



**Ng'ang'a & another v Kiambu Dandora Farmers Company Limited & 4 others (Environment & Land Case E301 of 2021) [2025] KEELC 3986 (KLR) (7 May 2025) (Judgment)**

Neutral citation: [2025] KEELC 3986 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT NAIROBI  
ENVIRONMENT & LAND CASE E301 OF 2021**

**JO MBOYA, J**

**MAY 7, 2025**

**BETWEEN**

**SARAH WANJIKU NG'ANG'A ..... 1<sup>ST</sup> PLAINTIFF**

**JOEL GICHANGI NDEGE ..... 2<sup>ND</sup> PLAINTIFF**

**AND**

**KIAMBU DANDORA FARMERS COMPANY LIMITED ..... 1<sup>ST</sup> DEFENDANT**

**NAIROBI METROPOLITAN SERVICES ..... 2<sup>ND</sup> DEFENDANT**

**NAIROBI CITY COUNTY ..... 3<sup>RD</sup> DEFENDANT**

**DEPUTY COUNTY COMMISSIONER, EMBAKASI SUB-COUNTY .... 4<sup>TH</sup>  
DEFENDANT**

**HON ATTORNEY GENERAL ..... 5<sup>TH</sup> DEFENDANT**

**JUDGMENT**

1. The Plaintiffs herein approached the Court vide Plaint dated the 5<sup>th</sup> day of August 2021 and wherein the Plaintiffs have sought the following reliefs[verbatim]:
  - a. The Honourable Court be pleased to issue a permanent Injunction restraining the Defendants whether by themselves, or through their directors, employees, servants, representatives or agents or through any other person claiming under or through them or otherwise howsoever, from trespassing into, demolishing, surveying, constructing upon, carrying out unlawful acts of violence, destruction or eviction against the Plaintiff and/or their servants, agents and/or employees, or in any other manner interfering, further interfering and/or dealing in any other manner interfering with the 1<sup>st</sup> and 2<sup>nd</sup> Plaintiff's right to quiet possession, enjoyment, ownership and use of the parcel of land known as Land Reference Number 15400/59.



- b. The Honourable Court be pleased to Order the Ward Commander, Soweto Police Station to avail all necessary assistance and security to secure the right of the 1<sup>st</sup> and 2<sup>nd</sup> Plaintiffs to occupy and use the parcel of land known as Land Reference Number 15400/59 situated in Embakasi District in the Nairobi City County and to prevent the interference, invasion and trespass by the Defendants or any of them or their agents, servant or persons acting in their name and to supervise the removal of all structures, buildings, beacons or things placed on the said Property by the Defendants and to ensure that the 1<sup>st</sup> and 2<sup>nd</sup> Plaintiffs enjoy quiet and interrupted possession and use of the Suit Property and to ensure that the Orders of the Honourable Court are complied with and enforced.
  - c. Costs of this Suit.
  - d. Any further or other Order as this Honourable Court may deem fit.
2. The 1<sup>st</sup> Defendant duly entered Appearance and thereafter filed a Statement of Defence. The Statement of Defence is dated the 8<sup>th</sup> day of March 2022 and wherein the 1<sup>st</sup> Defendant has denied the Claims by and on behalf of the Plaintiffs. Furthermore, the 1<sup>st</sup> Defendant has contended that same is the lawful and registered proprietor of LR NO. 11379/3 situated within the City of Nairobi.
  3. Additionally, the 1<sup>st</sup> Defendant has also averred that the Title held by the Plaintiffs herein is irregular, illegal and thus invalid. In any event, the 1<sup>st</sup> Defendant has posited that the Title in respect of LR NO. 11379/3, registered in the name of the First Defendant, has never been compulsorily acquired.
  4. The 2<sup>nd</sup> Defendant did not enter Appearance and/or file any Statement of Defence. In any event, it is common ground that the 2<sup>nd</sup> Defendant ceased to exist immediately following the conclusion of the August 2022 General Elections. To this end, the continuation of the suit against the 2<sup>nd</sup> Defendant is void.
  5. The 3<sup>rd</sup> Defendant duly entered Appearance and thereafter filed a Statement of Defence. The Statement of Defence by the 3<sup>rd</sup> Defendant is dated the 18<sup>th</sup> day of October 2021. In particular, the 3<sup>rd</sup> Defendant has denied the claims raised by the Plaintiffs. Furthermore, the 3<sup>rd</sup> Defendant has contended that same was never involved in the offensive demolitions complained of by the Plaintiffs.
  6. The 4<sup>th</sup> and 5<sup>th</sup> Defendants also entered Appearance and filed Statements of Defence. Suffice it to state that the Statement of Defence on behalf of the 4<sup>th</sup> and 5<sup>th</sup> Defendants was filed by the Hon. Attorney General. In addition, the Hon Attorney General denied the claims by the Plaintiffs.
  7. The subject matter came up for the usual case Conference, whereupon the Advocates for the Parties confirmed to the Court that same had filed and exchanged all the requisite pleadings, list and Bundle of documents and witness Statements. To this end, the parties highlighted that the matter was ready for Hearing.
  8. The Plaintiffs case is premised on the evidence of one Witness, namely, Sarah Wanjiku Ng'ang'a. Same testified as PW1.
  9. The Witness testified that same is the 1<sup>st</sup> Plaintiff. In this regard, the Witness averred that same is therefore conversant with the facts of the case. Furthermore, the witness testified that same has since recorded and filed a witness statement. To this end, the witness referenced the Witness Statement dated the 5<sup>th</sup> August 2021 and which witness statement the witness sought to adopt and rely on as her evidence in chief. In this regard, the witness statement was duly adopted and constituted as the evidence in chief of the witness.



10. Moreover, the witness also intimated that same is a wife to the 2<sup>nd</sup> Plaintiff. In this regard, the witness testified that the 2<sup>nd</sup> Plaintiff has since given unto her authority to attend Court and testify on his [2<sup>nd</sup> Plaintiff's] behalf. In addition, the witness referenced the authority which same sought to adopt and rely on. Instructively, the Authority to Act and plead was adopted as part of the exhibit[s] on behalf of the Plaintiffs.
11. Additionally, the witness referenced the List and Bundle of Documents dated the 5<sup>th</sup> August 2021, containing three documents and which documents the witness sought to adopt and produce before the Court as exhibits. There being no objection to the production of the documents, same were produced as exhibits P1- P3, respectively on behalf of the Plaintiffs.
12. The witness also cited the list and bundle of documents dated the 10<sup>th</sup> June 2022, containing 14 documents and which documents the witness sought to adopt and produce before the Court. There being no objection to the production of the documents, same [ documents] were produced and admitted as exhibits P5 – P18, respectively on behalf of the Plaintiffs.
13. Moreover, the witness alluded to the Plaint dated the 5<sup>th</sup> August 2021 and the Verifying Affidavit. To this end, the witness sought to adopt and rely on the Plaint and the Verifying Affidavit. Furthermore, the witness adopted the reliefs sought thereunder.
14. On cross examination by Learned Counsel for the 1<sup>st</sup> Defendant, the witness averred that same bought/ Purchased the suit property in the year 2012. In addition, the witness averred that the suit property was purchased from Amboseli Court Limited. Besides, the witness testified that prior to and before purchasing the suit property, the 2<sup>nd</sup> Plaintiff and herself conducted an official Search over the suit property.
15. It was the further testimony of the witness that upon undertaking the official search, same established that the suit property was duly registered in the name of Amboseli Court Limited. Nevertheless, the witness averred that same has not produced a copy of the Certificate of Official Search.
16. The witness further testified that same has sued the 1<sup>st</sup> Defendant because the 1<sup>st</sup> Defendant herein is the one who demolished her wall. In addition, the witness averred that the 1<sup>st</sup> Defendant has also been claiming to be the lawful owner of the land in question.
17. While still under cross examination, the witness averred that same is not aware whether the 1<sup>st</sup> Defendant has any Title to the land. Furthermore, the witness testified that same has never seen any Certificate of Title in the name of the 1<sup>st</sup> Defendant.
18. It was the further testimony of the witness that it is the 1<sup>st</sup> Defendant who undertook the demolition. Moreover, the witness averred that the 1<sup>st</sup> Defendant undertook the demolition through goons.
19. The witness further testified that she knew that it is the 1<sup>st</sup> Defendant who undertook the demolition because the officials of the 1<sup>st</sup> Defendant were involved. Besides, the witness averred that the officials who were involved confirmed that same were from the 1<sup>st</sup> Defendant.
20. On further cross examination, the witness averred that same did not carry out and/or undertake any Search to ascertain the directorship of the 1<sup>st</sup> Defendant. In addition, the witness averred that same is aware that the 1<sup>st</sup> Defendant's land was compulsorily acquired. In this regard, the witness has alluded to various documents which have since been tendered and produced before the Court. In particular, the witness added that the compulsory acquisition was undertaken by the Commissioner of Lands.



21. It was the further testimony of the witness that the documents that same has tendered and produced demonstrate that the money at the foot of the compulsory acquisition was deposited in Court. Moreover, the witness averred that the money was deposited in court because there was a dispute pertaining to ownership of the land being claimed by the 1<sup>st</sup> Defendant.
22. While still under cross examination, the witness testified that same has since tendered and produced a copy of the Letter of Allotment in the name of Amboseli Court Limited. Nevertheless, the witness has averred that the Letter of Allotment which same has produced before the Court is incomplete. In particular, the witness has testified that the Letter of Allotment is a single page document.
23. The witness further testified that the Letter of Allotment relates to and concerns an un-surveyed land. However, it was the testimony of the witness that the land in question was thereafter surveyed and thereafter assigned a parcel Number.
24. Additionally, the witness testified that upon purchase of the suit property, same [witness] was issued with a Certificate of Title. In any event, the witness averred that one piece of land can only have one Certificate of Title at a time and not otherwise.
25. On cross examination by Learned Counsel for the 3<sup>rd</sup> Defendant, the witness averred that the 3<sup>rd</sup> Defendant has been sued because same [3<sup>rd</sup> Defendant] was involved in the demolition of the perimeter wall. In particular, the witness averred that the official[s] of the 3<sup>rd</sup> Defendant came to the land. Furthermore, the witness averred that the officials of the 3<sup>rd</sup> Defendants were using motor vehicles. However, the witness clarified that same has not referenced the registration numbers of the vehicles.
26. It was the further testimony of the witness that the 2<sup>nd</sup> Plaintiff and herself bought the land from Amboseli Court Limited. In addition, the witness averred that same entered into and executed a Sale agreement. However, the witness admitted that same has not produced a copy of the Sale Agreement before the Court.
27. The witness further testified that same has been paying Rates to the 3<sup>rd</sup> Defendant. In addition, the witness averred that same has since tendered and produced before the Court evidence relating to the payment of Rates.
28. Moreover, the witness testified that the property in question was meant for residential purposes. In any event, the witness averred that the property in question is developed. It was the further testimony that the perimeter wall which was demolished was duly approved by the 3<sup>rd</sup> Defendant.
29. While under further cross examination, the witness averred that the 3<sup>rd</sup> Defendant was involved in the demolition of the perimeter wall. In addition, the witness testified that same lodged a complaint/report relating to the demolition of the perimeter wall. Besides, the witness averred that upon lodgement of the complaint, same was issued with an OB by the Police.
30. Additionally, the witness testified that same also recorded a witness statement with the Police. However, the witness averred that same is not aware whether any one has ever been arrested and/or charged as a result of the offensive demolition.
31. On cross examination by Learned Counsel for the 4<sup>th</sup> and 5<sup>th</sup> Defendants, the witness averred that the suit property was purchased by both the 2<sup>nd</sup> Plaintiff and herself. Furthermore, the witness averred that the transaction was reduced into writing. In any event, the witness testified that the land in question was thereafter transferred and registered in the Plaintiffs names.
32. The witness further testified that the 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup> Defendants are the ones who invaded the land. In addition, the witness stated that the 4<sup>th</sup> Defendant was personally present. Moreover, the witness



- added that at the onset same did not know the 4<sup>th</sup> Defendant personally. Nevertheless, the witness testified that she got to know of the 4<sup>th</sup> Defendant when the 4<sup>th</sup> Defendant told the people who were aggrieved with the demolition to visit his [4<sup>th</sup> Defendant's] offices.
33. It was the further testimony of the witness that even though the Plaintiffs bought the land from Amboseli Court Limited, same have not sued Amboseli Court Limited. In particular, the witness testified that Amboseli Court Limited has not been sued because same did not invade the Plaintiffs' land. Furthermore, the witness added that Amboseli Court Limited have not disputed the validity of the Plaintiffs' Title.
  34. On re-examination, the witness testified that same have not sued Amboseli Court Limited Because Amboseli Court Limited have not trespassed onto the suit property. In addition, the witness averred that the Plaintiffs herein were lawfully issued with a Certificate of Title.
  35. Additionally, the witness testified that even though same lodged a complaint with the Police, no one has ever been arrested and charged with the offensive demolition. In any event, the witness testified that the 2<sup>nd</sup> and 3<sup>rd</sup> Defendants were involved in the offensive demolition. Furthermore, the witness testified that the registration number plates that were being used by the 2<sup>nd</sup> Defendant were green in colour.
  36. With the foregoing testimony, the Plaintiffs case was closed.
  37. The 1<sup>st</sup> Defendant's case is anchored on the evidence of one witness, namely Joseph Mwangi Karanja. The witness testified as DW1.
  38. It was the testimony of the witness that same is a Director of the 1<sup>st</sup> Defendant. Furthermore, the witness averred that by virtue of being a Director of the 1<sup>st</sup> Defendant, same is therefore conversant with the facts of the case. In addition, the witness adverted to a witness statement dated the 8<sup>th</sup> March 2022 and which witness statement the witness sought to adopt and rely on as his evidence in chief. To this end, the witness statement was duly adopted and constituted as the evidence in chief of the witness.
  39. Moreover, the witness also referenced the list and bundle of documents dated the 8<sup>th</sup> March 2022 containing four [4] documents and which documents the witness sought to produce before the court. There being no objection to the production of the documents, same were tendered and produced as exhibits D1 – D4, respectively, on behalf of the 1<sup>st</sup> Defendant.
  40. Additionally, the witness referenced another list and bundle of documents dated the 8<sup>th</sup> March 2022, containing one [1] document. To this end, the witness sought to tender and produce the said document as an exhibit. Nevertheless, the production of the said document was objected to by the Advocates for the adverse parties. In this respect, the document in question was thereafter marked for Identification as PMFI – 5.
  41. On cross examination by Learned Counsel for the 4<sup>th</sup> and 5<sup>th</sup> Defendants, the witness averred that same is a Director of the 1<sup>st</sup> Defendant. Furthermore, the witness averred that same was elected as a Director of the 1<sup>st</sup> Defendant in the year 2005.
  42. It was the further testimony of the witness that the 1<sup>st</sup> Defendant acquired the property namely, LR NO. 11379/3 in the year 1970. Furthermore, the witness testified that the 1<sup>st</sup> Defendant was issued with a Certificate of Title on the 8<sup>th</sup> April 1970.
  43. While still under cross examination, the witness contended that the 1<sup>st</sup> Defendant has never parted with ownership of LR NO. 11379/3. In addition, the witness testified that the 1<sup>st</sup> Defendant still has custody of the original Certificate of Title. To this end, the witness testified that the 1<sup>st</sup> Defendant is the lawful owner of the land in question.



44. The witness further testified that same [witness] only came to know of the Plaintiffs' claim when the 1<sup>st</sup> Defendant was served with the Summons to Enter Appearance in respect of the instant matter. Nevertheless, the witness averred that the Plaintiffs' Title is not lawful.
45. On cross examination by Learned Counsel for the Plaintiffs, the witness averred that the land in question is LR NO. 11379/3. Furthermore, the witness added that the land in question measures 19.0 Ha. Besides, it was the testimony of the witness that the land is currently built up. Furthermore, the witness testified that the 1<sup>st</sup> Defendant has since filed Petition No. ELC 47 OF 2011.
46. While still under cross examination, the witness testified that the Petition in question related to and concerns nullification of all the Titles that could have been issued from the 1<sup>st</sup> Defendant's land. Furthermore, the witness has averred that the Petition also contains an alternative claim.
47. In addition, the witness testified that the land in question is currently occupied. Besides, the witness testified that the land is occupied by Third Parties as well as members of the 1<sup>st</sup> Defendant. In any event, the witness averred that the 1<sup>st</sup> Defendant's members have been issued with Letters of Allotment.
48. It was the further testimony of the witness that the 1<sup>st</sup> Defendant's members have also been issued with Certificate of Titles. In any event, the witness testified that Mama Lucy Hospital is also located within the 1<sup>st</sup> Defendant's land.
49. Additionally, the witness testified that the offices of the Deputy County Commissioner for Embakasi is also located on the land. Regarding document no. 13 at the foot of the Plaintiffs' List and Bundle of Documents, the witness averred that same is a copy of the Gazette Notice. Furthermore, the witness averred that the Gazette Notice in question related to an attempt to compulsorily acquire the 1<sup>st</sup> Defendant's land.
50. It was the further testimony of the witness that same has also seen a copy of the Letter of Allotment in favour of Amboseli Court Limited. Nevertheless, the witness reiterated that the Letter of Allotment is a single page document.
51. The witness further testified that the 1<sup>st</sup> Defendant lodged a Petition with the National Land Commission. Furthermore, the witness added that the Petition lodged by the 1<sup>st</sup> Defendant was subsequently heard culminating into a Report being prepared by the National Land Commission. Besides, the witness testified that same has since tendered and produced a copy of the Report by the National Land Commission as part of the exhibits on behalf of the 1<sup>st</sup> Defendant.
52. While still under cross examination, the witness testified that same is not aware of whether the Report by National Land Commission was subject to Judicial Review Proceedings. Furthermore, the witness also testified that same is aware that Nasra Estate is situated within LR NO. 11379/3.
53. It was the further testimony of the witness that same is aware that the Commissioner of Lands issued Letters of Allotment. Furthermore, the witness testified that he is privy to the fact that the Plaintiffs have been in occupation of portions of the disputed land. However, the witness averred that same is not aware of when the Plaintiffs entered into the disputed portion of land.
54. The witness testified that the 1<sup>st</sup> Defendant has since applied to have various approvals that were issued by Nairobi City Council to be cancelled and revoked. Furthermore, the witness testified that same is aware that there was a previous dispute between the rival factions of the directors of the 1<sup>st</sup> Defendant. Nevertheless, the witness testified that the dispute was resolved vide Judgment of the Court. In any event, the witness has averred that same has tendered and produced a copy of the Judgment before the Court.



55. On further cross examination, the witness averred that LR NO. 11379/3 belongs to the 1<sup>st</sup> Defendant. Nevertheless, the witness testified that same has not produced a Certificate of Official Search in respect of the land in question. Besides, the witness testified that same has also not availed a Certified copy of the Certificate of Title.
56. It was the further testimony of the witness that there are portions of LR NO. 11379/3 that are occupied by Government entities. Furthermore, the witness testified that the portions occupied by the Government entities arose from Sub-divisions of the land. In addition, the witness averred that it is the 1<sup>st</sup> Defendant who sub-divided the land and gave various portions to the Government.
57. Moreover, it was the testimony of the witness that various portions of the land have been surveyed. As concerns the Plaintiffs' Titles, the witness averred that same is not aware of whether the Plaintiffs' Titles have been cancelled by any Court of Law. Nevertheless, the witness reiterated that the 1<sup>st</sup> Defendant has never surrendered the Certificate of title to the Government.
58. On re-examination by Learned Counsel for the 1<sup>st</sup> Defendant, the witness averred that LR NO. 11379/3 has never been compulsorily acquired by the Government. In addition, the witness averred that the 1<sup>st</sup> Defendant has never been paid any monies on account of compulsory acquisition.
59. While under further re-examination, the witness averred that same is aware that the 1<sup>st</sup> Defendant has given out various portions of the land to the Government. In particular, the witness averred that the various portions that were given to the Government arose from sub-divisions of the 1<sup>st</sup> Defendant's land.
60. Regarding the Letter of Allotment in favour of Amboseli Court Limited, the witness averred that same is not aware of how the Letter of Allotment was procured and obtained. In any event, the witness testified that no one came from Amboseli Court Limited to confirm the authenticity of the said Letter of Allotment.
61. With the foregoing testimony, the 1<sup>st</sup> Defendant's case was closed.
62. The 2<sup>nd</sup> Defendant had ceased to exist by the time the subject matter proceeded for hearing. Nevertheless, the Plaintiffs did not find it appropriate to withdraw the suit as against the 2<sup>nd</sup> Defendant. In any event, having ceased to exist, the 2<sup>nd</sup> Defendant could not testify and/or offer any evidence before the Court. In short, the 2<sup>nd</sup> Defendant's case was closed without any evidence being tendered.
63. Though the 3<sup>rd</sup> Defendant duly entered appearance and filed a Statement of Defence, same however, did not call any evidence. To this end, the 3<sup>rd</sup> Defendant's case was closed without any evidence being tendered.
64. The 4<sup>th</sup> and 5<sup>th</sup> Defendants' case is premised on the evidence of one witness namely, Miriam Wanjiru Kigathi. Same testified as DW2.
65. It was the testimony of the witness that same is a Surveyor by profession. Furthermore, the witness averred that same is an employee of the Ministry of Lands, Public Works, Housing and Urban Development. Besides, the witness added that same is currently attached to the Directorate of Survey.
66. The witness further averred that same is conversant with the facts of this matter. In any event, the witness testified that same has since recorded a witness statement dated the 13<sup>th</sup> March 2023 and which witness statement the witness sought to adopt and rely on as her evidence in chief. To this end, the witness statement was duly adopted and constituted as the evidence in chief of the witness.



67. The witness further referenced a Report dated the 4<sup>th</sup> November 2022 and which report the witness sought to adopt and produce before the Court. In this regard, the Report under reference was duly produced and admitted as exhibit D1 on behalf of the 4<sup>th</sup> and 5<sup>th</sup> Defendants.
68. On cross examination by Learned Counsel for the 1<sup>st</sup> Defendant, the witness averred that same was tasked to carry out and undertake survey as pertains to LR NO. 11379/3. Furthermore, the witness averred that same thereafter proceeded to and undertook the Survey. In this regard, the witness reference the Survey Report dated the 4<sup>th</sup> November 2022.
69. It was the further testimony of the witness that same proceeded to and established the Boundary beacons. Besides, the witness also averred that same has also indicated that there are several Survey Plans that have been superimposed onto the original Survey Plan. Nevertheless, it was the testimony of the witness that same did not find any document in respect of LR NO. 11379/3 showing that the Title in question had been surrendered back to the Survey Department.
70. Moreover, the witness testified that where there is an existing Title, no other Title can be issued without the approved Sub-division scheme. In particular, the witness averred that a sub-division scheme must be approved before same can be registered. Additionally, the witness averred that a sub-division scheme must be initiated by the Registered owner.
71. It was the further testimony of the witness that same has also prepared another Report dated the 12<sup>th</sup> March 2021. The witness averred that the Report in question relates to the positions of the boundary beacons. In any event, the witness testified that no sub-division can be undertaken without surrender of the original Certificate of Title.
72. Furthermore, the witness testified that LR NO. 11379/3 arose from LR NO. 11379. Nevertheless, the witness testified that LR NO. 11379/4 did not emanate from LR NO. 11379/3.
73. On cross examination by Learned Counsel for the Plaintiffs, the witness averred that same visited the property, namely, LR NO. 11379/3, prior to preparing the Report. In any event, the witness averred that the Report is dated the 4<sup>th</sup> December 2022.
74. While still under cross examination, the witness testified that same did not ascertain who represented the Plaintiffs during the survey. Moreover, the witness added that same did not conduct any roll-call to ascertain the identities of the people who had attended the exercise.
75. It was the further testimony of the witness that a Deed plan was indeed prepared and verified by the Director of Survey. At any rate, the witness added that a Survey Plan must also originate from the Directorate of Survey. Regarding the Survey Plan tendered by the Plaintiffs, the witness averred that same were duly submitted to the Directorate of Survey.
76. Furthermore, it was the testimony of the witness that same is aware of the existence of LR NO. 11379/3. In addition, the witness testified that the land in question measures approximately 800 acres.
77. While still under further cross examination, the witness averred that the same is not aware whether the land in question was compulsorily acquired. At any rate, the witness averred that same has previously come across documents referencing LR NO. 15400 at the Directorate of Survey.
78. On re-examination, the witness averred that during the survey exercise, same established the existence of LR NO. 11379/3. Furthermore, the witness averred that before a particular piece of land can be sub-divided, the Consent of the owner must be procured and obtained. At any rate, it was averred that the owner of the land is indeed the initiator of the sub-division process.



79. While still under the re-examination, the witness averred that all the parties to the instant dispute were duly notified of the intended Survey exercise. In addition, the witness averred that the parties were notified vide a letter from the Honourable Attorney General.
80. It was the further testimony of the witness that same is not aware of whether the property namely, LR NO. 11379/3 was compulsorily acquired. In any event, the witness added that same is also not aware of whether the original Certificate of Title of LR NO. 11379/3 was surrendered or not.
81. With the foregoing testimony, the case for the 4<sup>th</sup> and 5<sup>th</sup> Defendants was closed.
82. Following the close of the hearing, the Advocates for the parties sought to file and exchange written submissions. The request by the Advocates for the parties was duly conceded by the Court. Furthermore, the Court proceeded to and prescribed the timelines for the filing and exchange of the written submissions.
83. The Plaintiffs proceeded to and filed written submissions dated the 28<sup>th</sup> February 2025 and wherein the Plaintiffs have highlighted and canvassed two [2] salient issues, namely: whether the Plaintiffs' Titles are lawful or otherwise; and whether the Plaintiffs are entitled to the reliefs sought at the foot of the Plaint.
84. The 1<sup>st</sup> Defendant filed written submissions dated the 24<sup>th</sup> March 2025 and wherein the 1<sup>st</sup> Defendant has highlighted two [2] issues for consideration and determination by the Court. The issues highlighted by the 1<sup>st</sup> Defendant are namely, that the Plaintiffs have neither proven nor demonstrated that their Title is lawful; and that the 1<sup>st</sup> Defendant's Title to LR NO. 11379/3 was never the subject of compulsory acquisition and hence same [Title] lawfully exists.
85. The 4<sup>th</sup> and 5<sup>th</sup> Defendants also filed written submissions and wherein same have contended that the Title in respect of LR NO. 11379/3, lawfully belongs to the 1<sup>st</sup> Defendant and that the existence of the said Title was confirmed vide the Survey Report filed by DW2.
86. The rest of the Defendants, namely, the 2<sup>nd</sup> and 3<sup>rd</sup> Defendants, did not file any written submissions. For good measures, no written submissions by the 3<sup>rd</sup> Defendant are obtainable from the Court Tracking system [CTS].
87. Having reviewed the pleadings filed by and on behalf of the parties; having taken into account the evidence tendered [both oral and documentary] and having considered the written submissions on record, I come to the conclusion that the determination of the dispute beforehand turns on three key issues, namely; whether the Title in respect of LR NO. 11379/3 lawfully exist or otherwise; whether the Plaintiffs Title to the suit property was lawfully issued or otherwise; and what reliefs [if any] ought to issue.
88. Regarding the first issue, namely, whether the Title in respect of LR NO. 11379/3 lawfully exist or otherwise, it is imperative to state and outline that the 1<sup>st</sup> Defendant herein has contended and continues to contend that the Title in respect of LR NO. 11379/3, has never been surrendered to the Government or at all. Furthermore, it is worth recalling that the 1<sup>st</sup> Defendant has also maintained that the Title in respect of the stated property was never the subject of compulsory acquisition by the Commissioner of Lands [now defunct].
89. Moreover, the witness for the 1<sup>st</sup> Defendant [DW1] also maintained and reiterated that the Title in respect of LR NO. 11379/3, remains under the custody of the 1<sup>st</sup> Defendant.
90. Arising from the foregoing, the 1<sup>st</sup> Defendant's position remains that same is the lawful owner and proprietor of LR NO. 11379/3. Further and in addition, the 1<sup>st</sup> Defendant has also contended that



insofar as her Title to the said property has never been surrendered, any other Title including, the Title in respect of LR NO. 15400, which birthed inter-alia, the suit property, are therefore illegal, unlawful and invalid.

91. Additionally, the 1<sup>st</sup> Defendant has also posited that the Titles, including the suit property which have encroached onto LR NO. 11379/3, therefore ought not to be recognized under the law.
92. Flowing from the position which was taken by the 1<sup>st</sup> Defendant and which was thereafter amplified by DW1, it becomes imperative to interrogate, ascertain and discern whether LR NO. 11379/3, lawfully exist in the eyes of the law, either as contended by the 1<sup>st</sup> Defendant or otherwise. In any event, there is no gainsaying that the determination of this issue will go a long way in confirming whether any subsequent Title arising from (sic) the sub-division of the said Title, is lawful or otherwise.
93. To start with, though DW1 contended that the Title in respect of LR NO. 11379/3, has never been the subject of compulsory acquisition, DW1 however, conceded that there was a Gazette Notice which was issued by and on behalf of the Commissioner of Land [now defunct] relating to the compulsory acquisition of LR NO. 11379/3.
94. In this regard, it is imperative to reproduce the evidence of DW1 while under cross examination by Learned Counsel for the Plaintiffs.
95. DW1 stated as hereunder:

“ The land was not compulsorily acquired by the Government. Referred to the list and bundle of documents by the Plaintiffs dated 10<sup>th</sup> June 2023 and the witness states that the document no. 13 is a Gazette Notice. The Gazette Notice related to an attempt to compulsorily acquire the 1<sup>st</sup> Defendant’s land.
96. From the foregoing testimony, what becomes evident is that DW1 is indeed acknowledging that there was a Gazette Notice that was issued and published by the Commissioner of Lands [now defunct] pertaining to and concerning compulsory acquisition of LR NO. 11379/3.
97. Though DW1 contends that the said Gazette Notice related to an attempt towards compulsory acquisition, there is no gainsaying that the Gazette Notice under reference was accompanied with additional documents. The additional documents were produced as exhibit P16 and 17, respectively. In particular, the Letter by the Chief Valuer on behalf of the Commissioner for Lands speaks to and confirms that LR NO. 11379/3 was compulsorily acquired. Furthermore, the said Letter also references Gazette Notices No’s 840 and 841 dated 15<sup>th</sup> March 1974, respectively.
98. Other than the foregoing, the Plaintiffs also tendered and produced another Notice namely, the Notice of taking of possession. The Notice of taking possession contained various Notations including a direction for the registration of the Notice of Taking Possession in the Register of the Title. Furthermore, the Notice of taking possession adverts to and highlights the provisions of Section 19 (1) of the Land Acquisition Act, Chapter 295 [now repealed].
99. To my mind, the sum total of the evidence that was placed before the Court suggest [I repeat, suggests] that the land in question was compulsorily acquired. Nevertheless, I am alive to the fact that the question of whether or not the compulsory acquisition was lawful or otherwise is the subject of Milimani Elc Petition No. 47 OF 2011, which is still pending hearing and determination,
100. Be that as it may, pending the determination of the said Petition, this Court is obligated to presume that the Documentation underpinning the compulsory acquisition are/were lawful, regular and legitimate.



101. The second perspective that is also relevant in an endeavour to ascertain whether the title in respect of LR NO. 11379/3, is in existence, relates to the Report by the National Land Commission which was generated following a Petition filed by the 1<sup>st</sup> Defendant. Suffice it to state that the report in question was tendered and produced as exhibit D1 on behalf of the 1<sup>st</sup> Defendant.
102. Instructively, the 1<sup>st</sup> Defendant herein lodged a complaint pertaining to what same stated to be the illegal allocation, sub-division, sale and transfer of her land [LR NO. 11379/3] pursuant to compulsory acquisition of the same by the Government. The complaint by the 1<sup>st</sup> Defendant was entertained and adjudicated upon by the National Land Commission culminating into the Report dated the 28<sup>th</sup> April 2017, which inter alia, found that LR NO. 11379/3, had been illegally and unlawfully been sub-divided. Furthermore, the Commission gave various Orders including nullification of the Sub-divisions arising from LR NO. 11379/3.
103. To my mind, the 1<sup>st</sup> Defendant was privy to and knowledgeable of the compulsory acquisition and the resultant sub-divisions of LR NO. 11379/3. For good measures, if the 1<sup>st</sup> Defendant was not knowledgeable of the compulsory acquisition and the illegal sub-divisions complained of, same [1<sup>st</sup> Defendant] would not have lodged the complaint with National Land commission.
104. Be that as it may, what I understand from the complaint which was lodged with National Land Commission and the resultant report is to the effect that the Title in respect of LR NO. 11379/3 had actually been sub-divided and therefore ceased to exist. No wonder, National Land Commission spoke to (sic) regularization of the sub-divisions in an endeavour to rebirth LR NO. 11379/3.
105. Simply put, the presumption derivable from the Report by National Land Commission [for whatever its worth] is to the effect that the Title in respect of LR NO. 11379/3 had ceased to exist.
106. The third perspective in tracking whether the Title in respect of LR NO. 11379/3 exists touches on and concerns the Judgment that was rendered by Hon Justice S. O Okongo in the Judicial Review Proceedings which were filed in an endeavour to quash the decision of the National Land Commission. [See the Decree arising from Milimani ELC JR NO. 35 OF 2018 – exhibit P5 on behalf of the Plaintiffs].
107. My reading of the Judgment arising from the Judicial Review namely, Milimani ELC JR NO. 35 OF 2018 and the resultant Decree drives me to the conclusion that the Learned Judge indeed quashed the Report by the National Land Commission. The net effect of the decision of the Learned Judge, was to revert the position to the status ante, namely, the position that LR NO. 11379/3 had been variously sub-divided and thus same ceased to exist.
108. The fourth perspective in an endeavour to ascertain whether the Title in respect of LR NO. 11379/3, does exist in the manner posited by DW1, or otherwise, emanates from the evidence that was tendered by the said witness. Suffice it to underscore that the said witness [DW1] acknowledged and confirmed that portions of the land namely, LR NO. 11379/3 have been sub-divided and given to the Government.
109. Pertinently, if the land in question was sub-divided and portions thereof given to the Government, in the manner posited by the witness, it then means that a sub-division scheme must have been prepared and thereafter subjected to the requisite approval in accordance with the provisions of Sections 31, 35 and 41 of the Physical Planning Act, Chapter 286, Laws of Kenya [now repealed]. Furthermore, it is also important to take cognizance of the Physical Planning [sub-division] regulations 1998.



110. The sum total of the provisions of Sections 31, 35 and 41 of the Physical Planning Act, [now repealed], underscore that no sub-division could be effected and concluded without an approved sub-division scheme and the ultimate surrender of (sic) the original Certificate of Title.
111. Arising from the foregoing, it then means that if portions of LR NO. 11379/3 were indeed sub-divided and given to the Government in the manner contended by DW1, then it cannot be true that the Title in respect of LR NO. 11379/3 does exist in the manner posited by the witness.
112. Before departing from this perspective, it is imperative to revert to the testimony of DW1 while under cross examination by Learned Counsel for the Plaintiff.
113. Same testified as hereunder;

I am aware that there are portion of the land that are occupied by Government entities. I do wish to confirm that the land occupied by the Government entities arose from our own sub-division. It is the 1<sup>st</sup> Defendant who sub-divided the land and gave the various portions to the government. I do confirm that various portions have been surveyed.

114. My understanding of testimony of DW1 [Joseph Karanja] is to the effect that the Title of (sic) LR NO. 11379/3 was indeed subjected to sub-division. If this be the position, one is left wondering how the 1<sup>st</sup> Defendant can continue to hold two conflicting positions [versions] as pertains to the same issue. On one hand, the Title in respect of LR NO. 11379/3, exists and is in the custody of the 1<sup>st</sup> Defendant, while on the other hand, the Title has been subjected to sub-divisions and portions thereof given to [sic] Government entities.
115. Finally, it is also worth revising the evidence of DW1 and taking cognizance of the aspect of the testimony where same adverts to the fact that members of the 1<sup>st</sup> Defendant have been issued with Letters of Allotment and additionally have been issued with Certificates of Title.
116. While under cross examination by Learned Counsel for the Plaintiff[s], the Witness stated thus:

“I also wish to add that a portion of the land is occupied by our members. Our members have been issued with Letters of Allotment. I also wish to state that our members have also been issued with Certificates of Titles.
117. The question that does arise is how would members of the 1<sup>st</sup> Defendant be issued with Letters of Allotment and (sic) Certificates of Titles, if at all, the original Certificate of Title in respect of LR NO. 11379/3, remains in the custody of the 1<sup>st</sup> Defendant.
118. I am afraid that the totality of the evidence on record demonstrated that the Title in respect of LR NO. 11379/3, ceased to exist. In this regard, the contention by the 1<sup>st</sup> Defendant and which was curiously supported by the Honourable Attorney General pertaining to LR NO. 11379/3, is not legally tenable.
119. As pertains to the second issue, namely, whether the Plaintiffs’ Title to the suit property is lawful or otherwise, it is important to highlight that the Plaintiffs tendered evidence that same [Plaintiffs] bought and purchased the suit property from Amboseli Court Limited. Furthermore, it was contended that prior to and before purchasing the suit property from the said Vendor, the Plaintiffs undertook due diligence over and in respect of the property and confirmed that the property was registered in the name of the Vendor.
120. Moreover, the Plaintiffs tendered evidence and demonstrated that upon undertaking due diligence and entering into the sale agreement, the suit property was transferred and thereafter registered in their



names. To this end, PW1 tendered and produced a copy of the Certificate of Title issued by the Chief Land Registrar.

121. Additionally, it is important to recall that DW1 conceded that same is not aware whether the Plaintiffs Title to and in respect of the suit property has since been cancelled. To my mind, no evidence was tendered to demonstrate the cancellation of the Plaintiffs' Certificate of Title.

122. Yet again, I beg to return to the evidence of DW1 while under cross examination by Learned Counsel for the Plaintiffs. Where pertinent, DW1 stated thus:

“I am not aware whether the Plaintiffs Title has been cancelled by any court of Law.”

123. On the contrary, evidence abound to show that the Plaintiffs' Title has not been cancelled. In the absence of evidence of cancellation of the Plaintiffs' Title, there is no gainsaying that the Plaintiffs' Title remains in existence.

124. Moreover, it is worth recalling that the Judgment that was rendered vide Milimani ELC JR NO. 35 OF 2018 and the resultant Decree, underscored the fact that the various Certificates of Titles relating to inter alia, LR NO. 15400/59 [the suit property], are lawful until same are revoked in accordance with the law.

125. Suffice it to state, that a Certificate of Title, the one borne by the Plaintiffs herein not excepted, can only be cancelled in accordance with the provisions of Section 80 of the *Land Registration Act*, 2012. The provisions of Section 80 of the *Land Registration Act* [supra] bespeak the position that only a Court of law can cancel and/or revoke a Certificate of Title [Certificate of Lease].

126. The said Section stipulates as hereunder:

80. Rectification by order of Court

(1) Subject to subsection (2), the court may order the rectification of the register by directing that any registration be cancelled or amended if it is satisfied that any registration was obtained, made or omitted by fraud or mistake.

(2) The register shall not be rectified to affect the title of a proprietor, unless the proprietor had knowledge of the omission, fraud or mistake in consequence of which the rectification is sought, or caused such omission, fraud or mistake or substantially contributed to it by any act, neglect or default

124. The legal position that it is only a Court of Law which is vested with the mandate, authority and/or jurisdiction to cancel and/or revoke Title to land albeit subject to due process of the law was highlighted in the case of Isaac Gathungu Wanjohi & another v Attorney General & 6 others [2012] KEHC 5200 (KLR) where the Court stated as hereunder:

43. I take the view stated in the case of Chemei Investments Limited v The Attorney General & Others Nairobi Petition No. 94 of 2005 (Unreported) at para. 64 that, “*The Constitution* protects a higher value, that of integrity and rule of law. These values cannot be side stepped by imposing legal blinders based on indefeasibility. I therefore adopt the sentiments of the court in the case of Milan Kumarn Shah & 2 Others v City Council of Nairobi & Another (Supra) where the Court stated as follows, ‘We hold that the registration of title to land is absolute and indefeasible to the extent, firstly, that the creation of such title was in accordance with the applicable law and secondly, where it is demonstrated to a degree higher than the balance of probability that such registration was procured through persons or body which claims and



relies on that principle has not himself or itself been part of a cartel which schemed to disregard the applicable law and the public interest.”

44. I also hold that the finding of “unlawful acquisition” referred to in Article 40(6) of *the Constitution* must be through a legally established process and not by whim or revocation of the Gazette Notice as the Commissioner of Lands purported to do and definitely not by forceful taking of possession. Thus, as was held in the case of Kuria Green Limited v Registrar of Titles and Another (Supra), it must follow that the purported revocation to title LR No. 209/2052 by way of Gazette Notice No. 9230 is illegal, null and void and of no effect.
127. Insofar as the Certificate of Title that was issued to and in favour of the Plaintiffs has never been revoked or cancelled; and coupled with the fact that there is no Counter-claim by the 1<sup>st</sup> Defendant to impeach the validity of the Certificate of Title in question, I come to the conclusion that the Plaintiffs’ Title remains lawful and thus valid in the eyes of the law.
128. Arising from the foregoing, there is no gainsaying that the Plaintiffs by virtue of being the registered proprietors of the suit property, are entitled to the requisite Statutory Protection. [See the Provisions of Sections 24 and 25 of the *Land Registration Act*, 2012].
129. The extent and scope of the rights of the registered owner of a landed property has been the subject of various Court decisions. In the case of Mohansons (Kenya) Limited v Registrar of Titles & 2 others [2017] KEELC 2730 (KLR), the Court observed as hereunder:

(18) As held by the Court of Appeal for East Africa held in Moya Drift Farm Ltd. v. Theuri (1973) EA 114 a registered proprietor of land is the absolute and indefeasible owner of land and is entitled to take proceedings for trespass and eviction of a trespasser even if he did not have possession of the property. Spry, V-P at 116, considered the effect of section 23 of the Registration of Titles Act and held –

“I cannot see how a person could possibly be described as “the absolute and indefeasible owner” of land if he could not cause a trespasser to be evicted. The Act gives a registered proprietor his title on registration and, unless there is any other person lawfully in possession, such as a tenant, I think that title carries with it legal possession: there is nothing in the Act to say or even suggest that his title is imperfect until he has physical possession.”

Sir William Duffus, P. *ibid* at p.117 agreed with Spry, JA as follows:

“In any even I agree with the Vice-President that the fact that the appellant was the registered proprietor as owner in fee simple under the Registration of Titles Act, and as such vested with the absolute and indefeasible ownership of the land, was sufficient to vest legal possession of the land in the appellant and that this possession would be sufficient to support the action of trespass against a trespasser wrongly on the land.”

The third member of the Court, Lutta, JA agreed with the judgment prepared by the Spry, V-P.

(19) Similarly, in Park View Shopping Arcade v. Kangethe & 2 Ors. (KLR) (E&L) 592, Ojwang, Ag. J. (as he then was) considered the rights of a registered proprietor under section 23 of the Registration of Titles Act and held that-

“*The Constitution* safeguards the sanctity of private property. It was not proper for the defendants to forcibly occupy the plaintiff’s land and then plead public interest in environmental conservation to keep out registered owner. The effect



of their action was to deprive the owner of his land without full and fair compensation.”

130. While considering the rights of a registered proprietor of a landed property and essentially the import of Sections 24 and 25 of the *Land Registration Act*, 2012, the Court in the case of *Waas Enterprises Limited v City Council Of Nairobi & another* [2014] KEELC 605 (KLR), stated thus:

As a registered proprietor, the plaintiff is entitled to enjoy all proprietary rights to the exclusion of all others. This includes the right to exclusive possession of the suit land. The rights of a proprietor of land are set out in Sections 24 and 25 of the *Land Registration Act* which provide as follows: -

“24. Subject to this Act—

- (a) the registration of a person as the proprietor of land shall vest in that person the absolute ownership of that land together with all rights and privileges belonging or appurtenant thereto; and
- (b) the registration of a person as the proprietor of a lease shall vest in that person the leasehold interest described in the lease, together with all implied and expressed rights and privileges belonging or appurtenant thereto and subject to all implied or expressed agreements, liabilities or incidents of the lease.

25.

- (1) The rights of a proprietor, whether acquired on first registration or subsequently for valuable consideration or by an order of court, shall not be liable to be defeated except as provided in this Act, and shall be held by the proprietor, together with all privileges and appurtenances belonging thereto, free from all other interests and claims whatsoever, but subject—
  1. to the leases, charges and other encumbrances and to the conditions and restrictions, if any, shown in the register; and
  2. to such liabilities, rights and interests as affect the same and are declared by section 28 not to require noting on the register, unless the contrary is expressed in the register.

(2) Nothing in this section shall be taken to relieve a proprietor from any duty or obligation to which the person is subject to as a trustee.”

It therefore follows from the above that only the plaintiff is entitled to enjoy proprietary rights over the suit land. The 2<sup>nd</sup> defendant had no right to the suit land. She must therefore vacate the suit land and hand over possession to the plaintiff.



131. Finally, it is also imperative to reference the decision in the case of Elizabeth Elizabeth Wambui Githinji & 29 others v Kenya Urban Roads Authority & 4 others [2019] KECA 706 (KLR), where the Court of Appeal [per Ouko JA] stated thus:

Both the Constitution and statute law emphasise the sanctity of title to land. The registration of a person as the proprietor of land vests in that person the absolute ownership of that land subject only to the leases, charges, conditions and restrictions, if any, shown in the register. See: Article 40 of the Constitution and sections 27, 28, 30, 32 and 143 of the repealed Registered Lands Act. Because of their relevance it is apposite to paraphrase and set out some of these provisions.

Article 40 guarantees every person the right to acquire and own property in any part of Kenya and Parliament is enjoined not to enact any law that permits the State or any person to arbitrarily deprive a person of his or her property unless the deprivation is as a result of compulsory acquisition by the Government for a public purpose or in the public interest and only upon prompt payment in full, of just compensation to the land owner. Section 143 of the Registered Land Act underscores the sanctity of title to land by stating in subsection (2) that;

“(2) The register shall not be rectified so as to affect the title of a proprietor who is in possession and acquired the land, lease or charge for valuable consideration, unless such proprietor had knowledge of the omission, fraud or mistake in consequence of which the rectification is sought, or caused such omission, fraud or mistake or substantially contributed to it by his act, neglect or default”.

132. Flowing from the foregoing, my answer to issue number two is three- fold. Firstly, the Certificate of Title which was issued to and in favour of the Plaintiffs has never been cancelled and/or revoked. To this end, the Certificate of Title remains in situ.
133. Secondly, insofar as the said Certificate of Title remains in existence, the bearer of the said Certificate of Title, namely, the Plaintiffs herein are bestowed with the requisite Statutory privileges and rights attendant thereto.
134. Thirdly, the Plaintiffs’ rights to the suit property are therefore entitled to protection. In this regard, no third Party is authorized to interfere with the Plaintiffs’ Constitutional Rights to property without following the Due process of the law.
135. Regarding the Third issue, namely, what reliefs [if at all] ought to issue, it is important to underscore that by virtue of being the lawful owners of the suit property, the Plaintiffs are no doubt entitled to an Order of Permanent Injunction. Suffice it to posit that the import and tenor of an Order of Permanent Injunction is to protect and preserve the Statutory Rights of the proprietor. [See the holding in the case of Kenya Power and Lighting Company Limited –vs- Sheriff Molana Habib [2018] eKLR,].
136. The Plaintiffs also sought for an Order to compel the Ward Commander, Soweto Police Station to avail necessary assistance and security to secure their property rights in respect of the suit property. However, this being a Civil Suit, I am afraid that the National Police Service ought not to be involved. In any event, where there is disregard and/or disobedience of Court Orders, every person, the Plaintiff not excepted is at liberty to revert to Court. [See Section 29 of the Environment and Land Court Act, 2011].
137. In the premises, I am inclined to Decree an Order of Permanent Injunction. The said Order would suffice to vindicate and protect the rights of the Plaintiffs.



138. Even though the Plaintiffs had contended that the Defendants herein were involved in the demolition of their perimeter wall, it is imperative to highlight that no claim was made on account of recompense. In this regard, no compensation is awardable.
139. Finally, the Plaintiffs had also contended that the Defendants, namely, the 1<sup>st</sup> – 4<sup>th</sup> Defendants trespassed onto the suit property. For good measure, evidence was tendered to demonstrate trespass. However, it is not lost on the Court that there was no prayer for general damages. To this end, none is awardable taking into account the Doctrine of departure. [See Order 2 rule 6 of the Civil Procedure Rules].

**Final Disposition:**

140. Having dealt with and addressed the three [3] thematic issues, which were highlighted in the body of the Judgment, it is now appropriate to bring the Judgment to closure. Nevertheless, there is no gainsaying that the Plaintiffs have established and proved their claim as pertains to ownership of the suit property. Consequently, the Plaintiffs' suit is meritorious.
141. In the premises, the final Orders that commend themselves to the Court are as hereunder:
- i. There be and is here is hereby granted an Order of Permanent Injunction to prohibit and/or restrain the Defendants [save for the 2<sup>nd</sup> Defendant] either by themselves, agents, servants and/or any one acting on their behalf from entering upon, trespassing onto, building on, demolishing any structures and/or otherwise interfering with the Plaintiffs' rights to and occupation of LR NO. 15400/59.
  - ii. Nevertheless, the Plaintiffs' suit as against the 2<sup>nd</sup> Defendant be and is hereby struck out with no Costs.
  - iii. Costs of the suit be and hereby awarded to the Plaintiffs.
  - iv. The costs in terms of clause (ii) shall be borne by the 1<sup>st</sup>, 3<sup>rd</sup>, 4<sup>th</sup> and 5<sup>th</sup> Defendants.
142. It is so Ordered.

**DATED, SIGNED AND DELIVERED AT NAIROBI THIS 7<sup>TH</sup>.DAY OF MAY 2025**

**OGUTTU MBOYA, FCI Arb**

**JUDGE**

In the presence of:

Benson/Brandy – Court Assistants

Mr. Macharia Nderitu for the Plaintiffs.

Mr. Odera Were for the 1<sup>st</sup> Defendant.

Mr C. N. Menge for the 4<sup>th</sup> and 5<sup>th</sup> Defendants.

No appearance for the 3<sup>rd</sup> Defendant.

No appearance for the 2<sup>nd</sup> Defendant.

