister No. 37 of 2019 between the Applicant and the Interested Party.

2. The subject matter of the application is the Minister's Appeal No. 37 of 2019 Katse Adjudication Section in respect of land parcel No.4946, between the *Ex parte* Applicant and the Interested Party. The applicant relies on the grounds that the suit property was demarcated on 2nd November 2015 and the land registered in the name of the Interested Party. The *Ex parte* Applicant claims that the demarcation officer never visited the land in dispute. He challenged the demarcation through the adjudication process at the committee, the Arbitration Board, the objection and finally appeal to the Minister stages through Appeal No. 37 of 2019 where the Interested Party was awarded the land.

3. The Applicant claims that the area where the suit land is located was declared an adjudication section in the year 2012.That before adjudication was declared he had filed a suit Mwingi SRMCC NO. 268 of 2008 but the suit was dismissed for want of prosecution and while in the process of re-instating the suit the area was declared an adjudication section hence further proceedings were stopped.

4. The Applicant accused the 3rd Respondent of declining to determine the Minister's Appeal No. 37 of 2019 as required by law and instead relying on a Court ruling dated 5th February, 2015. The Applicant stated that there had never been determination of ownership of the suit land and that he was not aware of any Court ruling of 5th February, 2015. Further that the only ruling he was aware of was dated 11th November, 2012 delivered in the case at Mwingi relating to costs of that suit

5. The Applicant based his claim on a legitimate expectation that the Appeal to the Minister would be determined as provided by the law not on non-existent proceedings since no proceedings took place on 19th February, 2021 but the hearing took place on 22nd January, 2021.

6. It is the *Ex-parte* Applicant's further claim that the proceedings before the 3rd Respondent were tainted with procedural impropriety as Timothy Wambua Mavuti who is a nephew to the ex parte Applicant and has a grudge against him was allowed to participate in the proceedings despite protests from him.

The Interested Party's case

7. The Interested Party filed a Replying Affidavit and deposed that the suit property originally belonged to Muthui Mulai who migrated in the 1960s to Kandwia and left the suit land under the care of his grandfather known as Kiwia Koka, who used the suit land until the year 1978 when he moved to Kanzeru and left the suit land in the care of his father. Eventually, he deposes that his father equally left the suit property in his care until he returned in June 1986.

8. According to the Interested Party his father purchased the land for a sum of Kshs. 6,000/= and an additional Kshs. 19,000/= and that his family has had possession of the land. He states that he conducted a search on the suit property on 14th September 2022 which indicates that he is the registered owner.

9. In the year 2008, the ex-parte applicant instituted a suit against him at the Mwingi Law Courts seeking to restrain him from trespassing onto the suit land but the suit was dismissed for want of prosecution on 15th November 2013. His attempt to have the suit reinstated was unsuccessful and an application to re-instate the suit was dismissed on 5th February 2015. The Applicant filed an appeal on the 24th of November 2015 as Kitui High Court Civil Appeal No. 37 of 2015 which the interested party claims was served on his advocate two years late on 19th June 2017.

10. According to the Interested Party, they have gone through the various stages of the adjudication process culminating in the decision of the Minister's Appeal which was done lawfully and procedurally and it is clear that the decision makers did not abuse their power. The Interested Party stated that the Applicant has not demonstrated where and how the lack of fairness occurred.

The Ex parte Applicant's submissions.

11. Counsel for the ex parte applicant submitted that judicial review orders are discretionary as held by the Court of Appeal in *Kenya National Examination Council vs Republic Ex parte Geoffrey Gathenji Njoroge & 9 others* (1997) eKLR, where it was stated that the order of Certiorari is the only order that can quash a decision that has already been made if it was made without or in excess of jurisdiction or where the rules of natural justice are not complied with.

12. It is the Applicant's contention that there is no court ruling dated 5th February, 2015 which the 3rd Respondent relied upon in making her determination and that the respondents have not sworn any affidavit to controvert the said averments. He accused the 3rd Respondent of procedural impropriety because the purported ruling does not feature in the proceedings and is only referred to in the decision and that it amounts to an extraneous and irrelevant consideration. It is also their submission that the ruling, if any, did not in any way determine the issue of interest or ownership of the land in dispute. The Exparte Applicant contends that the 3rd Respondent wrongly withheld her power to determine the appeal and thereby failed in the discharge her statutory duty.

13. The Applicant complained of the participation of a relative one Timothy Wambua despite his protest, and no reason was shown why he could not be replaced.

14. The Respondents were served with the application herein and various mention notices but did not enter appearance or file any reply thereto. The application proceeded in their absence.

Interested party's submissions

15. Counsel for the interested party submitted that this suit was filed outside of the statute of limitations under Order 53 rule 2 of the *Civil Procedure Act* and Section 9(3) of the *Law Reform Act*, pointing out the ex parte applicant did not seek leave to cure the delay.

16. The Interested party relied on the decisions *Ako vs Special District Commissioner and Another* (1989) and *Republic vs Council of Legal Education & another ex parte Sabiha Kassamia & another* (2018) eKLR.

17. It is the interested party's submission that the ex parte applicant is not entitled to the order of certiorari because he has failed to demonstrate any actual bias as held in the cases of *Robert Tom Martins Kibisu v Republic* (2018) eKLR and *Nathan Obwana vs Robert Bisakaya Wanyera & 2 others* (2013) eKLR.

18. On the order of mandamus, counsel relied on the definition as given by the Court in the case of *Republic vs Jomo Kenyatta University of Agriculture and Technology ex parte Elijah Kamau Mwangi* (2021) eKLR.

19. Submitting that the ex-parte applicant has made unproven and unsubstantiated allegations of impropriety without any evidence, the Interested Party states that the ex parte applicant had his day in court and he presented his evidence and cross-examined the interested party therefore the allegation that the 3rd Respondent withheld their power to determine the appeal is false.

Analysis and Determination

20. The court has considered the application herein, the reply filed, written submissions by Counsel for the parties and authorities cited and is of the opinion that the following issues arise for determination;

    A. Whether this suit was filed outside the statutory period

    B. Whether the *Ex parte* Applicant is entitled to the orders of certiorari and mandamus.

21. On the issue of whether the application is time barred, Counsel for the Interested Party stated that the application herein seeks, among other orders, an order of Certiorari to quash the decision of the 3rd Respondent made in Minister's Appeal No.37 of 2019 in contravention of Section 9(3) of the *Law Reform Act* and Order 53 Rule 2 of the *Civil Procedure Rules* (2010) that provide that an application for certiorari should be filed within six months from the date of the decision.

22. Section 9(3) of the *Law Reform Act* provides that,

> " In the case of an application for an order of certiorari to remove any judgment, order, decree, conviction or other proceedings for the purpose of its being quashed, leave shall not be granted unless the application for leave is made not later than six months after the date of that judgment, order, decree, conviction or other proceeding or such shorter period as may be prescribed under any written law; and where that judgment, order, decree, conviction or other proceeding is subject to appeal, and a time is limited by law for the bringing of the appeal, the court or judge may adjourn the application for leave until the appeal is determined or the time for appealing has expired."
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> Order 53(2) of the *Civil Procedure Rules* (2010) provides as follows:
>
> > " Leave shall not be granted to apply for an order of certiorari to remove any judgment, order, decree, conviction or other proceeding for the purpose of its being quashed, unless the application for leave is made not later than six months after the date of the proceeding or such shorter period as may be prescribed by any Act; and where the proceeding is subject to appeal and a time is limited by law for the bringing of the appeal, the judge may adjourn the application for leave."

23. The Interested Party states that the appeal to the Minister was determined on 19th January, 2021 while the application for leave was filed on 18th March, 2022 outside of the six-month period. The Court noted that the proceedings before the 3rd Respondent attached to the application herein show that hearing of the appeal proceeded on 19th February,2021 and the Judgement is dated 24th May, 2021.

24. The *Ex parte* Applicant on the other hand claims that he became aware of the judgement on 22nd September, 2021 when he was summoned to the Land Adjudication office at Katse and given a copy of the proceedings and determination in the Ministers appeal. The Interested Party has not contradicted this statement and does not claim that he was aware of the judgement at an earlier date than the one stated by the *Ex parte* Applicant. The Court of Appeal in *Dominic Musei Ikombo v Kyule Makau* [2019] eKLR found that the six months limitation period starts running on the date when the parties became aware of the decision.;

> " This Court has however held the view that one can only challenge a decision that is within his/her knowledge. Holding otherwise would be irrational as it would be expecting a party to possess super human powers to know the contents of a decision long before it is delivered. It would also create fertile ground for corruption and other underhand maneuvers where a party would collude with the decision maker or their staff intending to frustrate the judicial review process, to hide or otherwise ensure that a decision is not availed to the parties until the statutory 6 months limitation period has expired.
>
> 17. This Court has addressed this point in several decisions and held that the six months should start running from the date the impugned decision is communicated to the affected parties or when they become aware of it. In *Republic VS. Kenya National Highways Authority & 2 others ex parte Amica Business Solutions Limited* [2016] eKLR, this Court pronounced itself as follows:-
>
> > " In our considered view, Order 53 Rule (2) was meant to cover both judicial and quasi-judicial proceedings, where there was a hearing; all affected parties were informed; or were aware of the proceedings and where there was a judgment or decision capable of being disseminated and accessed by all affected parties." (Emphasis supplied).
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> 18. In this case Counsel for the respondent has made heavy weather of the fact Section 9 (3) of the *Law reform Act* and Order 53 rule 2 *Civil Procedure Rules* specifically provide for the date when the decision was dated and not when it was delivered. From the above decision however, it is evident that the applicable date is the date when the parties became aware of the decision. The appellant did not rebut the averment that the decision became known to the respondent on 12th February, 2013, in which case the application for leave, having been filed on 5th July, 2013 was filed within the 6 months timeline. We therefore hold that the application was not statutorily time barred and was properly before the High Court. Ground 1 in the memorandum of appeal fails."

25. From the foregoing the court is satisfied that the Ex parte Applicant became aware of the 3rd Respondents decision on 22nd September, 2021 and the Chamber Summons application for leave filed on 18th March, 2022 was filed within the statutory period.

B. Whether the Ex parte Applicant is entitled to the orders of certiorari and mandamus.

26. Article 47 of the *Constitution* of Kenya 2010 guarantees a right to fair administrative action and states that;

1. Every person has the right to administrative action that is expeditious, efficient, lawful, reasonable and procedurally fair.

2. If a right or fundamental freedom of a person has been or is likely to be adversely affected by administrative action, the person has the right to be given written reasons for the action

3. Parliament shall enact legislation to give effect to the rights in clause (1) and that legislation shall—

    a. provide for the review of administrative action by a court or, if appropriate, an independent and impartial tribunal; and

    b. promote efficient administration.

27. The acts of the 3rd Respondent in hearing and determining the appeal to the Minister No. 37 of 2019 is "administrative action" as defined under the Fair Administrative Actions Act which includes–

    i. The powers, functions and duties exercised by authorities or quasi-judicial tribunals; or

    ii. any act, omission or decision of any person, body or authority that affects the legal rights or interests of any person to whom such action relates;

28. The 3rd Respondent was empowered to hear and determine the appeal under Section 29 of the *Land Adjudication Act* which states that;

> Any person who is aggrieved by the determination of an objection under section 26 of this Act may, within sixty days after the date of the determination, appeal against the determination to the Minister by—
>
> (a) delivering to the Minister an appeal in writing specifying the grounds of appeal; and
>
> (b) sending a copy of the appeal to the Director of Land Adjudication, and the Minister shall determine the appeal and make such order thereon as he thinks just and the order shall be final.

29. This Court is mandated to determine whether the decision arrived at by the 3rd Respondent was just and passes the Constitutional test of Article 47 and Section 7 of the *Fair Administrative Actions Act*. The Court is clear that this judicial review application is not a retrial of the matters that were in dispute during the adjudication proceedings and neither is it an appeal against the decision of the Minister's Appeal. It is also clear that ascertainment of rights and interests in land in an adjudication section are not within the jurisdiction of this court but the same fall under the jurisdiction of the authorities or quasi-judicial tribunals as provided by the *Land Adjudication Act* CAP 284. Okongo J in *Tobias Achola Osidi & 13 Others vs. Cyprianus Otieno Ogalo & 6 others* (2013) eKLR held that;

> " It follows from the foregoing that once an area has been declared an adjudication area under the Act, the ascertainment and determination of rights and interest in land within the area is reserved by the law for the officers and quasi-judicial bodies set up under the Act."

30. Articles 25(c) and 50 of the *Constitution* of Kenya (2010) guarantees everyone a right to fair hearing and Article 47 of the *Constitution* guarantees every person the right to fair administrative action that is expeditious, efficient, lawful, reasonable, and procedurally fair. The Court of Appeal in *Judicial Service*

Commission vs Mbalu Mutava & another [2015] eKLR, the Court of Appeal where it was stated that natural justice comprises the duty to act fairly:

> " Article 47(1) does not exclude the application of common law particularly the common law right to fair hearing. As I have endeavoured to show above, natural justice comprises the doctrine of or is synonymous with "acting fairly". The term "procedurally fair" used in article 47(1) by a proper construction, imports and subsumes to a certain degree, the common law including rules of natural justice which means that common law is complementary to the right to fair administrative action..."

31. The *Ex parte* Applicant contends that the 3rd Respondent declined to determine the matter before her but instead relied on a non-existent court ruling to make the final determination, contrary to Section 29 of the *Land Adjudication Act*. According to the proceedings in the impugned Minister's Appeal decision, both the *Ex parte* Applicant and the Interested Party were given an opportunity to be heard by giving their statements and were questioned by the 3rd Respondent. They also had witnesses who testified on their behalf. The final decision of the 3rd Respondent reads as follows:

> " The Land Parcel No.4946 to remain in the Respondent's name as per the court's ruling dated 5/2/2015. (Copy attached)."

32. The *Ex parte* Applicant stated that the ruling mentioned in the decision of the 3rd Respondent was non-existent and that when he was given the said Decision/ judgment there was no ruling attached to it. As earlier observed, the Respondents did not enter appearance or file any reply to the suit herein. The contention that the ruling dated 5th February 2015 that was said to be attached to the 3rd Respondent's ruling was non-existent is not controverted. It is the Courts view that in absence of a replying affidavit by the Respondents to clarify which ruling was referred to in the Judgement by the 3rd Respondent the Court and the parties are left to speculate as to what reasons convinced the 3rd Respondent to rule that land parcel 4946 belonged to the interested party. The Court notes that even though the Interested Party stated in his replying affidavit that he was not aware of any ruling dated 5th February, 2015, he attached to his affidavit a copy of a ruling dated 5th February, 2015 in Mwingi SRMCC No. 268 of 2008 and in submissions Counsel referred to the said ruling. Further it is not certain that the ruling dated 5th February 2015attached to the Interested Part's replying affidavit, is the same ruling referred to in the Ministers decision, even though the two are dated the same date.

33. In any event if the said ruling attached to the Interested Party's affidavit was the one referred to in the 3rd Respondents judgement, it will be noted that the said ruling was in respect of an application filed in Mwingi SRMCC 268 of 2008 which sought to review orders of dismissal of the suit and to have the suit allowed to proceed on merit. The said application was struck out through the order dated 5th February, 2015. The said ruling did not ascertain or determine the rights and interests of the parties to the suit and it certainly did not determine that the suit land belonged to the either the Interested Party or the *Ex parte* Applicant.

34. The court has looked at the pleadings filed and rulings made in Mwingi SRMCC No. 268 of 2008 which was between the Exparte applicant as Plaintiff and the Interested Party as Defendant. The claim was for recovery what he calls the "isolated piece of land situated at Kaliwa village, Kaliwa sublocation Mutanda location which he stated he inherited from his grandmother Kamiti Mutahmbi (deceased) sometime in 1986" . The Plaintiff claimed that the Defendant in the said suit Manzi Kayanda encroached onto the land and cleared a portion thereof. The Applicant claimed that he had lodged a complaint before the area Chief and also filed a suit before the Land Disputes Tribunal case number

9 of 2006. It is noted that the said suit was dismissed for want of prosecution on 15th November, 2013. The Plaintiff filed an application to review the order of dismissal and re-instate the suit. It appears that the said application was the subject matter of the ruling dated 5th February, 2015. The said application was dismissed with costs to the Respondent therein. The Applicant's Counsel submits that the dismissal of the application cannot constitute *res judicata*.

35. It is the Court's view that the 3rd Respondent failed to show in the judgement rendered that consideration was given to relevant matters raised in the evidence adduced during hearing of the appeal. Further, the judgement did not show that consideration was given to the objection proceedings that gave rise to the appeal. On the contrary, the court is of the view that the 3rd Respondent took into account irrelevant considerations to wit a ruling that was not provided to the parties and is for all intents and purposes non-existent. In the alternative, if the ruling provided by the Interested Party was the one relied on, then the Court considers the same to have been irrelevant since it did not determine the dispute at hand. In the case of *Republic v Kenya Revenue Authority & another; Shapi & 3 others (Exparte)* (Judicial Review E038 of 2021) [2021] KEHC 401 (KLR) the Court dealt with this issue and found that:

> "It is a well-established principle that if an administrative or quasi-judicial body takes into accounts any reason for its decision which is bad, or irrelevant, then the whole decision, even if there are other good reasons for it, is vitiated."

36. The Court further finds that the 3rd Respondent failed to give reasons for the decision/judgement contrary to the provisions of Article 47 of the *Constitution* of Kenya 2010 which guarantees the right to be given written reasons for administrative action. The said Article provides that;

> "Every person has the right to administrative action that is expeditious, efficient, lawful, reasonable and procedurally fair
>
> If a right or fundamental freedom of a person has been or is likely to be adversely affected by administrative action, the person has the right to be given written reasons for the action."

37. The above constitutional provision is reiterated under Section 23 of the *Fair Administrative Actions Act* which provides that Administrative action is to be taken expeditiously, efficiently, lawfully, reasonably and with procedural fairness. Section 2 (2) repeats the constitutional provision that "If a right or fundamental freedom of a person has been or is likely to be adversely affected by administrative action, the person has the right to be given written reasons for the action.

38. It is also a fundamental requirement of common law that reasons for judgment or ruling be given by any judicial officer. Thomas J in *Bell-Booth v. Bell-Booth* [1998] 2 NZLR 2 put it succinctly when he rendered himself as follows:-

> "Reasons for judgment are a fundamental attribute of the common law. The affinity of law and reason has been widely affirmed and Judge's reasoning -his or her reasons for the decision - is a demonstration of that close assimilation. Arbitrariness or the appearance of arbitrariness is refuted and genuine cause for lasting grievances is averted. Litigants are assured that their case has been understood and carefully considered. If dissatisfied with the outcome, they are able to assess the wisdom and worth of exercising their rights of appeal. At the same time public confidence in the legal system and the legitimacy and dynamic of the common law is enhanced. The legal system can be seen by (sic) working and, although possibly at times imperfectly, striving to achieve justice according to law."

39. Further, the law provides for the procedure to be followed in proceedings in the Minister's Appeal as was captured in the case of *Republic vs. Special District Commissioner & another* [2006] eKLR as follows:

> "It is expected therefore that the District Commissioner receives the lower tribunal records which will include the written grounds of appeal of the aggrieved party, and these are the documents which form the lower...court record that will assist him to, "...determine the appeal and make such order thereon as he thinks just ...." ..... My understanding of the method of determining the appeal then, is receiving the written grounds of appeal and perusing them before determining it by making such an order on it as he thinks just. This means to me that the District Commissioner (Minister) has to examine the written grounds of appeal along with the Land Adjudication Officer's proceedings, judgment, ruling or award, and from it, he will, make a just order or judgment".

40. I am in agreement with the above decisions. The Minister's mandate under Section 29 of the *Land Adjudication Act* is to consider the grounds of appeal raised and the record of the Land Adjudication Officer and arrive at an independent just decision. In the present case the 3rd Respondent did not show in the judgement that consideration had been given to the grounds of appeal raised, the previous record and the evidence adduced before the Minister. The ruling that was claimed to contain the reasons for the 3rd Respondents decision was not given to the Applicant while the Interested Party does not confirm with certainty that the ruling was given to him and whether the ruling dated the same date was the one referred to in the judgement of the 3rd Respondent. In any event the contents of the ruling provided by the Interested Party did not ascertain and determine the rights and interests of the parties to the dispute over the land in dispute. As earlier stated, the parties were left without knowing the reasons why the 3rd Respondent declared that the land parcel No. 4946 was to remain in the Interested Party's name.

41. The ex-parte Applicant further contended that a relative who had differences with him and who he had complaint about was part of the adjudication process and had influenced the decisions made along the adjudication process thus creating bias and procedural impropriety. The Court has looked through the proceedings before the 3rd Respondent and the other proceedings before the Committee, arbitration Board and objection proceedings and has seen no actual record that this family member was part of the process. The Court has only seen a complaint by the ex parte applicant addressed to the Land Dispute Committee (Survey) dated 3rd November 2015. Courts have set out the requirement that a reasonable apprehension of bias must be demonstrated in order to succeed in such a claim. In the case of Supreme Court of Canada *R Vs. S.C.R.D.*) [1977]. 3SCR 484 cited by the Court of Appeal in *Kalpana H. Rawal & 2 others v Judicial Service Commission & 3 others* [2016] eKLR it was held that:

> "The Jurisprudence indicates that a real likelihood or probability of bias must be demonstrated and that a mere suspicion is not enough. The existence of a reasonable apprehension of bias depends entirely on the facts. The threshold for such a finding is high and the onus of demonstrating bias lies with the person who is alleging its existence." [Emphasis added]."

42. In the Courts view the *Ex parte* Applicant has not proved that the presence of the cited person led to bias in the decision making process and in particular the decision of the 3rd Respondent and the challenge on this ground fails.

43. For the foregoing reasons the Court finds that the Notice of Motion dated 24th March 2022 be and is hereby allowed in the following terms;

    1. A Judicial review order of *certiorari* be and is hereby issued to remove into this Court for purposes of quashing and to quash the 3rd Respondent's decision made in Katse Adjudication Section Appeal to the Minister Appeal Case No.37 of 2019 in respect of parcel No. 4946, Katse Adjudication Section between the Ex parte Applicant and the Interested Party.

    2. Katse Adjudication Section Ministers Appeal Case No. 37 of 2019 in respect of parcel No. 4946, Katse Adjudication Section between the *Ex parte* Applicant and the Interested Party be remitted back to the 3rd Respondent for determination in accordance with the law.

    3. Costs of this Application be borne by the Respondent.

DELIVERED, DATED AND SIGNED AT KITUI THIS 16TH DAY OF MAY, 2023.

HON. L. G. KIMANI

ENVIRONMENT AND LAND COURT JUDGE - KITUI

Judgement read in open court in the presence of-

C/A Musyoki

M/s Fatma holding brief for M/s Mutemi for the Interested Party

N/A for Respondents