



**Kenya Alliance Insurance Company Limited v Samson & 2 others;  
Family Bank Limited (Interested Party) (Environment & Land Case  
E143 of 2023) [2023] KEELC 21470 (KLR) (9 November 2023) (Judgment)**

Neutral citation: [2023] KEELC 21470 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT NAIROBI  
ENVIRONMENT & LAND CASE E143 OF 2023  
OA ANGOTE, J  
NOVEMBER 9, 2023**

**BETWEEN**

**KENYA ALLIANCE INSURANCE COMPANY LIMITED ..... PLAINTIFF**

**AND**

**STANLEY KIETI SAMSON ..... 1<sup>ST</sup> DEFENDANT**

**CHIEF LANDS REGISTRAR ..... 2<sup>ND</sup> DEFENDANT**

**SURVEY OF KENYA ..... 3<sup>RD</sup> DEFENDANT**

**AND**

**FAMILY BANK LIMITED ..... INTERESTED PARTY**

**JUDGMENT**

**Background**

1. This suit was commenced by way of a Plaint dated 19<sup>th</sup> April 2023, in which the Plaintiff has sought for the following remedies:
  - a. A declaration be issued that the Plaintiff is the absolute registered owner of all that land known as Land Reference number 1159/110 (I.R. No. 5469) measuring 2.026 hectares located in Karen within Nairobi City County.
  - b. An order be issued cancelling L.R. No. 1159/477 and L.R No. 1159/478 [also known as Nairobi/ Block 47/1243 and Nairobi/Block 47/1502 respectively] which emanated from the illegal subdivision.
  - c. A declaration that any title in the name of the 1<sup>st</sup> Defendant, his agents or associates for Land Reference number 1159/110 (I.R. No. 5469) is fraudulent.



- d. A permanent injunction be issued restraining the 1<sup>st</sup> Defendant whether by himself, agents, associates or employees or any other person whatsoever from trespassing, entering upon, remaining upon, occupying disposing of, leasing, charging or in any manner howsoever interfering with the Plaintiff's ownership occupation, quiet possession and utilization of the property known as L.R. No. 1159/110 (L.R. No. 5469) situated in Karen within Nairobi County, in default, an eviction order do issue, which order should be enforced by the Officer Commanding Karen or Hardy Police stations or any nearby station.
  - e. An order be issued cancelling survey plan registered on 15<sup>th</sup> January 2019 as folio number 62B and register number 199.
  - f. A mandatory order be issued directing the 2<sup>nd</sup> and 3<sup>rd</sup> Defendants to locate and/or reconstruct the file for the suit property known as Land Reference number 1159/110 (I.R. No.5469) within 30 days from the date of judgement and clean up the records to reflect the Plaintiff as the absolute owner of the suit property.
  - g. General damages against the 1<sup>st</sup> Defendant for trespass.
  - h. Costs of this suit.
  - i. Any other relief the court may deem fair and just to grant.
2. In the Plaint, the Plaintiff averred that it is the registered owner of a freehold interest in the land known as Land Reference number 1159/110 (I.R. No. 5469) measuring 2.026 hectares (5 acres) located in Karen within Nairobi City County (the suit property) and that the Plaintiff acquired the suit property from its holding company, International Controls Limited (ICL) by a transfer dated 22<sup>nd</sup> September 1992 and registered on 22<sup>nd</sup> October 1992, at a consideration of Kshs. 6,000,000.
  3. It was averred by the Plaintiff that ICL acquired the suit property from Jonathan Bowen Havelock (now deceased) by a transfer registered on 14<sup>th</sup> March 1978 and that the current value of the 5 acres is approximately Kshs. 350,000,000 (Kshs. 70,000,000 per acre).
  4. The Plaintiff stated that on 6<sup>th</sup> December 2019, it charged the suit property as an additional security to an existing credit facility and registered on the title as entry number 18 and that the original title for the suit property is currently held by the interested party.
  5. It is the Plaintiff's case that it has enjoyed quiet possession since acquiring the suit property in 1992 until sometime in 2019, when the 1<sup>st</sup> Defendant, in the company of goons unknown to the Plaintiff, invaded the suit property claiming ownership; and that the 1<sup>st</sup> Defendant carried with him a fraudulent title.
  6. The Plaintiff averred that it reported the matter to the directorate of criminal investigations who conducted investigations, resulting in the ongoing case at Kiambu Chief Magistrates Court Criminal Case No. 1929 of 2019- Republic vs Stanley Kieti Samson, where the 1<sup>st</sup> Defendant is the accused person.
  7. It was averred in the Plaint that on 1<sup>st</sup> February 2023, the Plaintiff purchased a survey plan for the suit property from the 3<sup>rd</sup> Defendant, which was registered on 22<sup>nd</sup> December 1970 as folio number 120 and register number 46 and that on the same day, it was informed of the existence of a second survey plan for the suit property registered on 15<sup>th</sup> January 2019 as folio number 62B and register 199 (the second survey plan).



8. According to the Plaintiff, the second survey plan shows that there was a purported subdivision of the suit property [L.R. No. 1159/110 (I.R. No. 5469)] Nairobi which gave rise to two parcels of land, namely, L.R. Nos. 1159/477 and 1159/478 and that the two parcels were later published in the Kenya Gazette on 11<sup>th</sup> February 2022 and allocated new parcel numbers known as Nairobi/ Block 47/1243 and Nairobi/ Block 47/1502.
9. It is the Plaintiff's case that it has never instructed any surveyor to subdivide its land and that the fraudulent and illegal subdivision of the suit property was carried out by the 1<sup>st</sup> Defendant, his agents and or associates with intent to fraudulently dispossessing it of the suit property.
10. The Plaintiff averred that the 2<sup>nd</sup> and 3<sup>rd</sup> Defendants were complicit in the fraudulent actions which enabled the 1<sup>st</sup> Defendant to carry out illegal transactions on the suit property and that after it discovered the illegal subdivision, it made several futile attempts to carry out a search on the suit property and the two parcels at the lands registry in Nairobi.
11. According to the Plaintiff, the 2<sup>nd</sup> Defendant's officers informed its Director that they could not trace the files for the suit property and the two illegally created parcels; that despite sending a letter to the 2<sup>nd</sup> Defendant dated 21<sup>st</sup> March 2023 notifying them of the fraudulent transactions on the suit property and demanding rectification under Section 79 of the [Land Registration Act](#), it did not receive a response.
12. The Defendants did not file Defences.

### **Hearing and Evidence**

13. The Plaintiff presented the evidence of one witness, Linda Njenga, (PW1), its Legal Manager, who adopted her statement dated 25<sup>th</sup> September 2023 as her evidence in chief. PW1 informed the court that the suit property was purchased from its group holding company, International Controls Limited (ICL), in 1992, which had acquired the same from Jonathan Bowen Havelock (now deceased).
14. PW1 informed the court that the transfer to ICL was registered on 14<sup>th</sup> March 1978; that since acquiring the suit property, the Plaintiff has had uninterrupted possession until 2019, when some goons led by the 1<sup>st</sup> Defendant stormed into the property claiming ownership.
15. It was the evidence of PW1 that the 1<sup>st</sup> Defendant filed a suit against Pius Ngugi, a shareholder and director of the Plaintiff, in the magistrates' court in which he produced his fraudulent title and that the suit was struck out for lack of jurisdiction.
16. PW1 stated that following the 2019 invasion of the suit property, investigations were carried out by the DCI and the 1<sup>st</sup> Defendant was charged in the ongoing case being Kiambu Chief Magistrates' Court Criminal Case No. 1992 of 2019- Republic vs Stanley Kieti Samson.
17. It was the evidence of PW1 that on 1<sup>st</sup> February 2023, the Plaintiff purchased a survey plan for the property registered on 22<sup>nd</sup> December 1970 as folio number 120 and register number 46 from the 3<sup>rd</sup> Defendant and that they were made aware of the existence of a second survey plan for the suit property registered on 15<sup>th</sup> January 2019.
18. That upon perusal of the second survey plan, it was averred, they observed that there was a purported subdivision of the property L.R. No. 1159/110 (I.R. No. 5469) Nairobi which gave rise to two parcels namely L.R. No. s 1159/477 and 1159/478 and that these two parcels were published in the Kenya Gazette on 11<sup>th</sup> February 2022 and allocated parcel numbers Nairobi/Block 47/1243 and Nairobi/Block 47/1502.



19. It was the evidence of PW1 that the file kept by the 3<sup>rd</sup> Defendant shows that the surveyor who requested for the subdivision and allegedly carried out the survey work is one Stephen Ambani of Kolmans Geomatic Consultants Kenya Limited; and that the surveyor submitted a letter dated 11<sup>th</sup> December 2018 to the Survey of Kenya requesting for subdivision but the letter does not show who his instructing client was.
20. PW1 testified that the 2<sup>nd</sup> Defendant's staff informed them that the files were missing and could not be traced; that the Plaintiff did not instruct any surveyor to subdivide the suit property; that the resultant parcel numbers Nairobi/ Block 47/1243 and Nairobi/Block 47/1502 are illegal and that the second survey plan is fraudulent.
21. According to PW1, the suit property was charged to the Interested Party, which was registered against the title on 6<sup>th</sup> December 2019; that this would not have been possible if the purported subdivision carried out in January 2019 was legitimate because the suit property would have ceased to exist and that by a letter dated 10<sup>th</sup> December 2018, the 2<sup>nd</sup> Defendant confirmed that the suit property is owned by the Plaintiff and its title is genuine.
22. PW1 informed the court that the complicity of the 2<sup>nd</sup> and 3<sup>rd</sup> Defendants enabled the 1<sup>st</sup> Defendant to carry out the fraudulent transactions on the suit property; that the Plaintiff has paid utility bills and land rates and that the land is still charged to Family Bank. PW1 stated that the file with respect to the suit property was reconstructed by the Ministry of Lands. PW 1 produced in evidence two bundles of documents which were marked as PEXB1 and PEXB2.
23. The Defendants did not adduce any evidence.
24. The Interested Party presented a witness, Margaret Ngele Ngwatu, a Relationship Manager- Corporate Banking of the Interested Party (DW1). DW1 adopted her witness statement dated 13<sup>th</sup> June 2023 and produced a bundle of documents as DEXB1.
25. DW1 testified that the Bank (the Interested Party) advanced to the Plaintiff a loan pursuant to the Letter of Offer dated 29<sup>th</sup> August 2019 and that the collateral for the loan was the suit property which is owned by the Plaintiff.
26. DW1 stated that the Plaintiff and the Bank executed and registered a charge dated 2<sup>nd</sup> December 2019, which was registered on 6<sup>th</sup> December 2019 against the title; that the loan advanced to the Plaintiff is due and owing and that the Bank retains the original title to the suit property and has not released it to anyone.
27. It was the evidence of DW1 that it has not given any instructions for subdivision of the suit land; that any subdivisions or dealings on the suit property are unlawful and illegal in so far as they defeat the Bank's financier's interest and that if there are any titles which are alleged to have been issued as a result of the subdivision of the suit property, they ought to be nullified as they are null, void, illegal and of no legal effect.

## **Submissions**

28. Counsel for the Plaintiff submitted that the title in the 1<sup>st</sup> Defendant's possession is a forgery; that the search issued to the Plaintiff by the 2<sup>nd</sup> Defendant in 2019 shows that the suit property belongs to the Plaintiff and that there is a letter dated 10<sup>th</sup> December 2018 from the 2<sup>nd</sup> Defendant which states that the suit property is owned by the Plaintiff.



29. Counsel submitted that the Interested Party has a charge on the suit property registered on 6<sup>th</sup> December 2019 where the Plaintiff is the charger and that the Interested Party could not have charged the suit property and have the charge registered if the property belonged to the 1<sup>st</sup> Defendant.
30. It was submitted that although the 1<sup>st</sup> Defendant's title shows that the suit property was transferred to Anthoni William Down and Laura Celeste Down as joint tenants on 14<sup>th</sup> May 1979, they were however not owners of the same because at that time, they had already transferred the suit property to Justice Jonathan Bowen Havelock on 10<sup>th</sup> October 1974.
31. The Plaintiff's counsel further submitted that it has produced in its bundle an Affidavit sworn by Jonathan Bowen Havelock (deceased) sworn on 19<sup>th</sup> November 2019 while he was still alive, which Affidavit is admissible under Section 34(1)(a) of the Evidence Act and that Jonathan Bowen Havelock (deceased) acquired the suit property from Anthony William Austin Down and Laura Celeste Down in 1974.
32. Counsel for the Plaintiff submitted that the late Jonathan Bowen Havelock (deceased) sold the suit property to ICAL in 1978 and after completing the sale, he vacated the suit property and handed over possession to Mr. Pius Mbugua Ngugi on behalf of ICAL.
33. Counsel relied on the cases of *Mary Ngonyo Kiume vs Charles Muisyo David & 2 Others, Exams Housing Co-operative Society Limited (Interested Party)* [2022] eKLR and *Macfoy v United Africa Co. Ltd* (1961) 3 All ER. 1169.
34. Counsel for the Interested Party submitted that there was no evidence of any entry on any of the titles for the subdivision of the suit property; that any purported entries to the title after the charge without the consent or sanction of the Interested Party is null and void and that any title document issued to the 1<sup>st</sup> Defendant during the subsistence of the charge in favor of the Interested Party cannot create any lawful interests which can be protected in law.
35. Counsel for the Interested Party finally submitted that the court has jurisdiction to order rectification of the register, pursuant to Section 80 of the Land Registration Act.

### **Analysis and Determination**

36. Upon consideration of the pleadings, the evidence and submissions filed in this matter, the issues for determination are:
  - i. Whether the Plaintiff is the absolute registered proprietor of the suit property.
  - ii. Whether the suit property was lawfully subdivided by the 1<sup>st</sup> Defendant.
37. The Plaintiff asserts that it is the legal owner of the suit property, Land Reference number 1159/110 (I.R. No. 5469) measuring 2.026 hectares (5 acres) located in Karen within Nairobi City County. The Plaintiff is challenging the validity of a second survey plan over the suit property, which, it avers, was irregularly used to subdivide the suit property and two titles, Nairobi/Block 47/1243 and Nairobi/Block 47/1502 issued in favour of the 1<sup>st</sup> Defendant.
38. None of the Defendants filed a response to the Plaintiff's suit. Despite the suit being undefended, courts have held that the party with the onus of adducing evidence must satisfy the required standard



of proof threshold. This was stated by the court in *Samson S. Maitai & Another vs African Safari Club Ltd & Another* [2010] eKLR as follows: -

“... I have not seen a judicial definition of the phrase “Formal Proof”. “Formal” in its ordinary Dictionary meanings - refers to being “methodical” according to rules (of evidence). On the other hand, according to Halsbury’s Laws of England, Vol. 15, para, 260, “proof” is that which leads to a conviction as to the truth or falsity of alleged facts which are the subject of inquiry. Proof refers to evidence which satisfies the court as to the truth or falsity of a fact. Generally, as we well know, the burden of proof lies on the party who asserts the truth of the issue in dispute. If that party adduces sufficient evidence to raise a presumption that what is claimed is true, the burden passes to the other party who will fail unless sufficient evidence is adduced to rebut the presumption.”

39. In the same vein, the court in *Rosaline Mary Kahumbu vs National Bank of Kenya Ltd* [2014] eKLR held as follows:

“In contrast, at a formal proof hearing, if the party with the onus of adducing evidence fails to satisfy the truth threshold, the matter would stand to be dismissed on the basis that it was unmeritorious and did not raise sufficient proof of any issues of fact or law. It would be heard and determined on its merits.”

40. It is indeed trite that the person who alleges must prove. Therefore, the burden of proof was upon the Plaintiff to prove its case as provided for under Section 107 of the *Evidence Act*, which provides as follows:

- “(1) Whoever desires any court to give judgment as to any legal right or liability dependent on the existence of facts which he asserts must prove that those facts exist.
- (2) When a person is bound to prove the existence of any fact it is said that the burden of proof lies on that person.”

41. It is trite that a certificate of title is prima facie evidence that the person named as proprietor is the absolute and indefeasible owner. However, a certificate of title can be challenged on grounds that it was obtained through fraud, misrepresentation, corruption, illegally or unprocedurally. Section 26 of the *Land Registration Act* sets out the principle of indefeasibility of title as follows:

- “(1) The certificate of title issued by the Registrar upon registration, or to a purchaser of land upon a transfer or transmission by the proprietor shall be taken by all courts as prima facie evidence that the person named as proprietor of the land is the absolute and indefeasible owner, subject to the encumbrances, easements, restrictions and conditions contained or endorsed in the certificate, and the title of that proprietor shall not be subject to challenge, except—
  - (a) on the ground of fraud or misrepresentation to which the person is proved to be a party; or
  - (b) where the certificate of title has been acquired illegally, unprocedurally or through a corrupt scheme.”



42. Courts have held that when a certificate of title is challenged, the proprietor needs to prove that he acquired the title legally. In the Court of Appeal case of *Munyu Maina vs Hiram Gathiha Maina* [2013] eKLR, the court stated that:
- “...when a registered proprietor’s root of title is under challenge, it is not sufficient to dangle the instrument of title as proof of ownership...the registered proprietor must go beyond the instrument and prove the legality of how he acquired the title and show that the acquisition was legal...”
43. The evidence before this court shows that the Plaintiff is the registered proprietor of a freehold interest in the land known as Land Reference number 1159/110 (I.R. No. 5469) measuring 2.026 hectares (5 acres) located in Karen within Nairobi City County.
44. The evidence shows that the Plaintiff acquired the suit property from its holding company, International Controls Limited (ICL) by a transfer dated 22<sup>nd</sup> September 1992 and registered on 22<sup>nd</sup> October 1992. The title shows that ICL acquired the suit property from Jonathan Bowen Havelock (now deceased) by a transfer registered on 14<sup>th</sup> March 1978, and took possession thereof.
45. From the historical title, it is clear that the transaction from Jonathan B. Havelock in 1978 was first to ‘International and Community Agency Limited’, which was later rectified on 26<sup>th</sup> August 1982 to read ‘International Community Agency Limited’. The company later changed its name on 22<sup>nd</sup> October 1992 to International Controls Limited and on 22<sup>nd</sup> October 1992, the suit property was transferred to the Kenya Alliance Insurance Company Limited, the Plaintiff herein.
46. The title document in respect of the suit property shows that on 6<sup>th</sup> December 2019, the Plaintiff charged the suit property as an additional security to an existing credit facility. The charge was registered against the title as entry number 18 and the original title is currently held by the Interested Party.
47. The Plaintiff has produced in evidence a copy of the certificate of incorporation of International and Community Agency Limitor (ICAL) dated 4<sup>th</sup> April 1972 and Certificates of Change of name from ICAL to International Control Limited (ICL) dated 23<sup>rd</sup> March 1984 and from ICL to Thika Coffee Mills dated 30<sup>th</sup> May 1996.
48. The Plaintiff has further adduced an affidavit sworn by Justice (Rtd) Jonathan Bowen Havelock (now deceased) sworn on 19<sup>th</sup> November 2019. In the said affidavit, the late Justice Havelock deponed that he acquired the suit property from Anthony William Austin Down and his wife Lawra Austin Down and was registered as the proprietor on 10<sup>th</sup> October 1974.
49. The late Justice Havelock deponed that in 1978, he sold the suit property to International & Community Agency Limited and the transfer of charge was registered against the suit property on 14<sup>th</sup> March 1978.
50. In producing this affidavit, the Plaintiff has relied on Section 34(1)(a) of the *Evidence Act*, under which evidence previously given in a judicial proceeding is deemed admissible where the witness is dead or cannot be found. The said affidavit is therefore admissible.
51. The Plaintiff also produced in evidence the pleadings of a suit that was filed by the 1<sup>st</sup> Defendant herein against Pius Ngugi regarding the suit property in Nairobi CMCC No. 8462 of 2019- Stanley Kieti Samson vs Pius Ngugi, which was subsequently dismissed by the lower court for lack of pecuniary jurisdiction.



52. The Plaintiff also adduced the Charge sheet in the criminal proceedings brought against the 1<sup>st</sup> Defendant in Kiambu Magistrates Court Criminal Case No. 929 of 2019- Republic vs Stanley Kieti Samson.
53. The Plaintiff avers that the suit property was unlawfully subdivided through a second survey plan registered on 15<sup>th</sup> January 2019 as folio number 62B and register 199 (second survey plan) and that the second survey plan shows that there was a purported subdivision of the suit property [L.R. No. 1159/110 (I.R. No. 5469)] Nairobi which gave rise to two parcels, namely L.R. Nos. 1159/477 and 1159/478.
54. The two parcels of land were later published in the Kenya Gazette on 11<sup>th</sup> February 2022 and allocated new parcel numbers known as Nairobi/ Block 47/1243 and Nairobi/ Block 47/1502.
55. The Plaintiff has produced a copy of the second survey plan dated 15<sup>th</sup> January 2019; excerpts of Gazette Notice No. 1402 Volume XXXIV No. 27 and a copy of a letter allegedly from Kolmans Geometric Consultants Kenya Limited to the 3<sup>rd</sup> Defendant seeking consent to subdivide the land.
56. The Interested Party has supported the Plaintiff's case and asserts that the Interested Party currently holds the Plaintiff's title to the suit property as security for a loan which it procured pursuant to a letter of offer dated 29<sup>th</sup> August 2019. The Interested Party and the Plaintiff argue that if indeed the subdivision of the suit property was lawful and legitimate, then the Interested Party would not have been able to charge the suit property.
57. The second survey plan shows that there was a purported subdivision of the suit property [L.R. No. 1159/110 (I.R. No. 5469)] Nairobi which gave rise to two parcels of land, namely L.R. Nos. 1159/477 and 1159/478. The two parcels were later published in the Kenya Gazette on 11<sup>th</sup> February 2022 and allocated new parcel numbers known as Nairobi/ Block 47/1243 and Nairobi/ Block 47/1502.
58. It is true, as submitted by the Plaintiff's and the Interested Party's counsel, that if indeed the subdivision of the suit property was lawful, the title currently held by the Interested Party would have been surrendered for cancellation before the purported subdivision could be effected.
59. The court is convinced that the Plaintiff has never instructed any surveyor to subdivide its land, and the fraudulent and illegal subdivision of the suit property was carried out by the 1<sup>st</sup> Defendant, his agents and or associates with the intent to fraudulently dispossess the Plaintiff of the suit property.
60. Indeed, this court is in agreement with the Plaintiff that the 2<sup>nd</sup> and 3<sup>rd</sup> Defendants were complicit in the fraudulent actions which enabled the 1<sup>st</sup> Defendant to carry out illegal transactions on the suit property by registering and gazetting the purported sub divisions.
61. It is therefore the finding of this court that the creation of a second survey plan by the 1<sup>st</sup> Defendant, and the purported subdivision of the suit property to create L.R. No. 1159/477 and L.R. No. 1159/478 [also known as Nairobi/ Block 47/1243 and Nairobi/Block 47/1502 respectively] was illegal, null and void ab initio.
62. The Plaintiff has always been the owner of the suit property, and any purported ownership and occupation of the suit property by the 1<sup>st</sup> Defendant or his agents constitutes trespass.
63. In conclusion, this court allows the Plaintiff's claim as follows:
  - a. A declaration be and is hereby issued that the Plaintiff is the absolute registered owner of all that land known as Land Reference Number 1159/110 (I.R. 5469) measuring 2.026 hectares located in Karen within Nairobi City County.



- b. A declaration be and is hereby issued that any title in the name of the 1<sup>st</sup> Defendant, his agents or associates for Land Reference number 1159/110 (I.R. No. 5469) is fraudulent, and is hereby cancelled.
- c. An order be and is hereby issued cancelling L.R. No. 1159/477 and L.R. No. 1159/478 [also known as Nairobi/ Block 47/1243 and Nairobi/Block 47/1502 respectively] which emanated from the illegal subdivision of Land Reference number 1159/110.
- d. An order be and is hereby issued cancelling the survey plan registered on 15<sup>th</sup> January 2019 as folio number 62B and register number 199.
- e. A mandatory order be and is hereby issued directing the 2<sup>nd</sup> and 3<sup>rd</sup> Defendants to locate and/or reconstruct the file for the suit property known as Land Reference number 1159/110 (I.R. No.5469) within 30 days from the date of judgement and clean up the records to reflect the Plaintiff as the absolute owner of the suit property.
- f. A permanent injunction be and is hereby issued restraining the 1<sup>st</sup> Defendant whether by himself, agents, associates or employees or any other person whatsoever from trespassing, entering upon, remaining upon, occupying disposing of, leasing, charging or in any manner howsoever interfering with the Plaintiff's ownership, occupation, quiet possession and utilization of the property known as L.R. No. 1159/110 (L.R. No. 5469) situated in Karen within Nairobi County.
- g. In default of(f) above, an eviction order do issue, which order should be enforced by the Officer Commanding Karen or Hardy Police stations or any nearby police station.
- h. Damages for trespass of Kshs. 3,000,000 to be paid by the 1<sup>st</sup> Defendant to the Plaintiff.
- i. The 1<sup>st</sup> Defendant to pay the costs of this suit.

**DATED, SIGNED AND DELIVERED VIRTUALLY THIS 9<sup>TH</sup> DAY OF NOVEMBER, 2023.**

**O. A. Angote**

**Judge**

**In the presence of;**

Mr. Owiti for Plaintiff

Mr. Munai for Interested Party

Mr. Allan Kamau for Attorney General

No appearance for 1<sup>st</sup> and 2<sup>nd</sup> Defendants

Court Assistant: Tracy

