



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT NAIROBI

MILIMANI LAW COURT

ELC CASE NO. 418 OF 2015

ALI HAJI ABBAS.....PETITIONER

VERSUS

COUNTY GOVERNMENT OF MANDERA.....1ST RESPONDENT

THE DIRECTOR OF POLYTECHNIC,

MANDERA POLYTECHNIC.....2ND RESPONDENT

THE NATIONAL LAND COMMISSION.....3RD RESPONDENT

THE HON. THE ATTORNEY GENERAL OF KENYA.....4TH RESPONDENT

JUDGEMENT

INTRODUCTION

1. The Petitioner herein filed and/or lodged a Petition dated **28th April 2015**, whereby same sought various reliefs, particulars whereof have been enumerated at the foot of the Petition. For clarity, the Petitioner seeks the following reliefs;

I. A declaration do issue that the 1st Respondent’s take over and conversion to public use of the Petitioner’s L.R. NO. 13139/616 in Mandera, Mandera County, without any form of fair hearing and compensation to the Petitioner is unconstitutional amounting to a violation of Article 31B and Article 40(3) of the Constitution of Kenya and part VIII of the Land Act, 2012.

II. A declaration do issue that the Petitioner is entitled to full, prompt and just compensation over the 1st Respondent’s conversion of the Petitioner’s L.R. NO. 13139/616 in Mandera, in Mandera County, to public property.

III. A declaration do issue that the 1st Respondent has violated the Petitioner’s right to fair and administrative action under Article 47 (10) of the Constitution, in the process of the 1st Respondent’s conversion of the Petitioner’s L.R. NO. 13139/660 in Mandera, Mandera County to public use.

IV. A declaration do issue that the 1st Respondent in failing to involve the 3rd Respondent, namely the National Land Commission in the process of the 1st Respondent’s conversion of the Petitioner’s L.R. NO. 13139/660 in Mandera, Mandera County into public use, has violated the Constitution.

V. A declaration do issue declaring L.R. NO. 13139/660 in Mandera, Mandera County to be Private Land, in absence of the lawful process envisaged under Article 40(3) of the Constitution for converting the same into Public Land.

VI. An order directing the County Registrar to forthwith delete and expunge from the Land Register any other person, including the Respondents from the Parcel Register Title of L.R NO. 13139/660 in Mandera, Mandera County other than the Petition herein.

VII. An eviction order do issue, to evict the 2nd Respondent from the L.R NO. 13139/660 in Mandera, Mandera County.

VIII. A permanent injunction do issue permanently restraining the Respondents herein from any further or other dealings in the

Petitioner's L.R. NO. 13139/660 in Mandera, Mandera County.

IX. Alternatively to orders 6, 7 & 8 above, an Order do issue directing the 3rd Respondent, the National Land Commission, to forthwith and not later than 30 days of this Order, to undertake the valuation of the market value of the Petitioner's L.R. NO. 13139/660 in Mandera, Mandera County by a licensed government valuer and an independent valuer, and to promptly remit the same to the Petitioner as envisaged under Article 40(3) of the Constitution of Kenya and Section 112 and 123 of the Land Act, 2012, and/or in such respect as this Court shall direct and/or order.

X. The Petitioner be compensated by way of damages for the psychological suffering and inflicting against him of breach of his rights against any such psychological torture arising from the deprivation of the said land L.R. NO. 13139/660 in Mandera, Mandera County as enshrined in the Constitution.

XI. Costs of this Petition be borne by the Respondents.

2. The Petition herein is supported by an Affidavit by one Ali Haji Abbas, sworn on the **28th April 2015**, to which the Petitioner has attached various albeit numerous annexures running into approximately 70 pages.
3. Upon the filing and service of the subject Petition, same was duly served upon the Respondent who thereafter proceeded to enter appearance and filed a Replying Affidavit. In this regard the 1st and 2nd Respondents retained and/or engaged the services of Eunice Mohammed & Associates Advocates, whereas the office of the Attorney General entered appearance for the 3rd & 4th Respondent.
4. On one hand, the 1st and 2nd Respondents proceeded to and filed a Replying Affidavit sworn by Okash Abdullahi Adan, sworn on the 9th August 2015 where the 1st & 2nd Respondents have contested the claim by the Petitioner.
5. On the other hand, the 3rd & 4th Respondent also caused to be filed a Replying Affidavit, in respect to the issues beforehand. However, the 3rd & 4th Respondents contended that same did not have any lawful interest over the suit Property.

DEPOSITIONS BY THE PARTIES

PETITIONER'S CASE

6. According to the Petitioner, same applied for a plot card in respect of the suit property to the office of the Commissioner of Lands, culminating to the issuance of a Lease.
7. It is the Petitioner's averment that upon the transfer and registration of the Lease, it confirmed the Petitioner's title.
8. It is the Petitioner's further averment and/or testimony that upon fully paying the purchase price, they took possession and/or occupied the suit Property, as pertains to the ownership of the premises.
9. Nevertheless, the Petitioner avers that despite being the lawful and legitimate proprietor of the suit Property, the 1st & 2nd Respondents have entered upon and thus taken possession of the entire suit Property.
10. In fact, the Petitioner further avers that after taking over and/or forcibly assuming the suit Property, the 1st Respondent proceeded to and constructed the premises that currently houses the 2nd Respondent. In this regard, the 2nd Respondent occupies, possesses and uses the suit Property.
11. It is the Petitioner's averment that possession of the suit Property was taken and/or undertaken, without his involvement, participation and/or hearing. Consequently, the Petitioner avers that in the manner which the suit Property has been taken over and/or assumed, has violated his Fundamental Rights and in this regard same has been fully denied and/or deprived of the suit Property.
12. Further, the Petitioner avers that the suit Property belongs to and is registered in his name, and it was neither lawful nor constitutional for the 1st & 2nd Respondents to forcefully take the possession of the suit Property without affording the Petitioner a right to be heard.
13. As a result of the actions by or on behalf of the 1st and 2nd Respondents, and in which actions have been connived by the 3rd & 4th Respondents, the Petitioner thus contends that it is appropriate and/or timely that the actions by the Respondents jointly and/or severally be declared unlawful and/or otherwise unconstitutional.
14. Nevertheless, the Petitioner further avers that in the event the 1st & 2nd Respondents are not keen to vacate the suit Property, then the 1st Respondent ought to be compelled to commence the process of Compulsory Acquisition of the suit Property, upon prompt and timeous payment of compensation for the loss of the suit Property.

1st & 2nd Respondents case

15. On their part, they have filed a Replying Affidavit which avers that the suit Property was part and parcel of Public Land falling under the jurisdiction of the 1st Respondent.

16. The 1st & 2nd Respondents further aver that even what comprised of the suit Property was Public Land, which ought to vest in the 1st Respondent, and same was illegally and unlawfully alienated to and in favor of the Petitioner.

17. In view of the foregoing, the 1st & 2nd Respondents position is that the Petitioner's Title to the suit Property was thus obtained and/or acquired irregularly, illegally and unlawfully.

3rd & 4th Respondent's case

18. The 3rd & 4th Respondent filed a Replying Affidavit sworn by one Silas K Mburugu, on the 21st December 2015, whereby same described himself as the Principal Land and Administration Officer, working with the 3rd Respondent, namely the National Land Commission.

19. According to the 3rd Respondent, same denies the allegations that the 3rd Respondent has falsely and illegally compulsorily reacquired the suit Property for and on behalf of the 1st & 2nd Respondent.

20. In the premises, the 3rd Respondent states that same has no role to play in and/or over the suit Property.

SUBMISSIONS BY THE PARTIES

21. The Petition herein came up for hearing on various dates including the 30th September 2019, when directions were given that the Petition shall be canvassed and/or disposed of by way of documents filed and Written Submissions.

22. Pursuant to and in line with the directions given (details in the preceding paragraph), the Petitioner herein proceeded to and filed his Written Submissions on the 26th March 2021.

23. However, despite the matter being mentioned on several occasions and timeline being granted to the Respondents to file Written Submissions, none of the Respondents filed the same and as a result of the foregoing, the Honourable Court issued further Orders on the 20th September 2021, to the effect that the Court shall proceed to draft the Judgment herein, with or without the Submissions by the parties.

24. Be that as it may, up to and including the time of drafting the Judgment, the only Submissions that were on record were the Submissions by the Petitioner which the Court has enumerated and/or alluded to herein before.

ISSUES FOR DETERMINATION

25. Having taken into account the contents of the Petition dated 28th February 2015, the Supporting Affidavit sworn on the same date as well as the Supplementary Affidavit sworn on the 22nd October 2015, on one part, and the Replying Affidavit sworn by one Okash Abdullahi Adan, for and/or on the 1st & 2nd Respondents as well as the Replying Affidavit of Silas K. Mburugu, and having reviewed the relevant Law, the following issues are germane and thus requiring determination, pertaining to and/or concerning the Subject Matter.

- a. *Whether the Petitioner is the lawful and legitimate proprietor of the suit Property*
- b. *Whether the suit Property was unlawfully acquired*
- c. *Whether the actions of the 1st & 2nd Respondents amount to trespass and violation of the Petitioners Constitutional and Fundamental Rights*
- d. *Whether the suit Property has been compulsorily acquired and whether the process of such Acquisition was lawful*
- e. *What reliefs are appropriate to be granted*

ISSUE NUMBER 1

Whether the Petitioner is the lawful and legitimate proprietor of the suit property

26. The Petitioner herein has deposed to and/or stated that same was issued with a Letter of Allotment by the Office of the Commissioner of Lands, letter dated 7th May 1992, whereby same was allocated a property otherwise referred to as and surveyed Industrial plot H in Mandera Town.

27. The Petitioner further avers that upon the allocation of the said plot, same was required to and indeed paid the statutory levies at the foot of the Letter of Allotment and that upon such payments, the Office of the Director of Survey, carried out and/or undertook the requisite survey, with a view of demarcating the ground position of the suit Property and for purposes of issuance of Beacons Certificate.

28. On the other hand, the Petitioner has also tendered evidence that after the alienation of the property and survey, the Director of Survey duly prepared the part Development Plan and the Deed Plan, respectively, which were duly approved culminating into the assignment of the alienated property known as L.R. No. 13139/660 (the suit Property herein).

29. Subsequently, the Petitioner contends that same was issued with the Certificate of Title over and in respect of the suit Property for a term of 99 years, w.e.f 1st May 1992.

30. Having being issued with the Certificate of Title, which followed after the issuance of the Letter of Allotment, payment of the statutory charges, survey and preparation of the Deed Plan, it is worthy to observe that the Petitioner's Title was lawfully and validly issued with the Certificate of Title.

31. In any event, the Petitioner's Title herein was generated and issued by the relevant Government Office which at the material point in time was clothed with the powers to alienate Public Land in line with the provision of **Section 7 & 8 of the Government Land Act Chapter 280 Laws of Kenya** (now repealed) which states as hereunder;

Section 7

“The Commissioner or an officer of the Lands Department may, subject to any general or special directions from the President, execute for and on behalf of the President any conveyance, lease or licence of or for the occupation of Government lands, and do any act or thing, exercise any power and give any order or direction and sign or give any document, which may be done, exercised, given or signed by the President under this Act: Provided that nothing in this section shall be deemed to authorize the Commissioner or such officer to exercise any of the powers conferred upon the President by sections 3, 12, 20 and 128”.

32. Pursuant to and in line with the said Provision, the Office of the Commissioner indeed alienated the suit Property, and it follows such a time of alienation, the suit Property herein was unalienated Government Land in terms of **Section 2 of the Government Land Act Chapter 280 Laws of Kenya**. For the avoidance of doubt, no evidence has been tendered and/or adduced to show that what comprises the suit property had *hitherto* been alienated and/or reserved for any public purpose.

33. In the premises, it is my finding and holding that the suit Property was lawfully and validly allocated and alienated to and in favor of the Petitioner, who was thereafter issued with a Certificate of Title. On this account, the Petitioner is the lawful and legitimate Proprietor of the suit Property and is therefore entitled to protection under the Law.

34. To vindicate the foregoing position and/or observation, I take refuge in the decision in the case of **Ocean View Plaza Ltd v Attorney General [2002] eKLR**, where the Honourable Court observed as hereunder;

“Allotment of land to a citizen or others protected under the Constitution, which action is symbolized by Title Deeds, invests in the allottee inviolable and indefeasible rights that can only be defeated by a lawful procedure under the Land Acquisition Act.”

35. On the other hand, the process leading to the Acquisition of Title by the Petitioner herein has equally not been challenged save for feeble averments that same was unlawfully acquired. In this regard the Petitioner's Title must hold sway.

36. In support of the foregoing holding and finding, I adopt the holdings of the Court in the case of **Abdullahi Sheikh Ahmed v Mandera County Government [2020] eKLR**, where the Court stated as follows;

“As I have observed in my analysis above, the Plaintiff has produced documents leading to his acquisition of the title deed in respect of the suit property. The process of acquisition of the title has not been challenged. The Defendant has not pleaded or set out any particulars of fraud or misrepresentation in their defence. The certificate of title and the records at the Lands office have not been disputed. The Defendant did not call any witness from the land office concerned to show that the Plaintiff acquired the title to the suit property through fraud, misrepresentation or through any other unlawful means”.

ISSUE NUMBER 2

37. The 1st & 2nd Respondents herein through the Affidavit sworn by one Okash Abdullahi Adan, sworn on the 9th August 2015, have made various albeit adverse allegations against the Petitioner's title, over and in respect of the suit Property. For clarity, the allegation made include that the suit Property is Public Land and that the alienation thereof to and/or in favor of the Petitioner, was irregular, illegal and thus unlawful.

38. Despite the aforesaid allegations, it suffices to note that the 1st & 2nd Respondents have not attached to and/or availed any documents either from the County Government or the National Land Commission, to designate that what was comprised of the suit Property, had previously been alienated and thus was not capable of being alienated afresh.

39. In any event, as pertains to the suit Property, the 3rd Respondent who is now the custodian of all Public Land in line with the Provisions of **Articles 62, 63 & 67 of the Constitution** seems to disagree with the 1st & 2nd Respondents position. Indeed, the inference discernable from the Affidavit of Silas K. Mburugu, at paragraph 5 shows that the 3rd Respondent has not Compulsorily acquired the suit Property. For clarity, Compulsory Acquisition can only apply once the Land intended to be reacquired is Private land and not otherwise.

40. Other than the fact that the 1st & 2nd Respondents have not exhibited any documents to contradict the documents availed and relied on by the Petitioner, it is also sufficient to note that the said 1st & 2nd Respondents have not mounted a cross Petition to challenge the validity and/or Propriety of the Petitioner's title to and/or in respect of the suit Property. Clearly, if the 1st & 2nd Respondents meant the award (allegation of unlawful acquisition of the suit Property), one would have expected the 1st & 2nd Respondents to mount a cross Petition in a bid to invalidate the Petitioner's title.

41. In the absence of a cross Petition, it is my finding and holding that the contents of the Replying Affidavit, advertent to the unlawful acquisition of the suit property (which I have found to be devoid of backing documents) must be and is hereby declared to be red herring and merely cosmetic, without more.

42. Notwithstanding the foregoing, it is important to note that it is not enough to make adverse allegations affecting a Title and on the basis of such allegations, move in and take possession of Private Property under the pretext that the Title was unlawfully acquired. Suffices to say, that the 1st & 2nd Respondents ought to have sought and/or obtained a Court Order, nullifying and/or invalidating the Petitioner's Title, which is not the case.

43. To vindicate the foregoing finding and holding, I can do no better than to quote the decision of the Court in the case of **Kuria Greens Limited v Registrar of Titles & another [2011] eKLR**, where the Court held as hereunder;

“Whereas unlawful acquisition of public property by citizens must be lawfully resisted, the court will be failing in its constitutional duties if it failed to protect citizens from unlawful acquisition of their property by the State through unlawful decisions taken by public officers. If the respondents were satisfied that the suit land had been unlawfully alienated and that it was in the interest of the public that the land reverts to the State or to the Kenya Agricultural Research Institute, appropriate notice ought to have been given to the petitioner and thereafter the respondents ought to have exercised any of the following options”:

(a) Initiate the process of compulsory acquisition of the suit land and thus pay full and prompt compensation to the petitioner or

(b) File a suit in the High Court challenging the petitioner's title and await its determination, one way or the other.

44. In a nutshell, I find and hold that the suit Property was not unlawfully acquired. To the contrary, the Petitioner has availed sufficient and credible evidence to vindicate the validity of the Title.

45. At any rate, I must also add that where the Property is alleged, like in the instant case to have been unlawfully acquired, the finding of *unlawful acquisition*, contemplated in **Article 40 (6) of the Constitution 2010**, must be through a legally established process and not by whim of forcible entry, in the manner propagated by the 1st & 2nd Respondents.

46. To support this legal standing, I adopt and rely on the decision in the case of **Isaac Gathungu Wanjoi & Another v Attorney General & 6 Other (2012) eKLR**, where the Court stated as hereunder;

*“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.’”*

ISSUE NUMBER 3

47. The Petitioner herein, has averred and/or stated that despite being the registered owner and/or Proprietor of the suit Property, the 1st Respondent herein forcefully entered upon and took possession thereof and thereafter commenced the construction of the 2nd Respondent's institution, oblivious of the Petitioner's rights over the suit Property.

48. It is also the Petitioner's contention and this has not been controverted that when the 1st and 2nd Respondents commenced the offensive activities, same was not accorded the opportunity to be heard and neither same was consulted whatsoever.

49. In short, it is the Petitioner's position and I do agree with him that the benefit attendant to Title and Ownership of the suit Property has been interfered with and/or otherwise withdrawn by the actions of the 1st & 2nd Respondents, albeit without any valid legitimate reasons having been tendered and/or availed.

50. Besides, I further find and hold that before the 1st and 2nd Respondents entered upon and took possession of the suit Property, it was incumbent upon same to afford the Petitioner an opportunity to state his case, before the 1st & 2nd Respondents could take the Law to their own hands and reach the decision, which no doubt had serious ramifications, including divesting the Petitioner of his Proprietary rights.

51. Notwithstanding the foregoing, I must also observe that pursuant to the Provision of **Article 47 of the Constitution**, no person, body, agency, and/or state, can take and/or make a decision that violates the Fundamental Rights of a citizen, without the citizen having been afforded fair treatment under the Law. In this regard, the Doctrine of Procedural Fairness has now assumed prominence and therefore the action of the 1st & 2nd Respondents must be frowned upon.

52. To fortify the aforesaid finding, I re-echo the holding of the Court in the case of **Republic V National Police Service Commission Exparte Daniel Chacha [2016] eKLR**, where the Honourable Court stated *inter – alia* ;

*“Procedural fairness is therefore now a Constitutional requirement in administrative action and the requirement goes further than the traditional meaning of the duty to afford one an opportunity of being heard. It is now clear that even in cases where there is no express requirement that a person be heard before a decision is made, the tribunal or authority entrusted with the mandate of making the decision must act fairly. In **Judicial Service Commission vs. Mbalu Mutava & Another [2015] eKLR**, Civil Appeal 52 of 2014 in which the Court of Appeal held that:*

“Article 47(1) marks an important and transformative development of administrative justice for, it not only lays a constitutional foundation for control of the powers of state organs and other administrative bodies, but also entrenches the right to fair administrative action in the Bill of Rights. The right to fair administrative action is a reflection of some of the national values in article 10 such as the rule of law, human dignity, social justice, good governance, transparency and accountability. The administrative actions of public officers, state organs and other administrative bodies are now subjected by article 47(1) to the principle of constitutionality rather than to the doctrine of ultra vires from which administrative law under the common law was developed.”

53. In view of the observations alluded to in the preceding paragraph, it is my finding that the action by and/or on behalf of the 1st & 2nd Respondents, which have been carried out and/or undertaken without due regard to the rights and/or interest of the Petitioner are in violation of the Doctrine of Procedural Fairness and amount to not only trespass on land but also to Infringement of the Petitioner’s Constitutional Rights.

54. In this regard, the Petitioner shall no doubt be entitled to compensation for such violation and/or infringement.

ISSUE NUMBER 4

55. The Petitioner herein had also sought Orders of the Honourable Court or better still invited the Honourable Court to determine whether the suit Property has been Compulsory Reacquired.

56. First and foremost, Compulsory Acquisition can only be undertaken and/or carried out in accordance with the Provisions of **Section 107, 108 & 109 of the Land Act**, and such Compulsory Acquisition can only be done by the National Land Commission for and/or on behalf of the Public Body and/or Agency concerned.

57. However, in respect of the subject matter, the National land Commission, who have been sued as the 3rd Respondent, swore an Affidavit, by one Silas K. Mburugu, whereby same stated that the 3rd Respondent has not Compulsorily Acquired the suit Property either on behalf of the National or the County Government of Mandera.

58. With that deposition, it is my holding that the issue of Compulsory Acquisition, who’s process is well delineated in the Land Act 2012, does not arise in the instant matter.

ISSUE NUMBER 5

59. I have found and held that the Petitioner’s Title to the suit Property was lawfully processed and/or acquired. In any event, the Petitioner’s Title has neither been impeached nor same been the subject of any Court Proceedings seeking invalidation.

60. To that extent, the Petitioner is thus entitled to a Declaration in terms of prayers 1, 3 and 5 of the Petition.

61. Having found and held that the Petitioner is the lawful and legitimate Proprietor of the suit Property, it does follows that the Petitioner is entitled to exclusive occupation, possession and use thereof. Consequently, given that the suit Property is currently occupied by the 2nd Respondent, therefore an Order of eviction shall issue to remove the 2nd Respondent from the suit Property, upon lapse of 90 days from the date hereof.

62. Besides, being that the suit Property belongs to the Petitioner, is similarly follows that the Petitioner is entitled to an Order of Permanent Injunction and in this regard prayer 8 of the Petition is hereby granted.

63. Nevertheless, given that the 2nd Respondent is a Public institution and was thus constructed using public funds, (despite the high endianness of the 1st Respondent) the 1st Respondent is still at liberty to engage the 3rd Respondent to pursue the Compulsory Acquisition of the suit Property subject to compliance with the Provisions of Article 40(3) of the Constitution which underscores *inter-alia* just compensation and prompt payment.

64. As concerns compensation for the Infringement and/or violation of the Petitioner’s right to Fair Administrative Action as well as Right to Property under **Article 40(1)**, I award to the Petitioner, general compensatory damages in the sum of Kenya Shillings 2, 000, 000/= only, taking into account the brazen and mitigated conduct of the 1st & 2nd Respondents.

costs

65. Costs of proceedings ordinarily follows the event, unless otherwise directed by the Court subject to the existence of a good reason. However, in respect to the subject matter and taking into account the manner in which the impugned Infringement was perpetrated, I direct that the 1st & 2nd Respondents shall pay the costs of the Petition.

FINAL DISPOSITION

66. In conclusion, Judgment is entered in favor of the Petitioner in terms of the following;

I. A Declaration be and is hereby issued that the 1st Respondent's take over and conversion to public use of the Petitioner's L.R. No. 13139/616 in Mandera, Mandera County, without any form of fair hearing and compensation to the Petitioner is unconstitutional amounting to a Violation of Article 31B and Article 40(3) of the Constitution of Kenya and Part VIII of the Land Act, 2012.

II. A Declaration be and is hereby issued that the 1st Respondent has violated the Petitioner's right to Fair and Administrative Action under Article 47(10) of the Constitution, in the process of the 1st Respondent's conversion of the Petitioner's L.R. NO. 13139/660 in Mandera, Mandera County for public use.

III. A Declaration be and is hereby issued declaring L.R. NO. 13139/660 in Mandera, Mandera County to be Private Land, in absence of the lawful process envisaged under Article 40(3) of the Constitution for conversion of the same into Public Land.

IV. An Eviction Order be and is hereby issued, to evict the 2nd Respondent from the suit Property L.R. NO. 13139/660 in Mandera, Mandera County. The Order herein is suspended for 90 days within which, the 2nd Respondent shall vacate the suit Property and in default, the Eviction Orders shall accrue without further reference.

V. A Permanent Injunction do issue permanently restraining the Respondents herein from any further or other dealings in the Petitioner's L.R. NO. 13139/660 in Mandera, Mandera County.

VI. General and compensatory damages is issued in the sum of Kenya Shillings 2, 000, 000/=Only.

VII. Costs and Interest at Court rates be borne by the 1st & 2nd Respondents.

DATED, SIGNED AND DELIVERED AT NAIROBI THIS 29TH DAY OF SEPTEMBER 2021.

HON. JUSTICE OGUTTU MBOYA,

JUDGE,

ENVIROMENT AND LAND COURT,

MILIMANI.

In the presence of;