



REPUBLIC OF KENYA



**Dabasso & 7 others v Wambua & 12 others (Environment & Land Case  
E033 of 2023) [2023] KEELC 19077 (KLR) (27 July 2023) (Ruling)**

Neutral citation: [2023] KEELC 19077 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT MACHAKOS  
ENVIRONMENT & LAND CASE E033 OF 2023**

**A NYUKURI, J**

**JULY 27, 2023**

**BETWEEN**

**HUSSEIN TENE DABASSO ..... 1<sup>ST</sup> PLAINTIFF**  
**CATHERINE NGAIIYAI ..... 2<sup>ND</sup> PLAINTIFF**  
**AHMED NOOR OMAR ..... 3<sup>RD</sup> PLAINTIFF**  
**HUSSEIN ABDI DAKANE ..... 4<sup>TH</sup> PLAINTIFF**  
**BONIFACE K. MUTUNE ..... 5<sup>TH</sup> PLAINTIFF**  
**ALFREIOUS D. KIPROP ..... 6<sup>TH</sup> PLAINTIFF**  
**JONES MUTUNE ..... 7<sup>TH</sup> PLAINTIFF**  
**JONES MWANZIA ..... 8<sup>TH</sup> PLAINTIFF**

**AND**

**RICHARD MUSYIMI WAMBUA ..... 1<sup>ST</sup> DEFENDANT**  
**NICHOLAS SAMMY MUSYOKA ..... 2<sup>ND</sup> DEFENDANT**  
**JOHN MATINGI MWANTHI ..... 3<sup>RD</sup> DEFENDANT**  
**ABDALA ALI ..... 4<sup>TH</sup> DEFENDANT**  
**ABDUL KARIMI HASAN ..... 5<sup>TH</sup> DEFENDANT**  
**GRACE WANJIKU KIMANI ..... 6<sup>TH</sup> DEFENDANT**  
**PETER NGILU KIMULI ..... 7<sup>TH</sup> DEFENDANT**  
**FRANCIS GACHANJA MWANGI ..... 8<sup>TH</sup> DEFENDANT**  
**ATTORNEY GENERAL ..... 9<sup>TH</sup> DEFENDANT**  
**CHIEF LAND REGISTRAR ..... 10<sup>TH</sup> DEFENDANT**



LAND ADMINISTRATION OFFICER ..... 11<sup>TH</sup> DEFENDANT  
STAREHE UNDUGU COMPANY ..... 12<sup>TH</sup> DEFENDANT  
SURVEY DEPARTMENT OF KENYA ..... 13<sup>TH</sup> DEFENDANT

## RULING

1. Before court are three applications, namely application dated 19<sup>th</sup> April 2023 and amended on 12<sup>th</sup> June 2023 filed by the Plaintiffs seeking temporary injunction against the Defendants; application dated 2<sup>nd</sup> May 2023 filed by the 6<sup>th</sup>, 7<sup>th</sup> and 8<sup>th</sup> Defendants seeking temporary injunction against the Plaintiffs and the rest of the Defendants; and application dated 30<sup>th</sup> May 2023 by the 6<sup>th</sup>, 7<sup>th</sup> and 8<sup>th</sup> Defendants for contempt against the Plaintiffs.

### **Amended Notice of Motion dated 12th June 2023 filed by the Plaintiffs**

2. In the above Notice of Motion, the Plaintiffs sought the following orders;
  - a. That this court be pleased to issue an order of injunction restraining the Defendants/ Respondents whether by themselves, their servants, representatives, agents and/or assigns howsoever from dealing with, entering in, obstructing any activities on, interfering with the Plaintiff/Applicants' agents and or representatives subdividing, demolishing any structures on, selling, alienating, occupying and/or in any other way interfering with the suit property, pending the hearing and determination of this suit.
  - b. That this Honourable Court be pleased to order the Officer Commanding Station, Mavoko Police Station or any police officer to enforce order 2 and 3.
  - c. That costs of this application be in the cause.
3. The application is supported by the affidavit sworn by the 1<sup>st</sup> Plaintiff Hussein Tene Dabaso on 12<sup>th</sup> June 2023. The Applicants' case is that the Plaintiffs are the registered proprietors of Plot LR No. 7283/3-42 Block A, LR No. 7283/111 Block B, LR No. 7283/112 Block C and Block and LR No. 7283/113 Block D located in Athi River (hereinafter referred to as the suit properties) on behalf and in trust of Kitoni Members Association. That the Commissioner of Lands allocated the said properties to the Plaintiffs on 3<sup>rd</sup> January 1996 upon an application made on 12<sup>th</sup> April 1995.
4. They stated that between January and March 2023, the Defendants and their agents trespassed on the suit property purporting to subdivide the same by placing beacons thereon leading to a police report. That this led to a conflict which led to confrontations resulting in serious injuries of several persons and death of one person namely Victor Nganga Githui. That the suit property is now a crime scene and the Applicants have been denied access to the property. He attached letters applying for land allocation, letters of allotment, photographs of beacons on the land and copy of OB report.
5. The application was opposed. The 6<sup>th</sup>, 7<sup>th</sup> and 8<sup>th</sup> Defendants filed a replying affidavit sworn by one Peter Ngilu Kimuli, the 7<sup>th</sup> Defendant on 2<sup>nd</sup> May 2023. He deposed that the 6<sup>th</sup>, 7<sup>th</sup> and 8<sup>th</sup> Defendants were the rightful owners of property known as LR No. 7283/1 IR No. 250151; that the Plaintiffs claim on the suit property was speculative and imaginative as they had not produced any document of ownership; that the application is misleading as it is supported with fraudulent documents and there is no evidence of the Plaintiffs' registration of the plots referred to; that even the allotment letters are dated 1998 but issued in 2020 and that they are not signed; that the 6<sup>th</sup>, 7<sup>th</sup> and 8<sup>th</sup> Defendants were



lawfully allocated the suit property measuring 650.8 hectares and that they took possession and have been paying rates. That they applied for lease on 27<sup>th</sup> January 2021 and were issued with lease for Parcel No. LR. 7283/1; that they were issued with a certificate of title in their names on 8<sup>th</sup> September 2021; that on trespass by the Plaintiffs they reported the matter to Muungano Police Station; and that when asked to produce documents of ownership, the Plaintiffs rushed to court as the Plaintiffs' documents are forged as seen from the deed plans which are different from the Defendants' deed plans.

6. The Respondent also deposed that no lease was attached to the application as alleged by the Plaintiffs; that the property has never been subdivided; that it is the Plaintiffs who have been fighting amongst themselves; that the Plaintiffs did not demonstrate how they acquired the suit property and the documents produced are fraudulent. He attached authority to plead, certificate of title, Plaintiffs' allotment letters; the lease to the Respondents; rates clearance certificate, OB NO and Plaintiffs' deed plan.
7. The 4<sup>th</sup> and 5<sup>th</sup> Defendants filed a replying affidavit sworn by Abdala Ali Mwangi on 14<sup>th</sup> July 2023. He deposed that Parcel LR No. 7283/ 1-42 was not owned by the Plaintiffs but by the 4<sup>th</sup> and 5<sup>th</sup> Respondents and Katani Plain Self Group and its members; that they accepted allotment of the said property by acceptance letter dated 12<sup>th</sup> September 2019 and paid the fees required of Kshs. 237,580/-; that checking fees of Kshs. 40,000/- was paid; that the Ministry of Lands confirmed the letters of allotment issued to the deponent; that the Ministry of Lands confirmed the PDP issued; that on 9<sup>th</sup> April 2021 as they waited for certificate of lease, they received threats and their members were assaulted by the Plaintiffs; that the suit property was allocated to members of Katani Plain Self Help Group and that some members paid fees and were issued receipts by Government officials while other members are yet to pay levies stated in the allotment letters; that the Deputy County Commissioner attempted to resolve the conflict out of court in vain and that granting injunction as sought will not be in the interests of justice and that all the parties be enjoined; that the Applicants placed beacons on the property; that the applicants do not deserve orders sought as they had come to court with unclean hands. He attached certificate of registration of Katani Plain Self Help Group, acceptance letter, letters from the Ministry of Lands and from the Survey department; OB extract; allotment letters; summons from the Deputy County Commissioner and court order.

#### **Application dated 2nd May 2023 by the 6th, 7th and 8th Defendants**

8. In the application dated 2<sup>nd</sup> May 2023, the 6<sup>th</sup>, 7<sup>th</sup> and 8<sup>th</sup> Defendants sought the following orders;
  - a. Spent.
  - b. Spent.
  - c. That temporary injunction restraining the 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup>, 4<sup>th</sup>, 5<sup>th</sup>, 6<sup>th</sup>, 7<sup>th</sup> and 8<sup>th</sup> Plaintiffs/ Respondents and 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup>, 4<sup>th</sup> and 5<sup>th</sup> Defendants/Respondents and/or their agents or servants, employees from trespassing onto, dispossessing, selling, reselling, erecting fences, construction both permanent and temporary structures interfering with beacons, transferring the property known as Title No. IR. 2250151 formerly known as LR. No. 7283/1 situated in the North East Athi River Trading Centre in Machakos County measuring approximately 650.8 Hectares said named to third parties, harassing the Applicants or in any way interfering with the 6<sup>th</sup>, 7<sup>th</sup> and 8<sup>th</sup> Applicants quiet possession of the said property pending the hearing and determination of this suit.
  - d. Costs of the application be provided by the Plaintiffs/Respondents and Defendants/ Respondents.



9. The application is supported by the affidavit sworn by Peter Ngilu Kimuli the 7<sup>th</sup> Defendant on 2<sup>nd</sup> May 2023. He deposed that the 6<sup>th</sup>, 7<sup>th</sup> and 8<sup>th</sup> Defendants are the rightful owners and proprietors of the suit property known as IR 250151 situated in the North East of Athi River Trading Centre in Machakos District; that on 1<sup>st</sup> January 1996, the 6<sup>th</sup>, 7<sup>th</sup> and 8<sup>th</sup> Defendants applied for allocation and were allocated 650.8 Ha which they took possession and continued to pay rates; that they later applied for a lease on 27<sup>th</sup> January 2021 and that they were issued with certificate of title on 8<sup>th</sup> September 2021; that on 5<sup>th</sup> April 2023 the 1<sup>st</sup> to 5<sup>th</sup> Defendants invaded the suit property and began fighting among themselves and that the matter was reported to Muungano Police Station; that the Respondents have begun illegal subdivisions of the land and that documents filed by the Respondents are fraudulent aimed at grabbing the suit property; that the property has never been subdivided and they have lived on the property for over 30 years. He attached authority to plead; copies of title; lease; rates clearance certificate; OB NO; photographs of the suit property; allotment letters of Plaintiffs and search.
10. The 4<sup>th</sup> and 5<sup>th</sup> Respondents filed replying affidavit sworn on 14<sup>th</sup> July 2023 by Abdalla Ali Mwangi the 4<sup>th</sup> Defendant. He deposed that there was no evidence to show that the 4<sup>th</sup> and 5<sup>th</sup> Defendants invaded the suit property and that it is the Plaintiffs who have been interfering with the suit property; that on 9<sup>th</sup> April 2021 as they were waiting for issuance of certificate of lease, they received threats and their members were assaulted; that the Deputy County Commissioner tried to resolve the matter in vain; that it will not be in the interest of justice to grant an injunction in favour of one party and that the property be preserved as against all parties in the suit. He attached copy of OB extract and summons from the Deputy County Commissioner. Hussein Tene Dabasso filed a replying affidavit sworn on 12<sup>th</sup> June 2023. He deposed that the Plaintiffs did not trespass or invade the suit property that the property owned by 6<sup>th</sup>, 7<sup>th</sup> and 8<sup>th</sup> Defendants is not the property in dispute as they are different properties; that Parcel LR 7283/1 was not owned or occupied by the Plaintiff as the property was 576 Ha while the Applicants' property was 1,608 acres; that the only property which the Respondents undertook subdivision and placed beacons thereon is properly stated in their amended motion dated 12<sup>th</sup> June 2023; that the Plaintiffs have both allotment letters and PDPs, folio register No. (FR file) and deed plans and that they have no interest in LR No. 7283/1.
11. In a rejoinder, Peter Ngilu Kimilu filed supplementary affidavit sworn on 7<sup>th</sup> July 2023 stating that since the suit property was allocated to the 6<sup>th</sup>, 7<sup>th</sup> and 8<sup>th</sup> Defendants in 1996, there was nothing to be allocated to the Plaintiffs in 1998 as they have been in peaceful occupation for 30 years; that the Plaintiffs' allotment letters are fraudulent.

Application dated 30<sup>th</sup> May 2023 filed by the 6<sup>th</sup>, 7<sup>th</sup> and 8<sup>th</sup> Defendants

12. The application dated 30<sup>th</sup> May 2023 was filed by the 6<sup>th</sup>, 7<sup>th</sup> and 8<sup>th</sup> Defendants seeking the following orders;
  - a. Spent.
  - b. Spent.
  - c. That Notice to show Cause (N.T.S.C) do issue against the Plaintiffs/Respondents herein Hussein Tene Dabasso, Catherine Ngaiyai, Ahmed Noor Omar, Hussein Abdi Dakane, Boniface K. Mutune, Alfreious D. Kiprop, Jones Mutune and Jones Mwanzia why they should not be committed to civil jail for six months and or such period as the court shall deem fit and proper for blatantly and flagrantly disobeying the valid court orders delivered and/or issued on the 2<sup>nd</sup> day of May 2023 despite being aware about the existence of these orders.



- d. That the Honourable Court do issue an order compelling the Plaintiffs/Respondents to remove all the illegal beacons on the suit property at their costs.
  - e. That the OCPD UN to ensure compliance of the said orders.
  - f. That this Honourable Court be pleased to make such orders and/or give directions as it may deem fit and just and for the interests of justice.
  - g. That costs of this application be provided by the Respondents.
13. The application is supported by the affidavit sworn by Peter Ngilu Kimuli on 30<sup>th</sup> May 2023. He deposed that on 2<sup>nd</sup> May 2023, in the presence of both counsel this court issued orders that all the parties herein to keep off the suit property pending hearing of applications dated 2<sup>nd</sup> May 2023 and 19<sup>th</sup> April 2023; that those orders were also served on the Plaintiffs' counsel by email on 4<sup>th</sup> May 2023; that despite knowledge of the orders, the Plaintiffs continued in the trespass of the suit property by conducting illegal subdivisions and placing illegal beacons on the land; that on 15<sup>th</sup> May 2023, physical service on counsel for the Plaintiff was done in respect of several documents including the order of 2<sup>nd</sup> May 2023; that it is clear the Plaintiffs are in contempt of the orders of 2<sup>nd</sup> May 2023 which has brought the courts dignity into disrepute. He attached the order of 2<sup>nd</sup> May 2023; affidavit of service; and photographs of alleged illegal beacons.
  14. In response, Hussein Tene Dabasso on behalf of the Plaintiffs filed a replying affidavit sworn on 30<sup>th</sup> June 2023. He deposed that the Plaintiffs are registered owners of the parcels stated in their motion dated 12<sup>th</sup> June 2023; that the Plaintiffs deny allegation of contempt; that when the orders of 2<sup>nd</sup> May 2023 were issued, they had been inhabitants of the suit property and that they stopped any form of action that would waste the substratum of the suit and have enhanced security on the land and kept the OCS Muungano Police Station updated.
  15. He also deposed that they cannot identify the persons in the Applicants' photographs; that none of them is the Plaintiff herein and that the house seen in the photographs is an old house that was put up before this suit was filed and that the place is already occupied and it is not possible to bar access for persons in occupation. That they deny placing beacons on the suit property and no evidence was shown on what was on the land before and after grant of the orders and that beacons were on the property before the suit was filed; that no survey maps or names of surveyors were given by the Applicant to show those who conducted subdivision. In a supplementary affidavit, the Applicant stated that the contempt of the orders of court still continue.
  16. The three applications were canvassed together by way of written submissions. On record are the Plaintiffs' submissions filed on 20<sup>th</sup> July 2023, the 4<sup>th</sup> and 5<sup>th</sup> Defendants' submissions filed on 24<sup>th</sup> July 2023 and two sets of submissions of the 6<sup>th</sup>, 7<sup>th</sup> and 8<sup>th</sup> Defendants filed on 23<sup>rd</sup> May 2023. The court has duly considered all the submissions filed.

### **Analysis and Determination**

17. I have carefully considered the three applications, the responses thereto and the submissions. The issues that arise are two;
  - a. Whether the Plaintiffs and the 6<sup>th</sup>, 7<sup>th</sup> and 8<sup>th</sup> Defendants have met conditions for grant of temporary injunction.
  - b. Whether the Plaintiffs are in contempt of the orders of this court made on 2<sup>nd</sup> May 2023.



18. Principles for grant of temporary injunction are now settled. The Applicant must demonstrate a prima facie case with chances of success; they must demonstrate that if the temporary injunction is not granted, they stand to suffer irreparable injury; and where the court is in doubt it ought to determine the application on a balance of convenience. (See *Giella v. Cassman Brown* [1973] EA 358).
19. In the instant case, the Plaintiffs on one hand, and the 6<sup>th</sup>, 7<sup>th</sup> and 8<sup>th</sup> Defendants on the other hand, seek to obtain temporary injunction against each other, save that apart from the Plaintiffs, the 6<sup>th</sup>, 7<sup>th</sup> and 8<sup>th</sup> Defendants also seek to restrain the 1<sup>st</sup> to 5<sup>th</sup> Defendants from interfering with the suit property.
20. To demonstrate a prima facie case, an Applicant ought to show a case that demonstrates that they have a right which has apparently been infringed by the Respondent and therefore the latter ought to rebut the claim. In the case of *Mrao v. First American Bank of Kenya Ltd & 2 Others* [2003] eKLR, the court described a prima facie as follows;

In civil cases, it is a case in which on the material presented to the court a tribunal properly directing itself will conclude that there exists a right which has apparently been infringed by the opposite party as to call for an explanation or rebuttal from the later.

21. I have considered the averments by the Plaintiffs and Defendants herein. It is clear that the Plaintiffs; the 1<sup>st</sup> to 5<sup>th</sup> Defendants; and the 6<sup>th</sup>, 7<sup>th</sup> and 8<sup>th</sup> Defendants have laid claim on the suit property. They each claim to be the lawful owners thereof. The Plaintiffs have produced letters of allotment dated 20<sup>th</sup> May 1998. They also produced photographs. The Plaintiffs insist that their parcels of land are LR. No. 7283/3-42 Block A, LR No. 7283/111 Block B, LR No. 7283/112 Block C and LR No. 7283/113 Block D. While the Plaintiffs stated that they were the registered proprietors of the aforesaid parcels, no titles were attached to their application to prove the same. As the said property was said to have been allocated in 1998, the allocation process then was governed by the Government Lands Act Chapter Cap. 280 Laws of Kenya (repealed) as provided for in part III of the said repealed Act in regard to disposal of Government Land. From the evidence, it appears that allotment was done in 1998 and there was no acceptance within the period of 30 days as stated in the allotment letter.
22. In addition, there is no evidence of registration of the property in the Plaintiffs names. Although the Plaintiffs allege that the suit property is LR. No. 7283/3-42 Block A, LR No. 7283/111 Block B, LR No. 7283/112 Block C and LR No. 7283/113 Block D, no evidence has been produced to show that property with such registration exists, as no search was produced. In the premises, I am not satisfied that the Plaintiffs have demonstrated a prima facie case, and therefore, I find and hold that the Plaintiffs are undeserving of orders of temporary injunction.
23. On whether the 6<sup>th</sup>, 7<sup>th</sup> and 8<sup>th</sup> Defendants have demonstrated a prima facie case, they allege that on 1<sup>st</sup> January 1996, they were allocated the suit property and that a lease was issued in 2021 and on 8<sup>th</sup> September 2021, they were issued a certificate of title. They produced a certificate of title dated 8<sup>th</sup> September 2021. A Rates Clearance Certificate of 9<sup>th</sup> February 2023 and a lease dated 27<sup>th</sup> January 2021. They did not produce any allotment letters or evidence of payment of stand premium to demonstrate that they lawfully acquired the suit property.
24. I take the view that since the 6<sup>th</sup>, 7<sup>th</sup> and 8<sup>th</sup> Defendants' title was not supported with evidence of how the title was issued, and the other parties having questioned the root of their title, I find and hold that the said Defendants have not demonstrated a prima facie case with any chance of success.
25. Although the 4<sup>th</sup> and 5<sup>th</sup> Defendants were not seeking any orders, they produced documents in support of their claim on the suit property. They produced a certificate of registration of Katani Self Help Group dated 2<sup>nd</sup> December 2019 indicating that they were registered on 28<sup>th</sup> January 1997. They also



produced letters of allotment dated 24<sup>th</sup> February 1998 for a 99 years lease from 1<sup>st</sup> January 1998. They produced alleged receipts for payment of stand premium and other charges all dated 18<sup>th</sup> March 2022. It is therefore clear that they did not comply or accept the offer within 30 days as stated in their alleged allotment letters as the alleged payment was done 24 years late. They had no certificates of title. All their letters of allotment had no signature of the author. Having considered the documents produced by the 4<sup>th</sup> and 5<sup>th</sup> Defendants, there is no evidence to show that they have a claim over the suit property as they are not the registered proprietors and have not shown the nexus between their letters of allotment and land described by the Plaintiffs and 6<sup>th</sup>, 7<sup>th</sup> and 8<sup>th</sup> Defendants. In the premises, I am not satisfied that they have shown any interest in the suit property.

26. For reasons given above, none of the parties herein has demonstrated an apparent bona fide ownership of the suit property. The impression to this court is that it appears they are fighting over what may not belong to any of them. Therefore, I find and hold that the Plaintiffs and 6<sup>th</sup>, 7<sup>th</sup> and 8<sup>th</sup> Defendants have not met the threshold for grant of orders of temporary injunction.
27. On the question of contempt this court has jurisdiction to punish for contempt by dint of Section 5 of the [Judicature Act](#) which provides as follows;

### **Contempt of court**

1. The High Court and the Court of Appeal shall have the same power to punish for contempt of court as is for the time being possessed by the High Court of Justice in England, and such power shall extend to upholding the authority and dignity of subordinate courts.
  2. An order of the High Court made by way of punishment for contempt of court shall be appealable as if it were a conviction and sentence made in the exercise of the ordinary original criminal jurisdiction of the High Court.
28. To prove contempt of court order, the Applicant must demonstrate the existence of a court order in unambiguous terms; that the Respondent was aware of the terms of the order; and that he deliberately breached the terms of the order (See the case of Cecil Miller v. Jackson Njeru and Another (2017) eKLR)
  29. In the instant matter, the importance of enforcing obedience of court orders was stated in the case of Econet Wireless Kenya Ltd v Minister for Information & Communication of Kenya & Another [2005] KLR 828, where the court held as follows;

It is essential for the maintenance of the rule of law and order that the authority and the dignity of our courts are upheld at all times. The Court will not condone deliberate disobedience of its orders and will not shy away from its responsibility to deal firmly with proved contemnors. It is the plain and unqualified obligation of every person against whom an order is made by court of competent jurisdiction, to obey it unless and until the order is discharged. The uncompromising nature of this obligation is shown by the fact that it extends even to cases where the person affected by the order believes it to be irregular or void.

30. In the instant matter, the 6<sup>th</sup>, 7<sup>th</sup> and 8<sup>th</sup> Defendants stated that the Plaintiffs and 1<sup>st</sup> to 5<sup>th</sup> Defendants continued subdividing the suit property placing illegal beacons on the suit property despite the order of 2<sup>nd</sup> May 2023 directing all the parties to keep off the suit property. They attached photographs of people, beacons and a house on the suit property. In response, the Plaintiffs replied that the house and beacons were on the property before the suit was filed and that the people in the photographs



are not the Plaintiffs and are not known to the Plaintiffs. I have considered the evidence of the 6<sup>th</sup>, 7<sup>th</sup> and 8<sup>th</sup> Defendants. It is true that this court issued orders on 2<sup>nd</sup> May 2023 directing all the parties to keep off the suit property until the determination of the applications herein. As the Plaintiffs indicated that the houses and beacons were on the property before the suit was filed, it was incumbent upon the Applicants to demonstrate that those items were not on the property before the orders of 2<sup>nd</sup> May 2023. The Applicants did not produce such evidence and therefore it is not possible to know whether the beacons and the houses on the suit property were erected after 2<sup>nd</sup> May 2023. As the standard of proof in contempt proceedings is higher than that of a balance of probabilities but below the standard of beyond reasonable doubt, I am not satisfied that the Applicants have proved contempt.

31. The upshot is that the applications dated 12<sup>th</sup> June 2023, 2<sup>nd</sup> May 2023 and 30<sup>th</sup> May 2023 are all unmeritorious and the same are hereby dismissed with costs. I also order all the parties herein to keep off the suit properties until this suit is heard and determined.

32. Orders accordingly.

**DATED, SIGNED AND DELIVERED AT MACHAKOS VIRTUALLY THIS 27TH DAY OF JULY, 2023 THROUGH MICROSOFT TEAMS VIDEO CONFERENCING PLATFORM**

**A. NYUKURI**

**JUDGE**

**In the Presence of;**

Mr. Owande for the Plaintiffs

Mr. Gituma for 6<sup>th</sup>, 7<sup>th</sup> and 8<sup>th</sup> Defendants

Mr. Lusweti holding brief for Mr. Saad for 4<sup>th</sup> and 5<sup>th</sup> Defendants

Ms. Momanyi holding brief for Ms. Lungu for 7<sup>th</sup>, 8<sup>th</sup> and 9<sup>th</sup> Defendants

Abdisalam – Court Assistant

