



Kiuna & another (Administrators of the Estate of Kiarie Kiuna - Deceased) v Hinga (Environment & Land Case 11 of 2017) [2023] KEELC 20219 (KLR) (20 September 2023) (Judgment)

Neutral citation: [2023] KEELC 20219 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT THIKA
ENVIRONMENT & LAND CASE 11 OF 2017
BM EBOSO, J
SEPTEMBER 20, 2023**

BETWEEN

JOSEPH KIUNA 1ST PLAINTIFF

PETER WANG'ANG'A KIARIE 2ND PLAINTIFF

ADMINISTRATORS OF THE ESTATE OF KIARIE KIUNA - DECEASED

AND

DOMINIC MWAURA HINGA DEFENDANT

JUDGMENT

Introduction

1. The dispute in this suit revolves around the question as to whether the defendant is a trespasser on one acre portion of land parcel number Ndeiya/ Ndeiya/1419. Land parcel number Ndeiya/ Ndeiya/1419, measuring 8 acres, and land parcel number Ndeiya/ Ndeiya/1420, measuring 3.19 acres, were surveyed and registered as subdivisions out of land parcel number Ndeiya/Ndeiya/466 (For convenience, I will refer to the respective parcels as parcel numbers 466, 1419 and 1420). Parcel number 466 (mother parcel) belonged to the late Kiuna Muthuri whose two sons were Kiarie Kiuna and Wang'ang'a Kiuna.
2. On 6/7/1988, subdivision parcel number 1419, measuring 8 acres, was registered in the name of Kiarie Kiuna, a son to Kiuna Muthuri. On the same day, subdivision parcel number 1420, measuring 3.19 acres, was registered in the name of Francis Njoroge Ng'ang'a, a son to Wang'ang'a Kiuna and a grandson to Kiuna Muthuri.
3. In 2006, Dominic Mwaura Hinga (the defendant in this suit), initiated proceedings in the Land Disputes Tribunal (Ndeiya Division) against Francis Njoroge Ng'ang'a and Kiarie Kiuna, seeking a share of the land that originally belonged to Kiuna Muthuri. Upon hearing the parties, the Tribunal



rendered an award dated 11/8/2006 in favour of Dominic Mwaura Hinga in the following verbatim terms:

“ Award

After careful consideration of all the facts and observations the Tribunal Court arrived at the following consideration.

(a) That Kiarie Kiuna the registered owner of Ndeiya/Ndeiya/1419 comprising 8.00 acres should surrender one (1.00) Acre to his late brother’s children (referred Nganga Kiuna – Deceased) listed herebelow:-

1. Francis Njoroge Nganga ID No 5209901
2. Godffrey Hinga Wanganga ID No 2305749
3. Francis Kiarie Nganga ID No 6721127
4. Stephen Ngugi Nganga ID No 13532268
5. Dominic Mwaura Hinga ID No 11396591
6. Michael Nganga Hinga ID No 13744145

(b) Francis Njoroge Nganga should also surrender three (3.00) Acres out Ndeiya/ Ndeiya/1420 and remain with 0.19 Acres he should have originally got from his elder father/uncle Kiarie Kiuna.

(c) The three (3.00) Acres being surrendered by Francis Njoroge Nganga and one (1.00) Acres being surrendered by Kiarie Kiuna making a total of (4.00) Acres should be shared by all the six sons of the late Ngnga Kiuna.

(d) The six sons above named will give their Elder father/uncle Kiarie Kiuna “Irebe Ria Uki Na Thenge” all valued at Kshs 20,000 before he can transfer the said one (1.00) Acre to them.”

4. On 8/5/2007, the Limuru Senior Principal Magistrate Court adopted the award as a Judgment of the court and subsequently issued a formal decree dated 10/8/2007. There is no evidence indicating that Francis Njoroge Kiuna and Kiarie Kiuna (the two objectors) challenged the award within the appellate and judicial review mechanisms that existed under the law. Indeed, the two plaintiffs in this suit have been silent about any probable challenge that may have been mounted against the award.

5. It does emerge from the evidence that was presented during trial in this suit that Kiarie Kiuna subsequently died in June 2008 and succession to his estate was initiated by the two plaintiffs in 2010 in Nairobi High Court Succession Cause No. 378 of 2010. The two plaintiffs caused the whole of parcel number 1419 to be distributed on 8/5/2013 as the free estate of the late Kiarie Kiuna. There, however, existed a restriction against the land register relating to parcel number 1419. The restriction was registered on 13/6/2006, following the initiation of the Tribunal proceedings. The official searches exhibited by the defendant show that the restriction still subsisted as at 25/4/2016.

Plaintiffs’ Case

6. Against the above background, the two plaintiffs who are sons of the late Kiarie Kiuna brought the present suit on behalf of the estate of the late Kiarie Kiuna, seeking the following reliefs against the defendant:



1. An order directing the defendant to vacate the parcel of land Ndeiya/Ndeiya/1419 and in default forceful eviction do issue.
 2. A permanent injunction restraining the defendants by themselves, their respective agents, servants, employees or otherwise in their name from interfering with the suit property.
 3. An order directing the Land Registrar to withdraw the caution placed on Ndeiya/Ndeiya/1419 by the defendant.
 4. General damages for loss of use, occupation and enjoyment therefore.
 5. Costs of the suit.
 6. Interest of the sum due.
7. The case of the plaintiffs is that the defendant is a trespasser on land parcel number 1419 because he is neither a grandson of the late Kiuna Muthuri nor a son of Wang'ang'a Kiuna. They contended that the defendant was born after the defendant's mother had separated with Wang'ang'a Kiuna. Their plaint did not make any reference to the Tribunal proceedings and the Tribunal's award in which the defendant, together with his siblings, were awarded one acre out of parcel land number 1419. In their unsigned and undated written submissions presented by Ms C.W. Kinuthia & Company Advocates, they contended that the Land Disputes Tribunal had no jurisdiction to alienate any piece of land from its registered owner hence this court should ignore the award of the Tribunal and the subsequent decree and grant them a permanent injunction restraining the defendant against interfering with the suit property.

Defendant's Case

8. The defendant filed a statement of defence and counterclaim dated 20/6/2018. Through the counterclaim, he sought the following verbatim reliefs against the estate of the late Kiarie Kiuna:
 - a. That the plaintiff's suit be dismissed with costs together with interest.
 - b. A declaration that the defendant and his siblings are entitled to one (1) acre out of Title No. Ndeiya/Ndeiya/1419.
 - c. An order that the plaintiff transfer to the defendant and his siblings one (1) Acre only out of Title No Ndeiya/Ndeiya/1419 within thirty (30) days from the date of entry of judgment and/or in the event of delay, the Land Registrar, Kiambu, proceeds to effect transfer to the defendant and his siblings 1 Acre only out of Title No Ndeiya/Ndeiya/1419.
 - d. Payment of damages as a result of demolishment of defendant's structure.
 - e. Costs and interest of this suit
 - f. Any other and/or further orders that this honourable court may deem fit and just to grant.
9. The case of the defendant was that he was a biological son of the late Wang'ang'a Kiuna and that his paternity had never been an issue. He further contended that parcel number 466 was family land that was supposed to be shared equally between the two sons of Kiuna Muthuri, namely, Kiarie Kiuna and Wang'ang'a Kiuna. It was his case that in an attempt to deny Wang'ang'a Kiuna his one-half portion of parcel number 466, Kiarie Kiuna mischievously undertook a subdivision exercise through which he registered 8 acres (parcel number 1419) in his name and registered 3.119 acres (parcel number 1420) in the name of Francis Njoroge Ng'ang'a (one of Wang'ang'a Kiuna's sons and a brother to the defendant).



10. The plaintiff contended that aggrieved by the above developments, he initiated proceedings in the Land Disputes Tribunal at Ndeiya on his own behalf and on behalf of his siblings against Kiarie Kiuna and Francis Njoroge Ng'ang'a and upon hearing all the parties, the Tribunal rendered an award to the effect that him together with his siblings were entitled to one acre out of land parcel number 1419, among other reliefs. It was the case of the defendant that he was entitled to be on the one acre by dint of the award of the Tribunal which was duly adopted as a Judgment of the Court in Limuru SPMC Land Case No 10 of 2006.
11. The defendant added that in pursuance of the decree of the court, and with the blessings of his siblings, he moved into the one acre and constructed a house on it. He, however, suffered loss of Kshs 62,200 when the defendants illegally demolished his house.
12. During trial, Joseph Kiuna Kiarie testified as PW1. He adopted his written witness statement dated 30/12/2016 and produced the documents contained in the bundle dated 30/12/2016. His evidence was that parcel number 466 was leased from the County Council of Kiambu by his grandfather, Kiuna Muthuri. In 1973, the land was registered in the name of his father, Kiarie Kiuna. In 1987, his father [Kiarie Kiuna] decided to give a portion of the land to his brother, Wang'ang'a Kiuna. He added that Wang'ang'a Kiuna advised his father to register his 3.19 acre share in the name of one of his sons, Francis Njoroge Ng'ang'a.
13. PW1 further testified that the defendant "was born after Wang'ang'a Kiuna had divorced his wife" and therefore he is "neither a biological son of Wang'ang'a Kiuna nor a beneficiary of his estate since he is named Dominic Mwaura Hinga and he can only claim from Hinga as per his surname". PW1 added that parcel number 1419 had been distributed in Nairobi High Court Succession Cause No 378 of 2010 relating to the estate of the late Kiarie Kiuna. He further stated that when Wang'ang'a Kiuna died in 2005, he was buried on parcel number 1420 registered in the name of his son Francis Njoroge Ng'ang'a. He added that when Wang'ang'a Kiuna's son died in 2016, he was similarly buried on parcel number 1420. He urged the court to restrain the defendant against occupying parcel number 1419.
14. He produced the following 4 exhibits: (i) Grant of Letters of Administration in relation to the estate of Kiarie Kiuna; (ii) Certificate of Confirmation of Grant issued on 8/5/2013; (iii) Title deed issued on 6/7/1988; (iv) Funeral announcement dated 7/5/1975 for Kiuna Muthuri alias Kiuna Mbugi.
15. John Njenga Kariuki testified as PW2. He adopted his witness statement dated 1/3/2018 as part of his sworn evidence-in-chief. He testified that the late Kiarie Kiuna was his father-in-law and that the suit property previously belonged to Kiuna Muthuri. He stated that he got the information he had captured in his witness statement from his wife, Monica Njeri, who is a daughter to the late Kiarie Kiuna. He added that the defendant is a son to Wanjiku Hinga, the ex-wife to Wang'ang'a Kiuna and that the couple separated in 1964 before the defendant was born.

Defendant's Evidence

16. Dominic Mwaura Hinga testified as DW1. He adopted his witness statement dated 20/8/2016 as part of his sworn evidence-in-chief. It was DW1's testimony that the dispute relating to the suit property was adjudicated upon by the Land Disputes Tribunal where it was ordered that, he together with his siblings, be given 1 acre portion from the suit property. Subsequently, he took possession of the one acre and constructed a house on it. The house was later demolished by the plaintiffs. DW1 added that he erroneously referred to Francis Njoroge Wang'ang'a as "the plaintiff's brother" in paragraph 5 of his defence.



17. He produced the following 8 exhibits: (i) Certificate of Death for the the late Samuel Ng'ang'a Kiuna (deceased); (ii) Photograph of the Family of Samuel Ng'ang'a Kiuna (deceased) during his burial; (iii) Certificate of Official Search for Title No. Ndeiya/Ndeiya/1419; (iv) Certificate of Official Search for Title No. Ndeiya/Ndeiya/1420; (v) Proceedings in Limuru SRM Land Case No. 10 of 2006; (vi) Decree in Limuru SRM Land Case No. 10 of 2006; (vii) Photographs depicting destruction of property; and (viii) Burial authorization.
18. During cross-examination, DW1 testified that he was a grandson to Kiuna Muthuri and a son to Ng'ang'a Kiuna. He added that "Hinga" was his maternal grandfather's name. He admitted that he had stated in his statement filed at the Land Tribunal that his parents separated in the year 1964 and his father ended up living in Molo while his mother lived in Nairobi. He added that he was born in March,1970. He further stated that he used his mother's ID card when he was applying for his ID.
19. DW1 stated that his father, the late Wang'ang'a died in the year 2001 and that he [the defendant] did not have any documentary evidence to show that the late Wang'ang'a had any land dispute with the late Kiarie. DW1 added that the Land Disputes Tribunal made an award to the children of Wang'ang'a Kiuna which the plaintiffs defied and hence he sought to assert his right to the one acre through the counterclaim.

Plaintiff's Submissions

20. The plaintiffs filed written submissions dated 4/11/2022 through M/s C W Kinuthia & Company Advocates. They did not itemize the key issues that fell for determination. It was counsel's submission that during the hearing, PW1 gave a history of the suit property by testifying that the late Kiarie bought parcel number 466 from the County Council of Kiambu when Kiuna Muthuri could no longer lease the land and this happened after Kiuna Muthuri informed his two sons that whoever wished to purchase the land could go ahead and do so. Subsequently, the late Kiarie shared his land with his brother by giving him three acres. Counsel further submitted that PW1 testified that Wang'ang'a Kiuna never disputed the subdivision process and was agreeable to the three acres being registered in the name of his son, Francis Njoroge Wang'ang'a.
21. Counsel further submitted that during cross-examination, DW1 confirmed that there had not been a dispute between the late Kiarie and the late Wang'ang'a in relation to the distribution of the parcels of land. Counsel added that the court should take into account the fact that the defendant sought to have the order of the Land Disputes Tribunal relied upon despite the same being ultra vires, null and void. Counsel argued that the said order of the Land Disputes Tribunal had been given at a time when the late Kiarie had already been registered as proprietor of the suit property. Counsel submitted that the Tribunal had no jurisdiction to interfere with a property that was duly registered under the Laws of Kenya. Counsel further submitted that during cross-examination, the defendant failed to explain why he had not been using the land he was claiming.
22. Counsel contended that the defendant never raised any objection to the proceedings in Nairobi Succession Cause No. 378 of 2010 and that if indeed the defendant had any legal claim on the suit property, he ought to have filed a protest in the succession cause before the Grant was confirmed. Counsel submitted that the Land Disputes Tribunal lacked the jurisdiction to alienate any land from its registered owner hence the court ought to issue a permanent injunction restraining the defendant from interfering with the plaintiffs' quiet possession of the suit property. Counsel relied on Section 3 (1) of the Land Disputes Act No. 18 of 1990 to buttress this point.



Defendant's Submissions

23. The defendant filed written submissions dated 1/3/2023 through M/s J M Waiganjo & Company Advocates. They deciphered the following as the main issues that fell for determination in the suit: (a) Whether the plaintiffs should benefit from their contempt of court order; (b) Whether the court/tribunal had jurisdiction to grant proprietary rights through an order; and (c) What orders ought to be made on costs.
24. On whether the plaintiffs should benefit from their contempt of court, counsel submitted that the plaintiffs had deliberately disobeyed express court orders given on 10/8/2007 in Limuru Senior Resident Magistrate Court Case No. 10 of 2006. Counsel added that whereas the plaintiffs had an opportunity to appeal the decision of the Tribunal and the lower court, they chose not to appeal but elected to flagrantly disobey the order. Counsel further submitted that obedience of court orders was central to the administration of justice and for maintenance of order in society. Counsel relied on the decisions in the cases of *Trusted Society of Human Rights Alliance v Cabinet Secretary for Devolution and Planning & 3 Others* [2017]eKLR and *Econet Wireless Kenya Ltd v Minister for Information & Communication of Kenya & Another* [2005]eKLR to buttress this point.
25. On whether the court/tribunal had jurisdiction to grant proprietary rights through an order, counsel submitted that whereas the plaintiffs asserted that the Tribunal lacked jurisdiction, there had never been any appeal against the decision of the Tribunal as adopted by the court. Counsel added that the award and the court order were binding on the parties thereto. Counsel added that the court had express statutory jurisdiction to confer proprietary rights over property. He further argued that the defendant acquired proprietary rights over the one-acre portion out of land parcel number Ndeiya/Ndeiya/1419 and the said rights had not been challenged in any manner contemplated in law. Counsel added that in the absence of an appeal, the defendant had proprietary rights conferred on him by the court order dated 10/8/2007 given in the lower court.
26. On costs of the suit, counsel relied on the principle that costs follow the event as illustrated in the case of *Jasbir Singh & 3 others v Tarlochan Singh Rai & 4 others* [2014]eKLR.

Analysis and Determination

27. I have considered the parties' pleadings, evidence and submissions. I have also considered the legal frameworks and the jurisprudence relevant to the issues that fall for determination in this suit. Parties did not agree on a common statement of issues. Taking into account the pleadings, evidence and submissions of the parties, the following are the six key issues that fall for determination in this suit: (i) Whether the defendant is a trespasser on the one acre portion of land parcel number Ndeiya/Ndeiya/1419 that is at the centre of the dispute in this suit; (ii) Whether the defendant together with his siblings are entitled to be registered as proprietors of the one acre portion of the said parcel; (iii) Whether the said one acre portion forms part of the free estate of the late Kiarie Kiuna; (iv) Whether the plaintiff is entitled to the reliefs that are sought in the plaint; (v) Whether the defendant is entitled to the reliefs that are sought in the counterclaim; (vi) What order should be made in relation to costs of this suit. I will dispose the six issues sequentially in the above order.
28. The first issue is whether the defendant is a trespasser on the one-acre portion of parcel number Ndeiya/Ndeiya/1419. From the evidence presented during trial, it does emerge that the question as to whether the plaintiff together with his siblings are entitled to occupy a portion of parcel number 1419 was the subject of adjudication by the Land Disputes Tribunal in a claim lodged by the defendant against the late Kiarie Kiuna and Francis Njoroge Nganga. The Tribunal heard evidence from the parties and rendered an award in which it allowed the defendant together with his siblings to occupy one acre



out of parcel number 1419. In his wisdom, the late Kiarie Kiuna elected not to challenge the award of the Tribunal. He elected to accept it. Similarly, Francis Njoroge Ng'ang'a elected not to challenge the award. He elected to live with the award of the Tribunal in which the Tribunal found that the defendant and his siblings were entitled to occupy 3 acres out of parcel number 1420.

29. It does also emerge from the evidence on record that it is on account of the above award that the defendant occupied the one-acre portion of parcel number 1419. Clearly, in the circumstances, the defendant is not a trespasser on the one-acre portion. He is occupying what the Tribunal allowed him and his siblings to occupy.
30. The plaintiffs' father elected not to challenge the award. The plaintiff came to court nine years after the death of their father. They are rubbishing the award of the Tribunal alongside the consequential decree of the Limuru Senior Principal Magistrate Court. They contend that the Tribunal lacked jurisdiction to deal with the dispute hence the award and the resultant decree are nullities. They rely on the observations made by Hon Gacheru J in an interlocutory ruling relating to the question as to whether this suit was res judicata.
31. The repealed Land Disputes Act had a clear appellate mechanism on how the awards of the Land Disputes Tribunals were to be invalidated. Under Section 8, an appeal against a decision of the Tribunal lay to the Appeals Committee constituted for the province in which the land was situated. Under Section 8 (9), a second appeal lay to the High Court on questions of law only. The late Kiarie Kiuna elected not to pursue the appeal mechanism that was provided by the prevailing law.
32. Besides the appeal mechanism, there existed a judicial review mechanism through which a decision of the Tribunal would be quashed by the High Court. Again the late Kiarie Kiuna elected not to challenge the award through the judicial review mechanism. He died in 2008 knowing that the defendant and his siblings were entitled to occupy one acre out of parcel number 1419.
33. Can the award of the Tribunal and the consequential decree be casually wished away as null and void for want of jurisdiction? The prevailing jurisprudence on this question suggests the contrary. Faced with arguments similar to what the plaintiffs presented in their submissions in this suit, the Court of Appeal outlined the law in *Florence Nyaboke Machani v Mogere Amosi Ombui & 2 others* [2014] eKLR as follows:

“It will therefore be seen that the said Act provided an elaborate procedure for resolution of disputes relating to the division of, or determination of boundaries to land, a claim to occupy or work on land or trespass to land where jurisdiction was donated to a tribunal established under the Act and further established an appeal process for parties dissatisfied with determinations by such a tribunal. The Act limited appeals to the High Court on questions of law only. The appellant in this appeal did not challenge the decision of the tribunal in accordance with the said procedure set out in the Act. Neither were judicial review proceedings taken to quash the award. The appellant instead chose to file the suit for declaratory orders and compensation. As the learned Judge found in the judgment appealed from:-

“The 1st defendant had the right to appeal against the award of Borabu Land Disputes Tribunal to the appeals committee constituted for the province in which the land which was the subject matter of the dispute is situate. This is vide Section 8(1) of the Land Disputes Tribunals Act. He chose not to do so. Indeed he was even advised by the SRM's court at Keroka to do so. He never took up the challenge. Incidentally, the plaintiff had counsel on record then. He also



had a right to commence judicial review proceedings in the nature of certiorari to quash the award. Again he did not do so. I do not for once buy his excuse for the failure to do so on account of the ruling on the application to adopt the award as a judgment of the court being delivered on a date unknown to him and in his absence. And that by the time he became aware six months presumably in which he should have commenced judicial review proceedings in the nature of certiorari aforesaid had by then elapsed. I have looked at the proceedings of the Senior Resident Magistrate's court at Keroka and in particular the order adopting the award as a judgment of the court dated 23rd May, 2008. It is apparent that the plaintiff had an advocate and though he was not present on that day, I doubt that the court would have allowed the application unless it was satisfied that the respondent's counsel was duly served with the application and or a hearing notice and had failed to turn up. It is trite law that a valid judgment of a court unless overturned by an appellate court remains a judgment of court and is enforceable, the issue of jurisdiction notwithstanding. The plaintiff had all avenues to impugn the award as well as the judgment. He did nothing. As sarcastically put by counsel for the defendants in his submissions, the plaintiff chose to sleep on his rights like the Alaskan fox which went into hibernation and forgot that winter was over. In the meantime, the 1st defendant's rights to the suit premises crystallized. Equity assists the vigilant and not the indolent. The plaintiff has come to court too late in the day and accordingly, the declaratory relief must fail. I doubt that even the remedy of the declaration is available to the plaintiff to impugn a valid court judgment and decree."

34. Under the doctrine of stare decisis, the above pronouncement by the Court of Appeal is the prevailing law on the issue. It overrides any contrary observation that may have been made by Gacheru J during interlocutory proceedings in this suit.
35. Consequently, it follows that unless and until the award of the Tribunal and the consequential decree are set aside as by law provided, the defendant cannot be said to be a trespasser on the one-acre portion of land parcel number Ndeiya/Ndeiya/1419. That is my finding on the first issue.
36. Similarly, for the same reasons, unless the award of the Tribunal and decree of the magistrate court are set aside as by law provided, the defendant, together with his siblings, are entitled to be registered as proprietors of the one-acre portion of parcel number 1419.
37. The third issue is whether the said one acre portion forms part of the free estate of the late Kiarie Kiuna. The Tribunal having awarded the one-acre portion to the defendant together with his siblings, the one-acre portion ceased to be part of the free property of the late Kiarie Kiuna. The plaintiffs were wrong in inviting the Succession Court to distribute the entire 8 acres as the free estate of Kiarie Kiuna. The one-acre portion of Ndeiya/ Ndeiya/1419 was not and is not part of the free estate of the late Kiarie Kiuna. The plaintiffs were obligated to disclose to the Succession Court that one acre out of the eight acres had ceased to be part of the free property of Kiarie Kiuna. They withheld the information.
38. In light of the court's finding on the preceding issues, it follows that the plaintiffs have failed to prove their case and are therefore not entitled to the reliefs sought in the plaint.
39. On the reliefs sought in the counterclaim, the defendant presented evidence to the effect that, together with his siblings, they are entitled to the one-acre portion pursuant to the award of the Tribunal and the decree of the Limuru SPM Court in Land Case No 10 of 2006. Consequently, the court is satisfied that the defendant is entitled to payers (a), (b), (c) and (d) of the counterclaim.



40. The defendant sought damages as a consequence of the demolition of his structure by the plaintiffs. Other than pleading the claim in the counter claim, no evidence was adduced to prove the exact loss. Indeed, the defendant's written submissions did not address this particular limb of the counterclaim. Consequently, I will not award the defendant any damages.
41. On costs, the general principle under Section 27 of the *Civil Procedure Act* is that costs follow the event. There is no proper reason why the defendant should not be awarded costs of the suit.
42. In the end, the primary suit and the counterclaim are disposed through the following orders:
- a. The claim [primary suit] by the plaintiffs is dismissed for lack of merit.
 - b. The counterclaim by the defendant is allowed in the following terms:
 - (i) A declaration is hereby made that the defendant and his siblings are entitled to one (1) acre out of land parcel No Ndeiya/ Ndeiya/ 1419.
 - (ii) An order is hereby made that the plaintiffs do transfer to the defendant and his siblings one (1) Acre out of Title No Ndeiya/ Ndeiya/ 1419 within thirty (90) days from today and in the event of delay, the Land Registrar, Kiambu, shall proceed to effect transfer to the defendant and his siblings 1 Acre only out of Title No Ndeiya/ Ndeiya/ 1419.
 - c. The plaintiffs shall bear costs of this suit.

**DATED, SIGNED AND DELIVERED VIRTUALLY AT THIKA ON THIS 20TH DAY OF
SEPTEMBER 2023**

B M EBOSO

JUDGE

