



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT MERU**

**CRIMINAL REVISION CASE NO. E223 OF 2021**

**ABRAHAM MWENDA.....APPLICANT**

**VERSUS**

**REPUBLIC.....RESPONDENT**

**RULING**

1. The accused was sentenced to 2 years imprisonment on two counts, running concurrently for the offences of ‘Malicious Damage to Property’ contrary to Section 339 (1) of the Penal Code and ‘Theft’ contrary to Section 275 of the Penal Code, the subject of the damage and theft being 30 fencing posts valued at Ksh 30,000/=.
2. The Probation Officer’s report recommends community service placement service at Tigania Probation Office. The DPP opposed the revision citing the gravity of the offence and the lack of remorse by the accused person upon conviction.
3. In his response to the conviction at mitigation, the accused said **“I did not bother the complainant. I was only reclaiming my father’s land.”** The Court agrees that the accused was not remorseful and would likely repeat the offence as he considers he is **“only reclaiming my father’s land.”** A custodial sentence is appropriate for deterrence, and his imprisonment for 2 years on each count is not excessive.

**ORDERS**

4. Accordingly, for the reasons set out above, the revision of sentence is declined.

*Order accordingly.*

**DATED AND DELIVERED THIS 25<sup>TH</sup> DAY OF NOVEMBER 2021.**

**EDWARD M. MURIITHI**

**JUDGE**

**Appearances:**

Abraham Mwenda, the Applicant in person.

Ms Nandwa, Prosecution Counsel for the Respondent.