



REPUBLIC OF KENYA



**KENYA LAW**  
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**Maina & another (Suing as the Legal Representatives of the estate of Kanoo Kamau – Deceased) v Muchori & 2 others (Land Case 338 of 2017) [2022] KEELC 3497 (KLR) (17 August 2022) (Judgment)**

Neutral citation: [2022] KEELC 3497 (KLR)

**REPUBLIC OF KENYA**  
**IN THE ENVIRONMENT AND LAND COURT AT NAKURU**  
**LAND CASE 338 OF 2017**  
**FM NJOROGE, J**  
**AUGUST 17, 2022**

**BETWEEN**

**ELIJAH KARIUKI MAINA ..... 1<sup>ST</sup> PLAINTIFF**

**JOSEPH MAINA ..... 2<sup>ND</sup> PLAINTIFF**

**SUING AS THE LEGAL REPRESENTATIVES OF THE ESTATE OF KANOO  
KAMAU – DECEASED**

**AND**

**EDWARD MUCHORI ..... 1<sup>ST</sup> DEFENDANT**

**JOHN GIKONYO GITAHU ..... 2<sup>ND</sup> DEFENDANT**

**JOSEPH NGANGA MBUGUA ..... 3<sup>RD</sup> DEFENDANT**

**JUDGMENT**

**Plaint**

1. In the plaint dated 25/8/2017 which was filed on 30/8/2017 the plaintiffs pray for judgment against the Defendants for the following orders:
  - a. A declaration that the Plaintiffs are the legal owners of the parcel of land known as Title Number Kijabe/Kijabe Block 1/2363 which has been subdivided into Kijabe/Kijabe Block 1/22258, 22259, 22260 and 22261 holding it in trust for the beneficiaries of the Estate of Kanoo Kamau (Deceased).
  - b. A permanent injunction restraining the 2<sup>nd</sup> and 3<sup>rd</sup> Defendants by themselves, their employees, agents servants from leasing, charging, selling and or interfering in any manner with Title Number Kijabe/Kijabe Block 1/22258,22259, 22260 and 22261.



- c. An order of cancellation of the Title Deed of Title Number Kijabe/Kijabe Block 1/22258,22259, 22260 and 22261 issued to the 2<sup>nd</sup> and 3<sup>rd</sup> Defendants and an order for rectification of the Register to reflect the Plaintiffs' name.
  - d. Costs and interests of this suit.
2. The plaintiffs' case is that they are the administrators of Kanoo kamau, deceased, who in 1971 purchased a share in Maai Mahiu Kijabe Longonot Company Limited and had it registered in his name. On 28/5/1971 a share certificate was issued in his name; following a balloting exercise Kanoo got ballot no 2363 and he was later allocated the suit land and he enjoyed quiet possession thereof; he paid the necessary land registration fees but issuance of title delayed. It is averred that the defendants have never been in possession of the suit property, and that the plaintiff has been in occupation and use thereof since the demise of his late father. It is alleged that the 1<sup>st</sup> defendant fraudulently sold the suit land to the 2<sup>nd</sup> and 3<sup>rd</sup> defendants herein on 16/3/2016. The 2<sup>nd</sup> and 3<sup>rd</sup> defendants then fraudulently subdivided the suit land into four portions hence the instant suit.

### **Defence.**

3. The defendants filed their joint statement of defence on 17/12/2019. They denied the claim that the plaintiffs have ever been in possession of the suit property. They further aver that the 1<sup>st</sup> defendant was the registered proprietor of the suit land until the transfer thereof to the 2<sup>nd</sup> and 3<sup>rd</sup> defendants, who aver that they have had quiet enjoyment of the premises since the date of transfer. The defendants further aver that the purported transfer to Kanoo Kamau by the Government of Kenya is a nullity and the purported instrument of transfer dated 4/6/2010 is a forgery.

### **Evidence of the parties.**

4. PW1, Joseph Maina Gathitu testified orally and adopted his written witness statement which was filed in this case on 30<sup>th</sup> August 2017. He produced copies of the documents in the plaintiffs' list dated 25<sup>th</sup> August 2017 as exhibits P. Exh 1 to 11 respectively. He stated that he obtained a grant of letters of administration on 22<sup>nd</sup> August 2016 in Nakuru P & A Cause No. 223/2016. The deceased Kanoo Kamau was his grandfather. PW1's father was called Wilson Gathitu and was Kanoo's first born. PW1 claimed to have brought this case on behalf of the whole family of Kanoo. The suit property is Kijabe/Kijabe Block 1/2363. His grandfather, Kanoo Kamau, was a member of Mai Mahiu Kijabe Longonot Co. Ltd and he paid for the plot. The said company wrote a letter dated 23<sup>rd</sup> February 2017 (P. Exh 1) which confirms that Kanoo was its member. He paid Kshs. 1,000/= to the company for 1 share which was equivalent to 5 acres and he was issued with a receipt dated 28<sup>th</sup> May 1971 (P. Exh 12.) He also paid Kshs.160/= for the title on 25<sup>th</sup> July 1985 and was issued with a receipt (P. Exh 3.) He took possession and used the land until 1992 when he went to live with his son. From 1992, Elijah Kariuki Maina (1<sup>st</sup> Plaintiff) had possession of the suit land on behalf of the family until one day in 2016 when they found that the land had been ploughed at night. The 1<sup>st</sup> plaintiff registered a caution (P. Exh 4.) They also conducted official searches on 7<sup>th</sup> June 2010 and on 14<sup>th</sup> February 2017 (P. Exh 9 and 10.) Regarding D.Exh 4, he testified that they did not receive that notice of intention to remove their caution on the title, which notice seems to have been addressed to Box 57 Matathia which is different from the address that was given when registering the caution. Elijah Kariuki was younger brother to PW1's father and was following up the matters relating to the suit land. He passed on 20<sup>th</sup> February 2018 as per his death certificate (P. Exh 13). The defendants did not purchase the land either from PW1's grandfather or from the family. Although his grandfather paid for the title in 1985, he



did not collect the title because he was old. The government executed a stamp in his favour on 4<sup>th</sup> June 2010 but he was deceased by then.

5. Upon cross-examination by Mr. Kibera, PW1 stated that his grandfather had many children. 3 are deceased. As at the death of his grandfather, his sons were alive, including the 1<sup>st</sup> plaintiff herein. They obtained an ad litem grant that they used for filing this suit. His grandfather had other land. He was buried on Gathitu Maina's land. The other properties which were in his grandfather's name still remain in his names. No full grant has been obtained in respect of his estate, but they have petitioned it in Nakuru HCC Succ. Cause No. 419 of 2016 in respect of his grandfather's estate. His 3 aunties who are alive have no right or claim over the suit property. P. Exh 11 was issued to them at the office of the company. It does not state the plot number of the suit property. By then, the title had been issued. The company still exists and has an office but they have not sued it. P. Exh 4 does not have the Land Registrar's stamp or signature. It does also not show date of registration. He did not know if P. Exh 4 is what the 1<sup>st</sup> plaintiff used to register the caution. Stamp duty was paid on 4<sup>th</sup> June 2010 for the transfer to Kanoo (P. Exh 5). The stamp duty was paid by 1<sup>st</sup> plaintiff. He did not however produce the receipt evidencing payment thereof. The transfer was from the Government of Kenya to Kanoo Kamau (deceased). No photo of the transferor or transferee is affixed on the transfer. The transferor did not also sign the transfer. At page 2, the Land Registrar certified that his deceased grandfather appeared before him and acknowledged signing the transfer. The name of the Registrar is not clear. The Land Registrar did not sign the transfer or indicate date of registration. PW1's grandfather used to cultivate the land. He had erected a temporary fence around it. He used the land together with his children until he passed away. The family continued using the land until 2016 when neighbours informed them that some people had come at night and ploughed the whole land. They did not report to the police. That was around 2016 and they confirmed the grabbing of the land in 2017 when they conducted a search. As early as 2010 they knew that there was someone claiming the land. They reported to Naivasha police. The police searched for Edward Muchori whose name is in the P Exh 9 (certificate of official search) but they did not find him. They were not living on the land at 2010 but only used to cultivate it. Their neighbour saw someone who used to inspect the plot in the year 2010 and informed them. It turned out that it was Edward Muchori. Their grandfather paid Kshs.160 for title deed on 25<sup>th</sup> July 1985. The title was issued but his grandfather did not collect it from Naivasha Land Registry. He told them while still alive that he had not collected title. After his death they did not immediately follow up on the issuance of the title. They stated following up when they learnt that someone was claiming the land. PW1 did not have anything to show that title was issued in his grandfather's name during his lifetime. He personally, never went to the land registry to enquire if the land was ever registered in his grandfather's name. P. Exh 1 has a handwritten note dated 28<sup>th</sup> November 2014 at the bottom. The note was written by the 1<sup>st</sup> plaintiff to the Settlement Officer Naivasha.
6. Upon re-examination by Mr. Mbiyu he stated as follows: that there is a further note on P. Exh 1 numbered (2) which states that the plot was registered in the name of Kanoo. The 1<sup>st</sup> plaintiff is the one who used to follow up the issues of the land. P. Exh 4 is an application for registration of caution by 1<sup>st</sup> plaintiff. Item No. 4 in the defendants' bundle confirms that the caution was registered. P. Exh 5 is stamped by the government. It would not have been stamped if payment had not been received by the government. However, the document does not state anywhere that his grandfather appeared before the Land Registrar on any date. When they learnt in 2016 that the plot had been ploughed, they decided to file this case. Earlier on they had taken action by registering a caution against the title and also reporting to the police when they realised that somebody else was claiming the land. They used to plant maize and beans on the land from 1985.



7. PW2, Titus Muigai Mbugua testified on 3/2/2022 and adopted his written witness statement filed on 9/12/2019 as his evidence-in-chief. He knew Kanoo Kamau (the deceased) from the year 1961. He described him as a short and light skinned man. He and Kanoo were members of the company Maai Mahiu Kijabe Longonot Co. Ltd. He had 2 shares in the company. His evidence is that he has a share certificate (PExh.14), receipt (PExh.15 (a)) and title deed (P Exh.16); his share certificate bore plot No. 2091 and thus his title emanating from the share certificate bears plot No. 2091. He stated that they purchased the land in 1969. It was 2 acres. They took possession in 1964. Subdivision was conducted in 1984 and title deeds were issued in 1985. He could not remember the number of the plot Kanoo was allocated.
8. Upon cross-examination by Mr. Kibera, PW2 stated that they began paying for the shares in 1969 and they became shareholders then. They were not directors of the company but only shareholders. Kanoo built a dwelling house on the land but it is no longer there. PW2 lives on his plot in the vicinity but Kanoo had two homes. He cannot remember the year when he first noticed that Kanoo's house was no longer there. He sold one of his plots in 1990. He subdivided his land into 3 acres and 2 acres and sold to Kanoo the 3 acres and new numbers were issued. The 2-acre plot that remained is still there. Plot No. 2091 is still there intact unsold. It is cultivated. In his observation, it is as if grass is planted on the plot of Kanoo. His land is some distance from the suit land. The main farm was about 24,000 acres before subdivision.
9. The evidence of PW2 marked the close of the Plaintiffs' case.

## Defence

10. DW1, John Gikonyo Gitahi, the 2<sup>nd</sup> defendant gave oral evidence and adopted his witness statement dated 17/12/2019 filed in the court record as his evidence-in-chief. DW1 stated that Joseph Nganga Mbugua, the 3<sup>rd</sup> defendant and Edward Muchori, the 1<sup>st</sup> defendant, are known to him. He and Joseph bought the land from Edward who formerly owned it.
11. Upon cross-examination by Mr. Mbiyu DW1 stated that to him, it was not a requirement to file authority from the other defendants granted to him in this case to prosecute it. He admitted that there is no title exhibited in court bearing the 1<sup>st</sup> defendant's name, yet paragraph 6 of the defence claimed that Edward was the registered owner. However, he stated that the transfer was done by his lawyer. He admitted to not knowing the history of acquisition by the 1<sup>st</sup> defendant. To him, it was not necessary for me to know it. He maintained that there was no record of the transfer from the Government of Kenya to Kanoo at the Lands office and he dismissed that transfer as a forgery.
12. DW1 admitted that the title produced as DExh.1 was issued on 16/3/16, while DExh.2, a search dated 4/5/11, reads that there is a caution dated 7/6/2010 lodged by one Elijah Kariuki reflected on the search. However, at the time of purchase of the land there was no caution registered against the title. He also admitted that while the caution entry has P.O Box 57 Naivasha. DExh.4 the letter purportedly notifying the cautioner that the caution may be removed after 30 days from the date thereof, is addressed to P.O Box 57 Matathia.
13. When shown DExh.5, he admitted that there were people cultivating the suit land at the time of purchase. He stated that James Koigi Munge who was named in the agreement as the person to continue transacting regarding the land, was Edward Muchori's father. Edward, the person named as purchaser was however also present at the execution as the land was his. DW1 did not have anything to show Koigi was Edward's father. The agreement was prepared by Caleb Africa Limited. Caleb was the name of the Surveyor. When shown DExh.11 the report of the land fraud investigation unit, paragraph 3 he admitted that Koigi later died. He stated that it was only the Land Registrar who could answer



- regarding the contents of the notice of removal of caution, DExh.4 and averred that as buyer he was only interested only in the search and he did not need to go into the history of the suit land.
14. Upon re-examination by Mr. Kibera he stated that by the date of the certificate of official search (DExh.2) that is 4/5/2011 Edward Muchori was the registered proprietor.
  15. DW2, Philip Matthew Odida, the Chief Land Registration Officer based in Naivasha Land Office testified in the defendants' case and produced a certified copy of Green card for plot Kijabe/Kijabe Block 1/2263 as DExh.12. DW2 stated that the green card shows the history of and dealings with the land. According to that document, the register in respect of the suit land was opened on 26/4/1985 under the name of the Government of Kenya. Thereafter, the same parcel was transferred to Edward Muchori on 10/2/2006 and a title deed was issued on the same day. On 9/6/2010, a caution was lodged by one Elijah Kariuki claiming a beneficiary's interest. On 21/2/2011, the caution lodged was removed under S.138 (2) of RLA (repealed).
  16. On 13/5/2013, a caution was lodged by Elijah Kariuki again claiming a beneficiary's interest. On 4/11/2019, a caution was lodged by John Gikonyo Gitahi and Joseph Nganga claiming purchaser's interest. On 16/3/16 the first caution was removed under S.73(3) LRA and the second caution was removed the same day. On 16/3/2016 the same parcel was transferred to John Gikonyo and Joseph Nganga and title issued same day. On 13/10/2016 the title was closed on subdivision and the resultant plots numbers were 22258 – 22267 (inclusive.)
  17. When shown PExh.5 he stated that it was a transfer of land on the face of which is the endorsement "R/R" meaning it was rejected for the given reason that another transfer has been registered in another person's name. In his view a transfer of land cannot issue to a deceased person as PExh.4 purports to do so.
  18. Upon cross-examination by Mr. Mbiyu, DW2 stated that a postal address is given by the lodger of a caution. He admitted that the Plaintiff lodged cautions on the title on 9/6/2010 and 13/5/13. However, he has not found the notice of removal in respect of one caution. He stated that the land was owned by Maai Mahiu Kijabe Longonot Company Ltd. He stated that one has to have had a ballot, a share certificate and evidence of payment to be registered as owner, and the titles are issued based on the Register held by the company.
  19. DW2 admitted that he only had the transfer from 1<sup>st</sup> defendant to the 2<sup>nd</sup> and 3<sup>rd</sup> defendants in his records; he did not have any transfer between the company and Edward Muchori in the original parcel file which he had carried to court. He indicated that the Directors of the Company and the Government have to sign the transfer to have the land transferred. The defence case was at that point marked as closed and parties were ordered to file submissions.

## **Determination.**

### **Issues for determination.**

20. Upon consideration of the pleadings, the evidence and the submissions of the parties the issues that come to the fore for determination are as follows:
  - a. Who between Kamau Kanoo and Edward Muchori was the owner of the suit land?
  - b. Whether the 2<sup>nd</sup> and 3<sup>rd</sup> defendants are bona fide purchasers for value without notice and whether the title they hold ought to be cancelled;
  - c. Who ought to bear the costs of this litigation.



21. It is the plaintiffs' submission that they have by way of documents produced established that Kanoo Kamau (deceased) owned the suit land while the defendants think otherwise.
22. The plaintiffs primarily rely on a share certificate, a ballot paper, a payment receipt all issued in the name of the deceased; also produced as evidence on their behalf is a letter dated 23/02/2017 from the company appearing to confirm the deceased was its member who was allocated the plot whose number is on the ballot paper in his name. To boost the strength of their evidence, they called a witness, PW2, who owns land a little distance away from the suit land, and who testified that he knew the deceased, having been together at the time of buying their respective shares in the company.
23. DW2, a government officer in the ministry concerned with land issues, testified that one has to have had a ballot, a share certificate and evidence of payment to be registered as owner. He stated that titles are issued based on the Register held by the company.
24. This court notes that the defendants never produced any evidence of their allocation of land by the company and that their narrative only commences with the fact of registration of the 1<sup>st</sup> defendant as proprietor. This court has also had good reason to favourably considered the evidence of PW2: the land registration fees receipt he produced resembles that issued in the deceased's name save for the names, date and serial number. Both were issued by the provincial administration but on different dates. His plot certificate dated 8/2/1984 issued by the company closely resembles that of the deceased issued the same date. The plot number 2091 on his plot certificate is the same plot number in the land description in the title deed that was issued to him which emanated from his plot allocation certificate, which therefore reads as Kijabe/Kijabe Block 1/2091; however, the plot number 2363 appearing on the deceased's plot allocation certificate did not yield a title deed and the reason is now obvious: that title deed was instead issued to the 1<sup>st</sup> defendant and described as Kijabe/Kijabe Block 1 /2363, yet the 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> defendants failed to produce any plot allocation certificate issued in the 1<sup>st</sup> defendant's name and bearing that plot number.
25. As I stated earlier herein before, the 2<sup>nd</sup> and 3<sup>rd</sup> defendants' narrative begins only with the fact of registration of the 1<sup>st</sup> defendant as the proprietor. That is not a satisfactory state of affairs, for that title is under challenge and its roots must be examined. If it can not be established by the defendants that the title was issued pursuant to basic documents including a share certificate, a ballot paper or vote card, or a plot allocation certificate issued by the company to the 1<sup>st</sup> defendant bearing the plot number 2363, then the defendants' claim to ownership is in great jeopardy, for the defendants will not have demonstrated how the 1<sup>st</sup> defendant's title was obtained.
26. It is very curious that the 2<sup>nd</sup> and 3<sup>rd</sup> defendants, who now purport to hold title to the suit land, never secured any share certificates or land registration receipts or plot allocation certificate from the 1<sup>st</sup> defendant, and there is probability that he may have had none. It is further curious that they never called the 1<sup>st</sup> defendant to testify and produce such documents as may have been in his possession as would have satisfied the court that the 1<sup>st</sup> defendant was a member of Maai Mahiu Kijabe Longonot Co Ltd. DW2 on his part admitted that he only had the transfer from 1<sup>st</sup> defendant to the 2<sup>nd</sup> and 3<sup>rd</sup> defendants in his records; he did not have any transfer between the company and Edward Muchori (the 1<sup>st</sup> defendant) in the original parcel file which he had carried to court. That is the file in which, if the transfer had been made, it ought to have been stored. DW2 indicated that the Directors of the Company and the Government had to sign the transfer to have the land transferred to a company member and I do not doubt the truthfulness of his evidence at all. The conclusion that this court arrives at is that there was no such transfer to the 1<sup>st</sup> defendant from the government and the company and that the 1<sup>st</sup> plaintiff's title had no root in the allocation process which was conducted by the company



- by way of balloting among its members and issuance of a plot allotment certificate. The very fact that the 1<sup>st</sup> defendant's title was issued without that process being followed is per se evidence of fraud. I find that the proprietor of the suit land was Kanoo Kamau and that the title thereto was issued to Edward Muchori fraudulently.
27. The next issue to be addressed is whether the 2<sup>nd</sup> and 3<sup>rd</sup> defendants are bona fide purchasers for value without notice and whether the title they hold ought to be cancelled. In urging that they are not bona fide purchasers whose claim to the suit land may be protected by the court, the plaintiff averred that they did not establish that the 1<sup>st</sup> defendant legally acquired the title to the suit land. The plaintiffs quoted the case of *Weston Gitonga & 10 Others Vs Peter Rugu Gikanga & Anor* 2017 eKLR. They also relied on the case of *Kenya Anti-Corruption Commission Vs Online Enterprises Limited & 4 Others* 2019 eKLR.
28. In urging that the 2<sup>nd</sup> and 3<sup>rd</sup> defendants are not bona fide purchasers, the plaintiff emphasised on one main issue: the apparent unprocedural removal of cautions that they had lodged on the title or the flagrant disregard thereof. The plaintiffs aver there were two cautions registered against the title but I find no conclusive proof of a second caution and thus I will address only the registered caution. The caution alleged to have been the first was registered against the title on 9/6/2010 and D. Exh 2, a certificate of official search, the defendants' own evidence in the matter, is clear evidence of that fact. That search was issued before the 2<sup>nd</sup> and 3<sup>rd</sup> defendants were registered as proprietors of the suit land. It is possible that they were preparing to have the same transferred into their names then. It is therefore correct to state that the production by the defendants of that certificate of official search as evidence in this suit per se shows that before title issued to the 2<sup>nd</sup> and 3<sup>rd</sup> defendant, they had notice of the plaintiff's claim over the property owing to the existence of the registered cautions. Curiously, the Land Registrar issued a notice dated 28/1/2016, of intention to remove a caution under Section 73(3) of the *Land Registration Act* but apparently dispatched it to a strange address not provided by the lodger of the caution. Consequently, this court is convinced that the said caution was not procedurally removed. It was improperly removed. There was no notice of removal regarding the second caution. It is quite telling that the Registrar's notice dated 28/6/2016 was copied to the 2<sup>nd</sup> and 3<sup>rd</sup> defendants before title was registered in their name. It must have been at that time that they were seeking to acquire title to the property, and they must have proffered their names and address so that the Registrar may copy the notice to them while the land was still registered in the 1<sup>st</sup> defendant's name; there is no magical way in which the Land Registrar would have known of their names and address. They must have provided them. The notice is also not copied to the 1<sup>st</sup> defendant which suggests that either the 1<sup>st</sup> defendant is non-existent or that the 2<sup>nd</sup> and 3<sup>rd</sup> defendants got the caution removed without his participation. This is also highly irregular.
29. The worst mistake of the 2<sup>nd</sup> and 3<sup>rd</sup> defendants is that they not only failed to exercise sufficient caution once they learnt that a caution had been lodged over the property, but also proceeded to have caution removed at their instance and subsequently obtained registration of the title in their name.
30. In the light of the foregoing facts it is this court's opinion that the 2<sup>nd</sup> and 3<sup>rd</sup> defendants, besides not having established that the root of the 1<sup>st</sup> defendant's purported title was valid, also knew of the plaintiffs' interest in the suit land hence they can not by any stretch of the imagination be termed as bona fide purchasers for value without notice.
31. The upshot of the foregoing is that the plaintiffs have proved their claim against the defendants jointly and severally on a balance of probabilities and I therefore enter judgment in their favour against the defendants and I issue the following final orders:



- a. A declaration is hereby issued, declaring that the estate of Kanoo Kamau, deceased, is the legal proprietor of all that parcel of land known as Title Number Kijabe/Kijabe Block 1/2363 which has been purportedly subdivided into Kijabe/Kijabe Block 1/22258, Kijabe/Kijabe Block 1/22259, Kijabe/Kijabe Block 1/22260 and Kijabe/Kijabe Block 1/22261;
- b. An order of permanent injunction is hereby issued restraining the 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> Defendants by themselves, their employees, agents, servants from leasing, charging, selling and or interfering in any manner with Title Number Kijabe/Kijabe Block 1/22258, Kijabe/Kijabe Block 1/22259, Kijabe/Kijabe Block 1/22260 and Kijabe/Kijabe Block 1/22261;
- c. The Title Deeds of Title Number Kijabe/Kijabe Block 1/22258, Title Number Kijabe/Kijabe Block 1/22259, Title Number Kijabe/Kijabe Block 1/22260 and Title Number Kijabe/Kijabe Block 1/22261 are hereby cancelled and the Director Of Surveys shall rectify the registry index map to reinstate Title Number Kijabe/Kijabe Block 1/2363 as it was before the purported subdivision that brought forth Title Number Kijabe/Kijabe Block 1/22258, Title Number Kijabe/Kijabe Block 1/22259, Title Number Kijabe/Kijabe Block 1/22260 and Title Number Kijabe/Kijabe Block 1/22261;
- d. The Land Registrar, Nakuru shall rectify the Register by cancelling all the names of the defendants from the register in respect of the suit land whether described by its original number Title Number Kijabe/Kijabe Block 1/2363 or by the title numbers Title Number Kijabe/Kijabe Block 1/22258, Title Number Kijabe/Kijabe Block 1/22259, Title Number Kijabe/Kijabe Block 1/22260 and Title Number Kijabe/Kijabe Block 1/22261 and further by registering the estate of Kanoo Kamau, deceased as the proprietor to the suit land as reinstated in the registry index map under the description of Title Number Kijabe/Kijabe Block 1/2363;
- e. The three defendants shall jointly and severally bear the plaintiffs' costs of and incidental to the instant suit.

It is so ordered.

**DATED, SIGNED AND DELIVERED AT NAKURU VIA ELECTRONIC MAIL ON THIS 17<sup>TH</sup> DAY OF AUGUST, 2022.**

**MWANGI NJOROGE**

**JUDGE, ELC, NAKURU**

