



**Wainaina (Suing as the legal representative of the Estate of Kenneth Wainaina Kago) v
Kamau (Sued as guardian ad-litem of the Estate of Kamau Mucheru) & another (Land Case
20 of 2024) [2024] KEELC 7389 (KLR) (Environment and Land) (7 November 2024) (Judgment)**

Neutral citation: [2024] KEELC 7389 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NAIVASHA
ENVIRONMENT AND LAND
LAND CASE 20 OF 2024
MC OUNDO, J
NOVEMBER 7, 2024
(FORMERLY NAKURU ELC LAND CASE NO. 327 OF 2015)**

BETWEEN

**BETH NYATHIRA WAINAINA (SUING AS THE LEGAL REPRESENTATIVE OF
THE ESTATE OF KENNETH WAINAINA KAGO) PLAINTIFF**

AND

**ALLAN KARIUKI KAMAU (SUED AS GUARDIAN AD-LITEM OF THE
ESTATE OF KAMAU MUCHERU) 1ST DEFENDANT**

SEPTRO CONSULT LTD 2ND DEFENDANT

JUDGMENT

1. Vide a Plaint dated 6th September, 2012, the Plaintiff herein sought for the following orders:
 - i. A declaration that the Proceedings, Award and Decree of the Naivasha Land Disputes Tribunal and the Naivasha Principle Magistrate's Court in NLDT No. 93 of 2008 and Misc. Civil Application No. 27 of 2009 respectively are null and void.
 - ii. A declaration that Kenneth Wainaina Kago (Deceased) is the lawful owner of Title Number Naivasha/Mwichiringiri Block 4/2386 and the said piece of land is part of his estate.
 - iii. An injunction against the Defendants by themselves, their agents and/or servants from selling, charging, leasing out, trespassing into, dealing with and/or interfering with Title Number Naivasha/Mwichiringiri Block 4/2386.



- iv. An order that the Title Deeds of Title Number Naivasha/Mwichiringiri Block 4/2386 issued to the 1st and 2nd Defendant be Nullified and cancelled and the register be rectified.
 - v. Costs and interests of the suit at court rates.
2. Following the filing of the suit, the 1st Defendant herein filed his Statement of Defence dated 11th October, 2012 in which he denied each and every allegation contained in the Plaint wherein he was adamant that the registration of putting the Plaintiff to strict proof and stating that were the deceased Kenneth Wainaina Kago a member and shareholder of Mirerea Suswa Farmers Limited wherein he had been allocated Plot Number 2386 which was later registered as Naivasha/Mirera Suswa Block 4/2386 now known as Naivasha/Mwichiringiri Block 4/2386 (Suit Land), then the same had been done unlawfully and fraudulently. He particularized fraud, unlawfulness and/or illegality as: -
- i. Allocating to the deceased herein the said plot whereas the same had already been paid for, balloted and allocated to the Defendant herein.
 - ii. Issuing, misrepresenting and or altering company records in relation to the said plot to read the deceased herein without any lawful course/justification.
 - iii. Disregarding the Defendants documents and or payment in respect to the said plot.
 - iv. Obtaining purported registration and or allocation of the plot herein through forgery, corruption and collusion to the detriment of the Defendant.
 - v. Disregarding the Defendant's ownership to the said plot despite being in possession and full payment of all necessary. (sic)
 - vi. Conferring title and /or ownership of the subject plot to the deceased notwithstanding the Defendant's existing title and rights of ownership thereof.
 - vii. Changing records of ownership of the subject plot and allocating it to the deceased herein without recourse to the Defendant herein and or lawful justification/procedures.
3. He claimed ownership of the suit land by virtue of having been allocated the same. That the proceedings in the Land Dispute Tribunal had only corrected the fraud that had been committed against him by the Deceased in collusion with the Company Directors and therefore the existence or not of these proceedings did not affect his legal title which was pursuant to a judgement and decree of the court which had not been set aside, appealed from or altered.
4. That the Plaintiff's claim was caught up with limitation and an attempt to circumvent the due process of law, the ownership of the suit land had already passed to the 2nd Defendant for which the suit ought to-be dismissed with costs.
5. In response to the Defence, the Plaintiff denied all the particulars of fraud, unlawfulness and illegality putting the 1st Defendant to strict proof and seeking for the 1st Defendant's Defence to be dismissed with costs and judgement be entered in her favour as prayed in the Plaint.
6. The 2nd Defendant did not enter appearance.
7. The matter proceeded for hearing on 3rd April, 2019 wherein Beth Nyathira Wainaina testified as PW1 to the effect that she lived in Nyambari, near uplands and that Kenneth Wainaina Kago (Deceased) was her husband. That she had been issued with a Grant of Letters of Administration. That her late husband held a share certificate in Mirera Suswa although they did not live there.



8. She adopted her Witness Statement as her evidence in chief before producing the Original Ballot, Share Certificate and 8 Receipts as Pf exhs 1, 2 and 3 (a)-(h) respectively. She then proceeded to testify that the company had handed over the land to them wherein they had placed beacons. That her late husband did not take possession of the said land because at the time, they had been prevented from gaining entry by the Maasai people. That she had later found out that their title had been cancelled at the Land's office and registered in the name of the 1st Defendant herein but nobody was currently living on the suit land.
9. She also produced a copy of Grant and Certificate of Confirmation as Pf exhs 4 and 5 respectively stating that all she wanted was the return of their land.
10. In cross-examination, she confirmed that her husband died on 13th March, 1984 and that she did not know that a title had been issued on 4th January, 2009. That whereas she did not know the plot number, she had insisted that the suit land had belonged to her husband.
11. She confirmed that the ballot she had produced was for Mirera Suswa but when the Defendant's ballot bearing a stamp was shown to her and upon her being informed that her Ballot had no stamp, she had responded that she could not see properly. She also stated that she could not recall the year that her husband had joined Mirera Suswa Company hence she did not know for sure whether or not her husband had joined the company on 4th February, 1986.
12. When she was informed of the receipts in her possession dated 4th February, 1986 and 4th February, 1986 for shares of Kshs1,000/=, she maintained that she could not recall. However she admitted that the money had been paid for beacons which had been in place when they got the suit land. She denied that her husband had paid Kshs. 200/= as survey fees on 4th February, 1986 stating that it was not true that all payment had been made on 4th February, 1986. That she did not recall when the Share Certificate had been issued since the same showed a date of 1st February but the year was not clear.
13. That whereas she did not know the person who had stamped the share certificate, her husband had one share. She admitted that whereas her husband had already died at the time he purportedly bought the shares, yet she had been the one who had processed the documents. She denied having colluded with the officials of Mirera Suswa and went ahead to state that she had paid the balance due after the death of her husband wherein they were to get two parcels of land. She explained whereas one share was equivalent to 3 acres of land, she had only one share certificate because the other one had been taken by the 1st Defendant.
14. When she was informed that the Share Certificate she held, had been for Mirera Suswa No.2129, she maintained that whereas she had two parcels of land, she had only been issued with one title deed wherein the other land, which she could not remember the title number by virtue of her age having been born in the year 1931, had been grabbed.
15. That she did not know whether the 1st Defendant had been noted as the second registered owner after the Government, or whether he had gone to the Tribunal. She denied that the Tribunal had found that they had colluded to get the suit land or that the 1st Defendant had litigated against her husband before the Tribunal stating that her husband had already died at the time. That whereas she did not know that the 1st Defendant held the shares at Mirera Suswa, she knew that he had taken her parcel of land. That she did not know that the 1st Defendant had gotten the suit land through his shares or that he had joined Mirera Suswa on 30th November, 1976.
16. In re-examination she admitted that the receipts that she had produced as exhibit had been issued in her husband's name at the time he was already deceased. She however explained that the same had been



issued in his name because he was the one who had been registered in the company's records. That her husband had 2 shares in Mirera Suswa. That the ballot that she had produced was among her husband's documents. That whereas she had accompanied her late husband when he balloted and had been given two shares, one of the shares had been taken by the 1st Defendant.

17. PW2 one Judy Wanjiru Wanja a business woman who lives in Uplands testified that the Plaintiff was her grandmother and that her grandfather Kenneth Wainaina Kago died in March, 1984 thus per the Death Certificate which she produced as Pf exh 6. She confirmed that her grandfather was a shareholder in Mirera suswa Limited which knowledge she had obtained from a ballot paper and share certificate.
18. That she had assisted the Plaintiff, due to her age and health problems, in search of the title deed wherein they had taken the documents that had proved her grandfather's ownership at Naivasha lands office in the year 2011. That upon the completion of the succession process, they had gone to get the title to the suit land wherein they had been informed that the same had been issued to the 1st Defendant who had subsequently transferred the said title to the 2nd Defendant herein. That they had then been advised to seek assistance at the offices of the Land Disputes Tribunal from where they had been issued with proceedings of case No.093/2008 Kamau Mucheru – vs- Kennedy Wainaina which proceedings she produced as Pf exh 7.
19. Her evidence was that the Tribunal had proceeded with the case without informing them since her grandfather who had been sued before the Tribunal was already deceased by then wherein it had had proceeded to issue the title deed to the 1st Defendant. That further, they had not been aware that the matter had gone to court since they had just been given documents relating to Naivasha PMCC Misc No.27/2009, Kamau Mucheru – vs- Kennedy Wainaina being the proceedings and the decree. She produced the same as Pf exh 8 and a copy of the abstract of the register as Pf exh 9.
20. She testified that upon perusing the register at the Lands office, they had found out that her grandfather's name appearing in the register had later been cancelled. That the extract of the register at No.2386 had the name of Kenneth Wainaina then an entry on 23rd November, 2009 had indicated that "Parcel transferred to Kamau Mucheru vide decree in the PMC Naivasha Civil Misc. No 27 of 2009 dated 8th October, 2009. She explained that the register as certified, by the Land Registrar, member No. 2346 was Kenneth Wainaina Kago but the name was cancelled and the 1st Defendant's name written therein. That the reason given for the said cancellation was vide the decree in case No.27/2009 at Naivasha. The register was marked as PMFI-1.
21. That whereas the receipts that they had were for the year 1986, her grandfather had died in the 1984. She explained that her grandfather had a balance wherein upon his death, the Plaintiff had continued to make payment but the receipts had been issued in her grandfather's name because he was the shareholder. That the documents in that regard had been in the custody of the Plaintiff.
22. She confirmed that the Share Certificate had been issued on 1st February 1980 and a stamp at the back showed that the same had been checked and confirmed. She however admitted that she had not been present when the same was done. She nonetheless maintained that the real owner of the suit land was her grandfather.
23. Her response on cross-examination was that she was informed that the alteration of the register had been made when the register was in the custody of the Land Registrar. That whereas the register showed plot numbers, the copy did not show the block numbers. Confirmed that the Identity Card number had not been written against Kenneth Wainaina's name but contended that the full register was in the Lands office Naivasha and that what she had was only an extract.



24. She confirmed that her grandfather had balloted in the year 1979 by which time he had been a full member. That the Share Certificate had been issued in February 1980 because he had not paid up for the shares in full. That whereas the receipt with regard to the “entrance fee” had been issued on 4th February, 1986, it was not correct to state that he could not have balloted in the year 1979 just because the entrance fee was of 4th February, 1986. She explained that at the time, her grandfather had no money to pay for the land hence the receipts had been issued later.
25. She confirmed that there was a receipt for survey that had been issued on 4th February 1986. That it was after one had made full payment that the said receipt would be issued. That it was impossible for the 1st Defendant to have balloted in the year 1979. That the said 1st Defendant had sued one Kennedy Wainaina Kago at the Tribunal in the year 2009 who was not her grandfather who was called “Kenneth”. That the Plaintiff was not served or informed about the Tribunal proceedings. She however admitted that they had not conducted a search before filling the succession cause. That it had been after the conclusion of the succession cause, that they had gone to obtain titles at the Lands office, wherein they had found that the same had already been issued to somebody else.
26. Roussos Ritho Mwangi the Lands registrar Naivasha testified as PW3 on 27th October, 2021 to the effect that the register in respect to Mirera Suswa had been domiciled at the Lands Registry although he could not tell for how long. He explained that the register had 5 columns wherein column one had plot number, column two had the parcel owner number, column three had the ID Card number, column four had acreages and column five had remarks. That the register that he now held had been hand written and was a duplicate since the original register was very old the reason why they always kept the copies. That the register ran from page 1 to 14311.
27. When he was referred to title No. 2386, he confirmed that the same was initially registered in the name of Kenneth Wainaina’s and that there had been no alterations on that entry. That the register did not have ID number for all owners. When he was referred to 2129, he confirmed that the same had been registered in the name of Karanja Mungai whose ID No. was 2304297/65. He produced certified copies of the extracts of the register in respect of 2383-2399, 2400-2415, 2367-2382 as Pf exh 10 (a), (b) and (c).
28. On cross-examination he testified that he could not tell when the register had been opened or prepared and that the same had nothing to show that it had been for Mirera Suswa since it did not bear the signature of the officials of Mirera Suswa farmers’ Ltd. That subsequently, it was not possible to ascertain that the same had been prepared by Mirera Suswa Farmers limited. That further he could not ascertain whether or not the entries in the register had been correctly made.
29. When he was referred to the Pf exh 10 (a) he confirmed that the same had an alteration yet the one that had been marked as PMFI-1 had no alteration and he did not know why it had the said alteration.
30. When he was referred to parcel No. 2867, he confirmed that the same had been registered in the name of Kamau Mucheru. When asked how parcel No. 2386 registered in the name of Kenneth Wainaina Kago could be ascertained without an ID number, he explained that they normally registered the said details when the owner of the parcel visits the lands registry offices.
31. Upon being referred to Pf exh 9, he confirmed that the same was a green card opened on 13th July, 1987 wherein the land had initially been registered in the name of Kamau Mucheru, the Defendant herein on 9th December, 2009 via a court order. He confirmed that on production of ballot papers by members, they would then proceed to register them with their Identity Card Number hence the green card had the ID Number. However, he admitted that he could not tell if there had been any



misgivings or fraud in the company circle since the register had been forwarded to the lands office by the directors of the company.

32. In re-examination, he confirmed that the purpose of the register was to ensure that the persons in the register were the first persons on the green card that is, the first entry on the green card.
33. PW4, one John Wagemu Kariuki, a farmer who lived at Suswa farms, south of Naivasha near Mirera Secondary school adopted his Witness Statement dated 9th April, 2020 as his evidence in chief before proceeding to testify that he became a member at Mirera Suswa Farm in the year 1975 and its farm manager between the years 1977 and 1982. That plot no 2386 had belonged to Kenneth Wainaina (deceased) as evidenced from the register, receipts, ballot paper and a Share certificate.
34. When he was referred to Pf exh 1 which is a ballot paper, he confirmed that the same was from Mirera Suswa Farm and was for plot no. 2386 in the name of Kenneth Wainaina. That whereas the verification of the ballot papers had happened in the year 1986, there had been a break-in the office in December 1982 wherein they had lost certain documents including registers, receipt books and other important files.
35. He explained that the verification had been done by the secretary one Samuel Njoroge and the trustee, one Kinyanjui Kuria and thereafter, the ballot papers had been rubber stamped and the names entered in the new register since the former register was lost. That a signature was also put on the ballot paper as part of the verification. He maintained that Plot No. 2386 belonged to Kenneth Wainaina and that the 1st Defendant's name had only been added after the register had been cancelled.
36. When he was referred to the 1st Defendant's ballot card for Plot No. 2386, he confirmed that although the said ballot and the one that had been produced by the Plaintiff were both for Plot No. 2386, yet whereas the 1st Defendant's ballot was not on the companies "pointed paper", the Plaintiff's ballot paper was on a bond paper and had also been verified.
37. He gave a brief history to the effect that the company had bought a parcel of land, subdivided it and shared it amongst its members. That the procedure for balloting had been that a member would go to the box and pick out a paper wherein the number on the paper would become that person's plot number. That the ballot paper which had been hand written had been cut from a roll of paper that looked like the printing paper. That thereafter, the person would be given a bond paper which looked like manila paper since the quality of the first paper picked from the box was not durable. Lastly he confirmed that he did not know who lived on Plot No. 2386.
38. On cross-examination, he confirmed that whereas he was the farm manager from the years 1978-1982, he did not know when Kenneth Wainaina died. When he was referred to Pf exh 3(a), he confirmed that only half of the date on the share certificate could be seen but the year was not clear. That according to the Pf exh 3(a), Kenneth Wainaina had paid the first installment on 6th July, 1978 which amount had reflected on the receipt of the year 1978.
39. Upon being referred to a bundle of receipts dated 4th February, 1986, he confirmed that the same had been a receipt for the main house since they had been paying for the house of the white settler. That a receipt dated 4th February, 1986 was for part beacon fees but did not indicate the plot number since it was a duplicate. That the other receipt dated 4th February, 1986 was for water fees and was a duplicate but had the main number at the bottom with reference to form B receipt number 1318 of 16th May, 1984.
40. He explained that the other receipt dated 4th February, 1986 was for entrance fees, a duplicate with writing at the bottom and had referred to form B no. 1319 of 16th May, 1984. That a receipt for survey



- fees dated 4th February, 1986 was a duplicate and had referred to Farm B receipt No. 336 of 6th July, 1978. That the receipt for late entrance dated 4th February, 1986 had been for a fine of Kshs. 1,000/= which occurred when a person had not paid enough money for one share. That the said receipts were for the year 1986 but he did not know why the same had been issued after the death of Kenneth Wainaina.
41. He confirmed that the books were lost/stolen thus there needed to be a verification. He also confirmed that he had left employment in the year 1982. That he had dealt with the deceased in the year 1978 hence receipts had referred to the year 1978. That Kenneth Wainaina (Deceased) was a member in the year 1978. That the share certificate was not clear on the date in which it had been issued and that he did not know if the receipts for the year 1978 had been tendered in evidence.
 42. He confirmed that one receipt that had been verified was the one for part beacon fees of Kshs 300/= which had been verified on 30th June, 1987. He confirmed that the said verification had been done after he had left the company. He confirmed that Kenneth Wainaina (Deceased) had one share that was equivalent to 3 acres of land.
 43. On being referred to Pf exh 5, the certificate of confirmation of grant, he confirmed that the same showed parcel no. 1199 Mirera Suswa and a Share Certificate No. 2129 of Mirera Suswa (Pf exh 2). He explained that a person could only be issued with one Share Certificate wherein the number of shares was indicated in the said share certificate. That hence it was not true that a person could have 2 plots of land with just one share and one share certificate.
 44. When he was referred to Pf exh 1, he confirmed that the initial ballot papers had been handwritten. That whereas the year written therein was 1979, balloting had started on 31st February, 1978 and continued whereby the Deceased had balloted on 12th June, 1986. Upon being referred to document No.2 on the 1st Defendants list of documents(ballot card No 2386), he confirmed that whereas he could see the rubber stamp of the company, the same had not indicated the date when the 1st Defendant had balloted and there was also no bond paper.
 45. His evidence was that the bonded, manila papers were first used in the year 1978 and that the same had been printed using a printing machine. He explained that members had varying number of shares between 1 and a maximum of 30 shares. That there had been various boxes representative of different number of shares wherein a member would approach the relevant box and pick out a paper and then move to the next table where he/she found an official with the bond paper. That the said official then filled all the plot numbers on the bond paper and the names were indicated in the register which had the plot numbers. That the name of the member was filled alongside the plot number and that marked the end of the balloting process.
 46. His response when referred to Pf exh 1 was that whereas the same had only showed plot No. 2386, he had seen plot No. 1199 on the confirmation of grant. That however, it was also worth noting that that some people had bought parcels from members. That it was true that the first members' register had been stolen thus the register in existence when the deceased was balloting was a new register. That further, it was true that the 1st Defendant's name was not in the new registry as at the year 1986. That whereas he had not been in the office at the time, the new register must have been opened immediately after the theft.
 47. That whereas the handwriting on Pf exh 1 was not his, he had written the ballot papers for the year 1978. That there ought to have been a bonded paper thus if the 1st Defendant did not have one, then the company was at fault.



48. When he was referred to the share certificate on the 1st Defendant's list of documents, he confirmed that the same was dated 23rd November, 1983, showing that the 1st Defendant had 2 shares. That whereas No. 2386 was a plot number, the same had not been written on the share certificate but on the bonded ballot paper. He confirmed that the receipt on the 1st Defendant's list of documents was an entrance fee dated 30th November 1976 confirming that the 1st Defendant had been a member. That one ought to have first paid the entrance fees before balloting and issuance of shares.
49. That the receipts dated 25th June, 1982 showed that the 1st Defendant had paid for share capital which was Kshs. 1000/= hence the receipt being for Kshs. 2000/= meant that the 1st Defendant had 2 shares.
50. When he was referred to a copy of title for plot No.2867 and receipt No. 8 on the 1st Defendant's list of documents, he confirmed that the same was a beacon receipt to plot no. 2867 in Mirera Suswa measuring approximately 3 acres. He explained had the 1st Defendant had a bond paper, it would have shown the two plot numbers.
51. His contention was that the 1st Defendant had not balloted for plot No. 2386 and neither had there been fraud from the company. That were map made available, he would have been able to tell the plot number for the other plot because the plots were supposed to be next to each other. He confirmed that according to the Share Certificate, the deceased had only one plot. That he had prepared a total of 4092 ballot papers and locked them in a box. That the said ballot papers were picked by members at different times. That the 1st Defendant had balloted in the year 1978 while the deceased had balloted in the year 1986. He insisted that the 1st Defendant must have a bond paper.
52. That whereas the company had a dispute resolution mechanism, he was not aware that the 1st Defendant had complained that his parcel of land had been allocated to someone else.
53. In re-examination, he confirmed that the 1st Defendant had 2 shares for which he had been issued one title deed in the year 1988 and the other one in the year 2009. That he did not however know why the titles did not bear the same date since if they had arisen from the 2 shares.
54. He reiterated that whereas the balloting had begun in the year 1978, he could not tell when 1st defendant ballot had been done since his ballot paper was not dated. That further, a ballot could only be taken after paying all the money owing to the company. That whilst it was not possible to get a ballot before paying the Share Capital, the 1st Defendant's share capital receipt had been issued on 25th June, 1982.
55. When he was referred to a receipt dated 25th June, 1982, he maintained that it was possible to get a ballot before paying share capital. Upon being referred to a receipt dated 25th June, 1982 for share capital on 1st Defendant's list of documents, he confirmed that the same had made references to other receipts similar to the Plaintiff's receipts. He explained that the referenced receipts had been from similar receipt books thus when a member paid up to Kshs 1000/=, he /she was issued with a larger receipt.
56. That when a shareholder died leaving behind a family, it was possible for the family to continue making payment on his behalf wherein the receipt would be issued in the deceased shareholder's name. When he was referred to Pf exh 5, he confirmed that entry No. A on the schedule had the name and the description of property. That No. 2129 was the Share Certificate's number and not the plot number. The Plaintiff thus closed her case.
57. Subsequently owing to a medical report by Dr. Faith Muhindi and interviewing of the 1st Defendant who was found to be incapable of protecting his legal interests on account of mental infirmity, the Defence opened its case with the testimony of Allan Kamau Kuria of ID NO. 20562528 an appointed



guardian ad litem for the 1st Defendant who testified as DW1 to the effect that he was a son to the 1st Defendant, he lived in Uthiru in Nairobi and was a lorry (canter) driver.

58. His evidence was that whereas the land parcel No. Mwachiringiri Block 4/2386 belonged to his father, he had sold the same to Septro Consult Ltd, the 2nd Defendant herein. He explained that the said land had been obtained through a shareholding of Mirera Suswa Farmers Ltd where his father had been a shareholder in the year 1976 and had a share certificate No. 2100. That his father had two shares wherein each share had been for land measuring approximately 3 acres. That his father had balloted for land No. 2386 which measuring 3 acres wherein he had been issued with title to land parcel number Naivasha/Mwachiringiri Block 4/2386 (suit land) measuring approximately 1.2620 Hectares, on the 4th January, 2009 (in reference to 1 share.)
59. That the second share had been for had land No. Naivasha/Mwachiringiri/Block/2867 which measured approximately 1.2620 hectares, wherein he had received his title on 16th November, 1988 after he had paid up for his shares. That there had been balloting and receipts issued wherein the first receipt dated 30th November, 1976 was for entrance fee of Ksh. 88/=. There had been a receipt for payment for share capital dated 25th June 1982 for Ksh. 2,000/=. That whereas he did not know what the car fund was about, there had been a receipt for a car fund dated 30th November, 1976 for Ksh. 20/=. That there was also a receipt for payment of water fees dated 5th November, 1979 for Kshs. 400/=, a receipt for survey fee of Kshs. 200/= dated 5th November, 1979 and a beacons fee receipt dated 1st September, 1986 for Ksh. 500/-. That the aforementioned receipts had been issued by Mirera Suswa Farmers Ltd to the 1st Defendant herein. He explained that the original documents had been given to the 2nd Defendant when they bought the suit land and he did not know where they were based. He thus produced a copy of the Share certificate as Df exh1 and copies of the aforementioned receipts as Df exh2 (a - f).
60. He explained that the procedure for acquiring the land had been through balloting wherein his father's had balloted for Number 2386. That the original ballot was in possession of the 2nd Defendant who had bought the parcel of land. He produced a copy of the ballot paper as Df exh3 then testified that the 1st Defendant had sold both the parcels of land and that the original titles were with the people who had bought the said parcels of land. He thus produced copies of Title to Naivasha/Mwachiringiri Block 4/2386 and Naivasha/Mwachiringiri Block 4/2867 as Df exh4 and 5 respectively.
61. He explained that Df exh4 was obtained in the year 2009 because the parcel of land had a case before the Tribunal hence it had taken long to procure the title deed. That his father had filed a dispute before the Tribunal because one Mr. Kenneth Wainaina Kago (Deceased) had claimed ownership of suit land despite having no records of ownership. That despite summons to Kenneth Wainaina on 7th June, 2008 and several other times, he did not appear before the Tribunal wherein subsequently, the arbitrators had made a determination and judgment had been issued in his absence. That it had been determined that the 1st Defendant was the owner of land parcel No. 2386 and that Kenneth's name had been mistakenly fixed in the register. He however stated that he did not know how the said name had been inserted in the register.
62. He reiterated what PW 4 who worked with Suswa had stated that there had been a time when their offices had been broken into and the documents tampered with. That the Plaintiff was not the proprietor of the suit land since the 1st Defendant had been a shareholder in the year 1976 wherein he had balloted in the year 1978 and thereafter allocated the plot No. 2386 in the year 1986. That whereas the Plaintiff had claimed that the deceased Kenneth had bought the shares in the year 1986, the said Kenneth had already died in the year 1984. That he would like the court to declare that the suit land



belonged to the 1st Defendant. After the correction of his name as Kamau and not Kuria, he adopted his witness statement as his evidence in chief.

63. On cross-examination, he confirmed that the 1st Defendant had filed a dispute before the Tribunal being case No. 093/08 where the Respondent had been Kennedy Wainaina who had failed to appear before the Tribunal despite having been summoned 8 times. He confirmed the said Kennedy had died on 13th March, 1984 as per Pf exh 6 that the case before the Tribunal had therefore been in relation to a dead person. That he did not know whether the land Registrar had testified. Upon being referred to Pf exh 10 (a - c), he confirmed that parcel number 2386 had been registered to Kenneth Wainaina as per Pf exh 10 (b).
64. He confirmed that he had been present when PW 4 had testified to the effect that the ballot papers were two, one hand written and one printed. He admitted that he had not adduced a printed ballot paper in evidence but when referred to Pf exh 1, he confirmed that the same was a ballot paper serial number 2316 given to Keneth Wainaina, for plot number 2386. His response on being referred to Df exh2 (f) was that the same was a beacon receipt dated 1st September, 1986 for parcel No. 2867. He admitted that he had not produced a receipt for the beacon to the suit land No. 2386 because the same had been sold to the 2nd Defendant although he had no evidence of such sale.
65. In re-examination he reiterated that whereas he did not know about the printed and hand-written ballot paper because those were issues of the office, the hand-written ballot paper had been given by the Mirera Suswa Office.
- The Defence thus closed his case.
66. After the closure of the defense case, parties filed their respective written submissions wherein the Plaintiff framed her issues for determination as follows; -
- i. Whether the proceedings and Award of the Naivasha LDT No. 93/2008 and the subsequent Decree in Naivasha PMC Misc. Application No. 27/2009 were null and void.
 - ii. Whether the estate of Kenneth Wainaina Kago (Deceased) is the lawful owner of Title Number Naivasha/Mwichiringiri Block 4/2386.
 - iii. Whether the Plaintiff obtained the suit land fraudulently.
 - iv. The Reliefs to be granted by the court
67. On the first issue for determination, she reiterated her pleadings at paragraph numbers 8, 9, 10, 11 and 12 of the Plaint as well as the evidence adduced in court to the effect that the 1st Defendant herein had unlawfully commenced proceedings before Naivasha LDT against Kenneth Wainaina Kago (deceased) wrongly described as Kennedy Wainaina wherein he had obtained an award in his favour which award had been adopted in Naivasha PMC Misc. Application No. 27/2009 resulting in the said 1st Defendant being registered as the owner of the suit land.
68. That whereas the 1st Defendant had pleaded at paragraph 7 of his Defence that the LDT had only corrected the fraud. However, DW1 in his evidence had testified that the deceased had been summoned 8 times but did not appear. Her submission was that by the time the LDT case was filed, Kenneth Wainaina Kago was already dead as evidenced in the death certificate which had indicated that he had died on 13th March, 1984. That the proceedings before the Tribunal and Principal Magistrates Court were thus null and void for being against a deceased person. Reliance was placed in the decided case of Geeta Bharat Shah & 4 Others v Omar Said Mwatayari & Another {2009} eKLR.



69. Her further submission was that every proceeding founded on a null and void suit was also a nullity thus the decree of Naivasha Principle Magistrates Court, the registration of the suit land in the name of the 1st Defendant and later to the 2nd Defendant were all null and void and the court should so declare. She placed reliance on the decision in the case of *Viktar Maina Ngunjiri & 4Others v Attorney General & 6 others* [2018] eKLR.
70. That indeed, the Naivasha Land Disputes Tribunal did not have the jurisdiction to hear and determine the dispute before it as it was with regard to title over land registered under the Registered *Land act* the register for the suit land under the said Act having been opened on 13th July, 1987. Reliance was placed in the decided case of *Joyce Nyanjui v Joseph Chege Gitau, Nakuru HCCA 77/2007* (unreported).
71. On the second issue for determination as to whether the estate of Kenneth Wainaina Kago (Deceased) was the lawful owner of the suit land, her submission was in the affirmative to the effect that the Plaintiff had proved that the deceased had paid for the share capital on 6th July, 1978 vide receipt No.403 that had been captured in the receipt that was issued on 4th February 1986. That whereas the deceased had not paid all the required monies at the time of his demise, the Plaintiff herein had continued paying the said monies wherein in the year 1986 receipts had been issued in the deceased's name since he was the shareholder. That the Plaintiff had also produced the ballot papers for parcel No. 2386, one printed on bond paper and another hand written on computer paper-bearing the same number. That the 1st Defendant on the other hand had only produced a copy of the hand-written ballot paper which paper had not been genuine as supported by the evidence of PW4.
72. That the members' register for Mirera-Suswa Farmers Limited which had been produced in evidence showed that Kenneth Wainaina was the owner of parcel No. 2386 and not the 1st Defendant. That whereas it was the said register that had been used to issue title deeds, the land registry had issued the title deed in the name of the 1st Defendant upon being served with a decree, which decree was null and void. That the Plaintiff having produced the above evidence, she had proved her case on a balance of probabilities.
73. That whilst the 1st and 2nd Defendants' certificate of title to the suit land was protected, the said protection could be removed and the title impeached under the provisions of Section 26 (1) (b) of the *Land Registration Act* where it was found that the certificate of title had been acquired illegally, un-procedurally or through a corrupt scheme. She thus submitted that the Defendants' Certificate of title was obtained illegally and un-procedurally the same having been obtained through the Land Dispute Tribunal Award and court decree which had been null and void.
74. That further, whereas the root of the title registered in the name of the 2nd Defendant had been challenged, the said 2nd Defendant did not appear to prove the legality of its acquisition the 1st Defendant herein having failed to prove the same. Reliance was placed in the decided case of *Munyu Maina v Hiram Maina* [2013] eKLR.
75. On the third issue for determination as to whether there had been fraud on the part of the Plaintiff, reliance was hinged on the definition of fraud from the Black's Law Dictionary, 5th Edition, page 594 and a combination of decisions in the case of *Elizabeth Kamene Ndolo v Gerge Matata Ndolo* [1996] eKLR and *Emfil Limited v Registrar of Titles Mombasa & 2 Others* [2014] eKLR to submit that it was trite that particulars of fraud be specifically pleaded with particularity and to the required standard which was above a balance of probabilities but not beyond any reasonable doubt.
76. That the particulars of fraud as set out in paragraph 4 of the 1st Defendant's Defence had not been proved since evidence had not been tendered to prove that the deceased had been allocated land which



had already been paid for, balloted and allocated to the 1st Defendant. That further, no evidence had been tendered by the 1st Defendant to prove that there had been alteration, misrepresentation or change of ownership records of the land buying company as alleged in the particulars of fraud and further there had been no evidence tendered to show the existence of another members' register that had showed that the 1st Defendant had been allocated or was the owner of Plot No. 2386 or that the name of the 1st Defendant had been deleted and replaced with the name of the deceased. That the Plaintiff having proved her case on a balance of probability, she was entitled to the reliefs sought in her Plaint dated 6th September, 2012 with costs.

77. The 1st Defendant summarized the factual background of the matter as well as the evidence adduced in court before framing his issues for determination as follows; -
- i. Who between the Plaintiff's deceased husband and DW1's father is the genuine owner of parcel Title No. Naivasha/Mwichiringiri Block 4/2386 and should the register be rectified?
 - ii. Should the Proceedings, award and decree of Naivasha Land Dispute Tribunal and the Naivasha Principal Magistrate's Court in NLDT No. 93 of 2008 and Misc. Civil Application No. 27 of 2009 respectively be declared null and void.
 - iii. Who should bear the costs of the suit?
78. On the first issue for determination, he submitted that whereas the Plaintiff had tried to give herself 2 parcels of land, the evidence of PW1 and PW4 had been to the effect that her husband was entitled to one share that was equivalent to 3 acres. The 1st Defendant on the other hand had demonstrated that he had 2 shares and had been allocated 2 parcels of land each measuring 3 acres. That there had been nothing to authenticate the register which had been referred to, as a genuine register for the said company. That the entries therein had glaring lapses including alterations and lack of proper identification numbers thus the same could neither be relied upon nor used by the Plaintiff as prove of ownership of the suit land in light of the evidence by PW4 that the documents of the company had been stolen.
79. On the second issue for determination, he reiterated that the 1st Defendant had filed a claim with Naivasha Land Tribunal being Naivasha Land Disputes Tribunal No. E093 of 2008 wherein the Tribunal's finding had been that his father had been the legal owner of the suit property No. Naivasha/Mwichiringiri Block 4/2386 which finding had been adopted as the judgement of the court in Naivasha Misc. Application No. 27 of 2009 and a decree to that effect granted on 8th October, 2009.
80. He then proceeded to place reliance on the provisions of Section 3(1) and 8(1) of the Land Disputes Tribunals Act as well on the decisions in the case of Jackson Kipkemoi Chebochok v Charles Kibet Chepkwony & 2 others [2016] eKLR and Jamin Kiombe Lidodo v Emily Jerono Kiombe & another (on behalf of Soy Land Disputes Tribunal and District Land Registrar, Uasin Gishu) [2018] eKLR to submit that whilst it had not been not in dispute that Section 3(1) of the Land Dispute Tribunals Act, limited the Tribunal's jurisdiction to a claim to occupy and work on land, division or determination of boundaries and trespass to land, Section 8 (1) had provided for an appeal to the appeals' committee within 30 days of the decision by a dissatisfied party and thereafter to the High Court within 60 days. That no such appeal had been filed in the instant case.
81. That the award having been adopted by the Magistrate's court, it had become a judgment of the court and could only be challenged on appeal. That the proceedings before the Tribunal were proper that the court (sic) was the rightful owner of the suit property and that the Plaintiff be ordered to pay the costs of the suit.



Determination.

82. I have considered both the Plaintiffs and the 1st Defendant's case as pleaded and the evidence that was adduced in proof thereof as well as the able submissions by Counsel for the parties, the law and the authorities cited. I have also considered the fact that the 2nd Defendant chose not to participate and defend the suit wherein it filed neither an appearance nor defence.
83. From my analysis of the pleadings and the evidence on record, I find that this is a case wherein the Deceased Plaintiff's legal representative filed suit to claim parcel No. Naivasha/Mwichiringiri Block 4/2386 as the deceased's estate. That the proceedings which had been conducted by the Naivasha Land Dispute Tribunal and the Naivasha Principal Magistrate's Court in NLDT No. 93 of 2008 and Misc. Civil Application No. 27 of 2009 respectively were null and void.
84. Briefly, the Plaintiffs case was that her deceased husband, Kenneth Wainaina Kago having joined Mirera Suswa Company Limited on 4th February, 1986 had been a member and shareholder therein where he had balloted in the year 1979 had been issued with two (2) Share Certificate in February 1980 wherein each share was equivalent to 3 acres of land. That the company had handed over the land to them wherein they had placed beacons but did not take possession because at the time, they had been prevented from gaining entry by the Maasai people.
85. That after the death of her husband on 13th March, 1984 after the succession had been finalized, she had gone to the Naivasha Land registry in the year 2011 to pick the title deeds to the two parcels of land only to learn that the second title to the suit land herein had been cancelled at the Land's office, registered and issued to the 1st Defendant on 4th January, 2009. That she had had only one share certificate, the other one having been taken by the 1st Defendant. That she had learnt that there had been conducted a land dispute proceedings before the Naivasha Land Dispute Tribunal between the 1st Defendant as the complainer and her husband as the Respondent, wherein the award had been in favour of the 1st Defendant and which award had been adopted at the Naivasha Principal Magistrate's Court in Naivasha Land Dispute Tribunal No. 93 of 2008 and Misc. Civil Application No. 27 of 2009. That the proceedings carried out therein were null and void having been conducted at a time when her husband was already deceased.
86. In support of her case, the Plaintiff had called three witnesses and produced –
- i. An Original Ballot, Share Certificate and 8 Receipts as Pf exh 1, 2 and 3 (a)-(h) respectively.
 - ii. A copy of Grant and Certificate of Confirmation as Pf exhs 4 and 5 respectively
 - iii. Kenneth Wainaina Kago's Death Certificate as Pf exh 6
 - iv. Naivasha Land Disputes Tribunal proceedings of case No.093/2008 Kamau Mucheru – vs- Kennedy Wainaina as Pf exh 7.
 - v. Proceedings to Naivasha PMCC Misc No.27/2009, Kamau Mucheru – vs- Kennedy Wainaina as Pf exh 8
 - vi. A copy of the abstract of the register as Pf exh 9.
 - vii. Certified copies of the extracts of the register in respect of No. 2383-2399, 2400-2415, 2367-2382 as Pf exh 10 (a), (b) and (c).

The Plaintiff thus sought for the declaratory orders as herein about stated.



87. The 1st Defendant's case on the other hand which had been prosecuted by his son on his behalf him having been found to be incapable of protecting his legal interests on account of mental infirmity was to the effect that land parcel No. Mwachiringiri Block 4/2386 belonged to the 1st Defendant who had sold it to Septro Consult Ltd, the 2nd Defendant herein.
88. That land had been obtained through balloting by shareholders of Mirera Suswa Farmers Ltd in the year 1976 where the 1st Defendant had been a shareholder and had a share certificate No. 2100. That the 1st Defendant had two shares and had been issued with title to land parcel number Naivasha/Mwachiringiri Block 4/2386 (suit land) measuring approximately 1.2620 Hectares, on the 4th January, 2009 (in reference to 1 share.) and land No. Naivasha/Mwachiringiri/Block 4/2867 which measured approximately 1.2620 hectares, wherein he had received his title on 16th November, 1988.
89. That the 1st Defendant had filed a dispute before the Tribunal because one Mr. Kenneth Wainaina Kago (Deceased) had claimed ownership of suit land despite having no records of ownership. That despite summons to Kenneth Wainaina on 7th June, 2008 and several other occasions, he had failed to appear before the Tribunal wherein subsequently, the arbitrators had made a determination and an award had been issued in his absence which award had determined the 1st Defendant as the owner of land parcel No. 2386. That it had also been determined that Kenneth's name had been mistakenly fixed in the register. Subsequently the 1st Defendant had sold both parcels of land.
90. The 1st Defendant relied on the following exhibits
- i. Share certificate as Df exh1
 - ii. Copies of receipts as Df exh2 (a - f).
 - iii. A copy of the ballot paper as Df exh3
 - iv. Copies of Titles to Naivasha/Mwachiringiri Block 4/2386 and Naivasha/Mwachiringiri Block 4/2867 as Df exh 4 & 5 respectively.

In its defence, the 1st Defendant sought for the dismissal of the Plaintiff's case.

91. I have looked at the ex-parte proceedings and the decision by the Naivasha Land Disputes Tribunal in case No.093/2008 wherein the land in dispute had been Naivasha/Mwachiringiri Block 4/2386 and wherein an award had been made as follows;

“The registered owner of the parcel is M/S Kamau Mucheru

The tribunal therefore recommends that M/s Kamau Mucheru is the legal owner of the land in Dispute, NSA/Mirera Block 4/2386”

92. The award had been adopted as the court order and judgment vide Naivasha PMCC Misc No.27/2009, Kamau Mucheru – vs- Kennedy Wainaina on 11th November 2009 wherein the decree had been issued on the 17th November 2009 and subsequently out of these proceedings, the suit parcel of land, Naivasha/Mwachiringiri Block 4/2386 which had been registered to the Government of Kenya was now registered to the 1st Defendant as its proprietor on the 9th December 2009 and a title deed issued on 4th January 2010 as evidenced in the certified copy of the green card herein produced by the Land Registrar as Pf exh 9.
93. The said adoption of the Land Disputes Tribunal's award into a judgment and decree precipitated the Plaintiff's action to file the current suit seeking declaratory orders that the decision of the Lands Disputes Tribunal was null and void, a permanent injunction against the Defendants restraining them



from dealing with land parcel No. Naivasha/Mwichiringiri Block 4/2386 and cancellation of the said title in the Defendant's name. From the analysis of the evidence herein given, I find that the issues that arise for determination in this suit are as follows;

- i. Whether the Naivasha Land Dispute Tribunal erred in its decision of 28th April 2009.
 - ii. Whether the Land Disputes Tribunal's decision can be challenged in this court by way of suit.
94. The tribunal was established under the Land Disputes Tribunals [Act No. 18 of 1990](#) (now repealed) (herein referred to as the 'Act') wherein Section 3(1) of the Act sets out the cases over which the tribunal had jurisdiction as follows:-
3.
 - (1) Subject to this Act, all cases of a civil nature involving a dispute as to—
 - (a) the division of, or the determination of boundaries to land, including land held in common;
 - (b) a claim to occupy or work land; or
 - (c) trespass to land, shall be heard and determined by a Tribunal established under section 4.(2).
95. Section 7(1) of the Act required the chairman of the tribunal to cause the decision to be filed in the Magistrate's court together with any dispositions and documents provided before the tribunal. Wherein Section 7 (2) of the same act was explicit as to what had to be done by the Magistrate, it did not leave any room for a Magistrate to review, alter, amend or set aside the tribunal's award.
96. Looking at the provisions of Section 3(1) of the Act above, the said provision of the law was that the jurisdiction of the Tribunal, was only on matters related to the division or determination of boundaries; claims to occupy or work land; and trespass to land. The Naivasha Land Disputes Tribunal therefor did not have jurisdiction to issue declaratory orders on the ownership of land and neither did it have jurisdiction to determine disputes revolving around ownership of land, more so matters under the Registered [Land Act](#), Cap 300 (now repealed) and specifically registered land. It could therefore not confer title as it had done in the present case. I find that the Naivasha Land Disputes Tribunal had no jurisdiction to determine and to deal with issues of determination of title to or ownership of registered land.
97. The said tribunal therefore acted ultra vires, null and void and in excess of its jurisdiction as it was prohibited, by operation of the law, from undertaking a determination with respect to title to land. It therefor goes without saying that any orders and or proceedings arising from the said award also become a nullity since a decision made by a tribunal which had no jurisdiction to entertain the dispute before it, must of necessity be null and void and therefore subject to challenge.
98. After finding that the Naivasha Land Dispute Tribunal acted ultra vires, null and void and in excess of its jurisdiction what then was expected of the Plaintiff who is the aggrieved party herein?
99. Section 8(1) of the Act provided an avenue for challenging the decisions by the tribunal to wit by an appeal process to the Appeals Committee constituted for the province and in the alternative by way of commencement of Judicial Review proceedings in the nature of certiorari to quash the award under Order 53 of the Civil Procedure Rules.
100. The Plaintiff in this case did not challenge the decision of the tribunal in accordance with the said procedure set out in the Act and neither did she file an judicial review proceedings to quash the award



but what is on record is that after the completion of the succession process she had been issued a confirmation of grant on the 29th November 2011, she had gone to pick her husband's titles from the Naivasha lands office and had been informed that the title relation to parcel of land No. Naivasha/Mwichiringiri Block 4/2386 had been issued to the 1st Defendant pursuant to an award of the Naivasha Land Disputes Tribunal in case No.093/2008 Kamau Mucheru – vs- Kennedy Wainaina wherein the same had been delivered on the 28th April 2009. The Plaintiff's complaint was that the tribunal proceedings had been conducted against a deceased person the Respondent having died on 13th March 1984 and beyond the Tribunal's jurisdiction and therefore they were null and void abinitio. However the award had been adopted as an order and judgment of the court wherein a decree had been issued in Naivasha PMC Misc. Application No. 27/2009 on the 17th November 2009. The Plaintiff had then filed the present suit to this court seeking declaratory orders, an injunction and costs.

101. It is trite 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. This court has jurisdiction to nullify an award of a tribunal, if such an award was made outside the tribunal's jurisdiction, however this jurisdiction is only exercisable where such decision of the tribunal has not transmuted into a judicial determination, through adoption as a Judgment of the Court as in the present circumstance.
102. The award of the Naivasha Land Disputes Tribunal having been adopted by the Principal Magistrate's Court at Naivasha ceased to exist on its own, and thus, cannot not be the subject of a declaration. The award, having become a Judgment of a Court of competent jurisdiction, the same can only be varied, vacated, set aside or reviewed by the same Court, or by an appellate Court in an appropriate proceedings.
103. Indeed in Court of Appeal decision in Catherine C Kittony v Jonathan Muindi Dome & 2 others [2019] eKLR had held as follows;

“The Land Dispute Tribunal had mechanisms to deal with outcomes such as the one rendered by the 2nd respondent. The award by the 2nd respondent ceased to exist upon adoption by the court as its judgment and a decree. The award cannot be challenged by filing a fresh suit as it is trite law that where a statute establishes a dispute resolution mechanism that mechanism must be followed and exhausted, where a party fails to do so he cannot be heard to say that his rights were denied.”

24. The court further observed that;

“In the instant appeal, it is not in dispute that the appellant was aggrieved by the decision of the 2nd respondent. However, instead of lodging an appeal before the Provincial Appeals Committee constituted for the province in which the land which was the subject matter of the dispute was situated and if still dissatisfied to appeal to the High Court on a point of law (see: Section 8(1) and (9) of the Land disputes Tribunal Act) or institute judicial review proceedings to quash the decision by the 2nd respondent as it was alleged that it acted in excess of its jurisdiction in making the award, the appellant opted to file a fresh suit before the ELC which was not in order. See also Speaker of National Assembly v Njenga Karume [2008] 1 KLR. We reiterate that if indeed the appellant did not agree with the decision of the 2nd respondent and wished to challenge it, it behooved her to follow the route prescribed by the Land Disputes Tribunals Act before proceeding anywhere else.”



104. And in the case of Florence Nyaboke Machani v Mogere Amosi Ombui & 2 others [2014] eKLR the Court of Appeal had held as follows;

“..... 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.”

105. Quite clearly, from the decisions herein rendered by the Court of Appeal, the Plaintiff herein ought to have appealed the award of the Naivasha Disputes Tribunal to the Lands Appeals Committee constituted for the Province, in accordance with Section 8(1) of the Lands Disputes Tribunals Act (which was not done). Alternatively, the plaintiff could have commenced judicial review proceedings in the nature of certiorari, to quash the award before the same was adopted as a judgment and order of the court but has come to court too late in the day and therefore the declaratory relief herein sought must fail.

106. Having found that the award issued by the Naivasha Land Disputes Tribunal became a Judgment of a Court of competent jurisdiction, since the same was not varied, vacated, set aside or reviewed by the same Court, or by an appellate Court, in an appropriate proceedings, the deceased M/s Kamau Mucheru had been installed as the proprietor of the suit land. In this regard, the court finds that the Plaintiff’s suit lacks merit and the same is hereby dismissed with costs.

DATED AND DELIVERED VIA TEAMS MICROSOFT AT NAIVASHA THIS 7TH DAY OF NOVEMBER 2024.

M.C. OUNDO

ENVIRONMENT & LAND – JUDGE

