



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT NAIVASHA**

**(CORAM: R. MWONGO, J)**

**HIGH COURT SUCCESSION CAUSE NO. 155 OF 2015**

**IN THE MATTER OF THE ESTATE OF MARY WANJA WAWERU, (DECEASED)**

**PHILIP NGUITIKA WAWERU &**

**MOSES MUKUNDI WAWERU.....APPLICANTS/ADMINISTRATORS**

**VERSUS**

**JOHN WAWERU KAMUNGE,**

**JACOB NDEGWA KIMANI &**

**BERNARD NJOROGE CHEGE.....RESPONDENTS/ PROTESTORS**

**RULING**

**Background**

1. The applicants, two of the deceased's sons, as administrators of the estate of the deceased, applied on 13<sup>th</sup> December, 2018, for confirmation of a grant issued on 15<sup>th</sup> December 2015 in their names. The deceased is recorded as having died intestate on 31<sup>st</sup> July, 2013 at AIC Kijabe Hospital. The petition shows that she was survived by her widower Geoffrey Waweru Nguitika, and thirteen children surviving her. It is noted that the deceased husband is not one of the administrators of the estate.

2. The only property indicated for distribution is LR Nyandarua/Karati/1834 comprising 2.49 hectares (the Land<sup>o</sup>). The distribution list signed by all beneficiaries shows that distribution was to be in favour of more persons than those listed as beneficiaries, including four purchasers, and some individuals holding as trustees.

3. In a protest filed on 31<sup>st</sup> May, 2018, John Waweru Kamunge, alleges that he had been deliberately left out of the succession proceedings despite the Land being the subject of protracted litigation in various courts, including proceedings involving the widower, Geoffrey Nguitika. As a result, he says there were a number of cautions against the Land.

4. He exhibited documents showing that there had been proceedings involving the Land in: Naivasha SPMCC No 188/1998 where orders had been given on 13<sup>th</sup> March, 2000 directing that the Land be partitioned and the protestors be allotted parcels; Nakuru CM Civil Suit 853/2008; and Naivasha PMCC 356/2003. He alleges that these suits were not disclosed when the present succession matter was filed.

5. In his protest filed on 11<sup>th</sup> July 2019, Jacob Ndegwa Kimani for himself and on behalf of Bernard Njoroge Chege argues that the Land is not free property of the deceased and therefore cannot be part of the estate. He also exhibited documents showing previous suits in respect of the same Land including, but not limited to:

- A ruling of Hon Muya (then SPM) in SPMCC No 188/1998 granting orders to transfer 0.5, 0.7, 1.5 and another 1.5 acres from the Land to the plaintiffs, respectively;

- Mutation forms filed in 2003 in the Lands Registry in respect of sub-divisions of the Land in favour of the protestors, among others;

- Search certificates showing restrictions and cautions in favour of the protestors;
- Notice of motion dated 30<sup>th</sup> November, 2004, in Naivasha PMCC 356/2003 seeking to set aside a decree allowing the Deceased to hold the Land in trust for other family members in alleged apprehension that the Deceased's husband had sought to sell the Land;
- A plaint in Nakuru CMCC No 853/2008 in which the deceased sued to evict the protestors from occupation of their portions on the Land; which suit was allegedly abandoned or not prosecuted, though defended by the protestors;
- Letters showing that the Land had been subject of a dispute under the Land Disputes Tribunals Act, 1950, as far back as March 1998

6. The parties canvassed the application through written submissions.

#### **Parties' Cases**

7. The protestors' claims are in tandem with their protest. Their argument is basically that the Land had been the subject of prolonged dispute from as far back as 1998. They argue that the non-disclosure of the administrators of this history and the issuance by a court of concurrent jurisdiction enabling a transfer of the Land to the deceased whilst restrictions appeared against the title in respect of a different suit raises suspicions of underhand dealings; that the subsequent court actions relating to the Land were manifestly fraudulent.

8. They also argue that Limitations of Actions does not lie unless it can be shown that nothing was done, or nothing was pending in any other process for a cumulative time of at least twelve years; that they could not effect the original decree in their favour due to subsistence of other proceedings in Nakuru

9. They rely on **Joseph Mwangi Theuri & 27 Others v David Gitionga Githinji Nakuru ELC No 238 of 2014** a matter in which the decree had not been acted on for over twelve (12) years, Sila Munyao, J, held, reading into the issue the provisions of section 34 of the CPC, that the question whether the decree is time barred, is a question that ought to be determined within the application that had been filed for eviction in the suit in which the court executing the decree was issued. This is a persuasive decision.

10. They also rely on the Court of Appeal case of **Kiura Nyaga & 2 Others v Justino Njue M'Mbuchi & 24 Others Civil Appeal No 32 of 2014**. There, the Court held that the appellant's suit was not res judicata because the parties in the suit before the subordinate court were different from the parties in the High Court suit. More importantly, the court said the question of the validity or otherwise of the decree dated 9<sup>th</sup> July, 1993, did not fall for the Court's determination but for the trial court which would have an opportunity to interrogate the issues of the fraud alleged.

11. The applicant's submissions were simply that they deny knowledge of Naivasha SPMCC 188/1998. They were clearly not parties to it. They raise only one issue in this matter: that the decree relied upon by the protestors dated 27<sup>th</sup> March 2000 arising from the ruling in SPMCC 188/1998 dated 2<sup>nd</sup> March 2000, was not executed within twelve years and was therefore statute barred in accordance with section 4(4) of the Limitation of Actions Act.

12. The applicants rely on the Court of Appeal case of **M'Ikiara M'Rinkanya & Another v Gilbert Kabeere M'Mbijiwe [2007] eKLR** where the Court said of section 4(4) of the Limitation of Actions Act:

**"The construction given to the corresponding section 4 (4) of the Act by the courts in this country is much wider. All post judgment proceedings including originating proceedings and interlocutory proceedings for execution of judgment are statute – barred after 12 years.**

***The question which arises is whether this Court should depart from its own previous decisions in preference to the construction given to corresponding provision of Limitation Act by English courts, particularly, by the House of Lords in Lowsley v Forbes. This Court is free to depart from its previous decisions if it appears right to do so. (See Dhodia v National & Grindlays Bank Ltd [1970] EA 195.***

***A close examination of the local decisions however, shows that they cannot be impeached.***

.....

***Lastly, it is logical from the scheme of the Act, that a judgment for possession of land, in particular should be enforced before the expiration of 12 years because section 7 of the Act bars the bringing of action for recovery of land after the end of 12 years from the date in which the right of action accrued. By the definition in section 2 (2) (3) of the Limitation Act:***

***"Reference in this Act to a right of action to recover land include reference to a right to enter into possession of the land and reference to the bringing of an action in respect of such right of action include reference to making of such an entry".***

***According to that definition the institution of proceedings to recover possession of land including proceedings to obtain a warrant for possession is statute – barred after the expiration of 12 years"***

13. They also rely on **John Mwaniki Mwaura v John Ndonyo Njuguguna [2018]eKLR** where the ELC court held that the limitation period for executing judgments was 12 years and there was no provision for extending time; reliance is also placed on **In re Estate of Marete Naibara (Deceased) [2019] eKLR** where Gikonyo J stated:

*“[21] The decree being relied upon to establish a claim in these proceedings was issued to the father of the interested party and was issued in the year 1994. It bears repeating that many questions abound. The judgment herein was against the wife of the deceased. Nothing shows that she was duly appointed personal representative of the deceased for purposes of that suit. The suit land is in the name of the deceased. And to crown it, the 12 years limitation period lapsed in the year 2006. It has now been 25 years since the judgment was delivered. No execution against the defendant or this estate has been sought. The interested party has not shown any justifiable reason why the decree has not been enforceable during the lifetime of the deceased’s wife and or within the period provided in law. The interested party had the opportunity of taking out citation proceedings and call upon persons entitled to take out letters of administration to accept or refuse grant. Given the provisions of Section 4 of the limitation of Actions Act I find that the claim by the interested party is statute barred and cannot be included in the list of debts owing to the deceased in these proceedings. I dismiss the claim.*”

#### Issues for determination

14. In this matter, what is before the court is an application for confirmation of grant. Interposing it, is an objection to the confirmation of the grant.

15. Accordingly, in my view the issue that arises for determination is whether the application of the protestors is sufficient to stop the confirmation proceedings.

#### Analysis and determination

16. The provisions of Section 71 to 73 of the Law of Succession Act deal with confirmation of grants. The provisions are as follows:

*“71. (1) After the expiration of a period of six months, or such shorter period as the court may direct under subsection (3), from the date of any grant of representation, the holder thereof shall apply to the court for confirmation of the grant in order to empower the distribution of any capital assets.*

*(2) Subject to subsection (2A), the court to which application is made, or to which any dispute in respect thereof is referred, may*

*(a) if it is satisfied that the grant was rightly made to the applicant, and that he is administering, and will administer, the estate according to law, confirm the grant; or*

*(b) if it is not so satisfied, issue to some other person or persons, in accordance with the provisions of sections 56 to 66 of this Act, a confirmed grant of letters of administration in respect of the estate, or so much thereof as may be unadministered; or*

*(c) order the applicant to deliver or transfer to the holder of a confirmed grant from any other court all assets of the estate then in his hands or under his control; or*

*(d) postpone confirmation of the grant for such period or periods, pending issue of further citations or otherwise, as may seem necessary in all the circumstances of the case: Provided that, in cases of intestacy, the grant of letters of administration shall not be confirmed until the court is satisfied as to the respective identities and shares of all persons beneficially entitled; and when confirmed such grant shall specify all such persons and their respective shares.*

*(2A) Where a continuing trust arises and there is only one surviving administrator, if the court confirms the grant, it shall, subject to section 66, appoint as administrators jointly with the surviving administrator not less than one or more than three persons as proposed by the surviving administrator which failing as chosen by the court of its own motion.*

*(3) The court may, on the application of the holder of a grant of representation, direct that such grant be confirmed before the expiration of six months from the date of the grant if it is satisfied—*

*(a) that there is no dependant, as defined by section 29, of the deceased or that the only dependants are of full age and consent to the application;*

*(b) that it would be expedient in all circumstances of the case so to direct.*

*(4) Notwithstanding the provisions of this section and sections 72 and 73, where an applicant files, at the same time as the petition, summons for the immediate issue of a confirmed grant of representation the court may, if it is satisfied that—*

*(a) there is no dependant, as defined by section 29, of the deceased other than the petitioner*

*(b) no estate duty is payable in respect of the estate; and*

*(c) it is just and equitable in all circumstances of the case, to immediately issue a confirmed grant of representation.*

**72. No grant of representation shall be confirmed until the court—**

*(a) is satisfied that no application under Part III of this Act is pending; and*

*(b) has received a certificate from the Estate Duty Commissioner that he is satisfied that all estate duty payable in respect of the estate concerned has been or will be paid, or that no estate duty is payable in respect thereof; or*

*(c) is itself satisfied that no estate duty is payable in respect of the estate concerned.*

**73. The court shall within one year from the date of any grant of representation, give notice to the holder of the grant to apply for confirmation thereof ”** ( Emphasis added).

17. From the above provisions, it is clear that confirmation of a grant is allowable after six months from the issuance of the grant, but the period may be reduced under **section 71(3)** if the court is satisfied— (a) that there is no dependant, as defined by section 29, of the deceased or that the only dependants are of full age and consent to the application; (b) that it would be expedient in all circumstances of the case so to direct. These do not apply here.

18. Under **section 71(2)(d)** of the Act the court may not, in cases of intestacy such as the present case, confirm the grant of letters of administration *until it is satisfied as to the respective identities and shares* of all persons beneficially entitled;

19. **Section 72** provides situations when the grant cannot be confirmed. These are situations where the court: is not satisfied that an application under Part III of this Act is not pending; or has received a certificate from the Estate Duty Commissioner that he is satisfied that all estate duty payable in respect of the estate concerned has been or will be paid, or that no estate duty is payable in respect thereof; or is itself satisfied that no estate duty is payable in respect of the estate concerned.

20. Under **section 73** of the Act, the court has a mandatory statutory duty and obligation as follows: ***“[it] shall within one year from the date of any grant of representation, give notice to the holder of the grant to apply for confirmation thereof.”***

Clearly, the law so favours expediency in the hearing and determination of confirmation proceedings, that the court is statutorily bound and mandatorily directed to require a grant-holder to apply for confirmation within one year from the date of the grant. This is an important stance to note in relation to the question whether to delay confirmation proceedings or otherwise.

21. Back to the chronology of this matter leading up to the objection proceedings, the situation is as follows: The Land was initially registered in the name of Geoffrey Waweru Nguitika, the deceased’s husband, who is still alive. Issues concerning the proprietorship of the Land were first determined in the Central Province Appeals Tribunal on or about 2/6/1997.

22. At about that time, according to official searches exhibited by the protestors had, during the pendency of the dispute before the said tribunal, filed cautions claiming purchasers’ interests in the Land on 5/9/1996 (for 2<sup>nd</sup> protestor), and 17/2/1998 (for the other protestors), respectively. The deceased also filed a caution claiming a beneficiary’s interest on 6/4/1998. The searches are dated 29<sup>th</sup> April, 2003.

23. The tribunal’s decision was filed in the subordinate court on 6/9/1999. Following a ruling in **SPMCC No 188 of 1998** between the protestors and Geoffrey Waweru Kimani – the deceased’s husband – a Decree dated 27<sup>th</sup> March, 2000 was issued in favour of the protestors. By the decree, the protestors were awarded 0.5, 0.7, 1.5 and 1.5 acres from the Land, respectively. The subordinate court also empowered the Executive Officer:

***“...to sign all documents to enable the transfer of [the said] portions from Parcel No Nyandarua/Karati/834 to the plaintiffs”.***

By a further order issued on 13<sup>th</sup> March, 2000, the said court directed the partitioning of the title into the portions awarded; directed the District Surveyor to undertake the survey work; and also directed that:

***“The caution lodged against land parcel No Nyandarua/Karati/1834 by the plaintiffs is removed”.***

24. The effect of the above orders, decree and directions in **SPMCC 188/1998** was that the protestors were entitled to the sub-divisions granted, but were no longer protected by the cautions they had filed. However, the Court’s decree if acted upon, would guarantee the protestors’ respective stakes. In law, the statutory life of the decree would be twelve years, expiring on 26<sup>th</sup> March, 2012, in terms of the Limitations of Actions Act.

25. It appears that the decree was executed to the extent that the Executive Officer signed mutation forms which were dated 8/4/2003, showing the ordered survey and sub-divisions of the Land. This information is contained in exhibits attached to the affidavit of protestor Jacob Ndegwa Kimani, which also shows that the forms were filed on 22/4/2003. The Executive Officer also signed a Transfer of Land on 3/7/2003 in favour of Bernard Njoroge Chege and Letters of Land Control Board Consent are shown for both Bernard Njoroge and the deceased’s husband. The Mutation Forms and Transfer of Land appear to have been received for registration at the Land Registry on 21/9/2016, despite being completed and duly signed by the Executive Officer thirteen years prior, way back on 3/7/2003. No explanation was given for the delay in registering the transfers.

26. Other than the documents shown to have been signed by the Executive Officer, there is no indication of any other actions taken by the protestors in pursuance of the subordinate court's said orders in their favour.

27. By **Civil Suit No Naivasha 356 of 2003**, between the deceased and her husband, the sole defendant, the deceased obtained orders against her husband, restraining him from selling any part of the Land; directing the defendant to transfer the Land title to her; and directing the Land Registrar to de-register all cautions registered against the Land Title. The decree was issued on 14<sup>th</sup> September, 2004, and again it empowered the Executive Officer of the Court to sign all transfer documents.

28. Significantly, the protestors discovered the existence of the suit between the deceased and her husband, and personally drew and filed an application under urgency dated 9<sup>th</sup> November, 2004, seeking to be enjoined in **Suit No 356/2003**. The protestors also sought the setting aside of the orders made in that suit. In the supporting affidavit of Jacob Ndegwa Kimani filed on 9<sup>th</sup> November, 2004 in that suit, it is obvious that he clearly understood the impact of the suit on their beneficial interests being transferred to the deceased. He deposed that he:

***"...had obtained a decree and served the same to the said office (Land Registrar) and in the circumstances the decree obtained therein was wrongfully procured by the plaintiff/Respondent and ought to be set aside"***

29. In their response, the respondents stated that there would be no purpose in making the protestors parties to the suit as the application had been overtaken by events. They also exhibited the Title to the Land dated 4<sup>th</sup> October, 2004, showing that the transfer to the deceased had been had been registered and a title duly issued.

30. Thereafter, Counsel for the protestors wrote to the Registrar on 1<sup>st</sup> December, 2004, and his response is exhibited in the affidavit by protestor Jacob Kimani. The Registrar, in his response, explained that he had not been aware of the protestor's court order, and thus registered the decree effecting the transfer. He also a restriction against the title as shown in the search exhibited. The Registrar then advised the protestors to **"pursue the matter in court to completion"**. They did not heed that advice. The restriction he placed read as follows:

***"No dealings until Civil Suit No 188 of 1998 – SPM's Court at Naivasha is heard and determined"***

It is not clear whether that restriction is still registered against the title to the Land as none of the parties has exhibited a recent search.

31. There is no indication in the material before me as to what ultimately transpired in **Suit No 356/2003**. The protestors have neither deposed as to the outcome of that suit, nor have they indicated whether an appeal was lodged challenging any orders made in that suit, nor have they indicated any further action they took in respect of the Land.

32. Finally, the deceased filed a suit on 2<sup>nd</sup> September 2008, in Nakuru CMCS No 853 of 2008 against the protestors. She sought: a declaration that she is the registered proprietor of the Land; and an order evicting the protestors from the Land. The protestors filed a defence asserting that there were other pending suits including SPMCC 356 of 2003 and Naivasha Civil Suit No 188 of 1988.

33. Seven years later, on 25<sup>th</sup> March, 2015, it was ordered by the subordinate court in the presence of counsel for both parties that the suit against the defendants be declared as abated, with costs to the defendants. The said suit was thus nullified and brought to an end. The protestors, in their submissions, state that they sought to bring to the court's attention that the suit was:

***"8....manifestly fraudulent"*** and that,

***"soon after testifying in the suit that suit, the deceased died before the defence case could be conducted"***.

However, the protestors have not exhibited the proceedings other than the order of abatement. Nothing is disclosed as to whether the protestors pursued this suit any further.

34. In paragraph 9 of the said affidavit, Jacob Ndegwa Kimani, one of the protestors, stated that his affidavit was on behalf of the other protestors and:

***"9.... in support of our application for the setting aside of the decree made and issued on 14<sup>th</sup> September, 2004, and this Hon. Court be pleased to order the land registrar Nyahururu to proceed with issuance of title deed to us"***

They were seeking the setting aside of the subordinate court's decree.

35. From the chronology, I draw out several critical facts and conclusions:

36. First, the suit which granted the rights in the Land to the protestors (Naivasha No. SPMCC 188/1998) that they seek herein, was between them and the deceased's husband, the original owner of the Land. He is still alive, and is named as a beneficiary in the application for confirmation. No explanation has been given as to why the protestors did not pursue the execution of the decree to conclusion during the twelve-year period since they obtained it, or what is holding up those proceedings from being determined if at all. It was particularly critical to execute given that the protestors' protective cautions against the title to the Land were lifted when the orders therein were first granted to them.

37. Secondly, the decree in SPMCC 188/1998 relied upon to establish the claim in the present proceedings having been between the

protestors and the deceased's husband, the administrators were not involved as parties. The documentation availed shows that the protestors were aware of the deceased's death. That notwithstanding, they seem to have ignored filing a claim or citation against the estate of the deceased. The administrators cannot therefore be criticized for asserting that the proceedings in Civil Suit 188/1998 had nothing to do with them, and that in relation to them, the decree relied upon by the protestors is barred by the statute of limitation.

38. Thirdly, the suit (Naivasha No. 356/2003) which transferred the title of the Land to the deceased was filed in 2003. The transfer was effected in 2004, during the pendency of the twelve-year limitation of actions period under the Limitation of Actions Act. Although the suit was filed by the deceased – and not by her husband – the protestors certainly recognized the following; the import of what the suit meant and what occurred in the transfer of title to the deceased; that the orders were wrongfully obtained; and that orders ought to have been set aside. The mistake they made was to seek the setting aside the same in lower court, rather than by filing an appeal or Miscellaneous application against those orders in the High Court or seeking review in the lower court. Further, they have not shown how they followed up the suit, if at all, nor was any effort made to consolidate the two suits. It is clear that the papers they filed had been prepared by a lawyer, though not their counsel.

39. Fourthly, the suit in Nakuru No 853 of 2008 by the deceased against the protestors was about ownership of the Land, and sought eviction of the protestors therefrom. At the time the suit was filed, the deceased was already the registered proprietor of the Land, and had been so registered since 2004. In my view, given that the protestors had not executed the decree in CMCC 188/1998; and given that time was running out to do so; and given that the deceased had outsmarted the protestors with regard to getting the Land into her name, this case presented the perfect opportunity for a counterclaim by the protestors. Instead, they allowed the deceased to withdraw or abate the suit. In so doing they lost the opportunity to prosecute their stake in the Land obtained through the decree in CMCC 188/1998.

40. The protestors complain about the deceased muddying and delaying a favourable implementation of the decree. However, they fail to specify exactly what prevented them from actually enforcing the decree, given that the Executive Officer had been granted unrestricted powers by the court to effect any documentation to fulfil the orders. They may be right that the deceased may have acted questionably in starting other proceedings related to the Land whilst there were already orders in place affecting it. There is however nothing shown to indicate why they were unable to counter the actions of the deceased, or to take advantage of such actions to their benefit.

41. The question now is whether in the circumstances, the protestors have satisfied me that they have made out a case for the stoppage of the confirmation proceedings. In my view, they have not. The law is clear, as earlier discussed, when a court may decline to confirm a grant. In summary, the law provides: that the statutory duty of the court is to ensure expedition in the confirmation of grants; that the courts will delay or not effect confirmation if there are pending issues as to dependency; and the court will not confirm a grant until it is satisfied as to the identities and shares of all persons beneficially entitled.

42. In this case it was for the protestors to show that they are beneficially entitled. Their attempt to do this was by displaying the Decree in CMCC 188/1998 issued in 2000 entitling them to portions of the Land. The argument against the decree is that it has been overtaken by the limitation of actions statute due to non-execution. Nothing has been placed before me to persuade me that the protestors were prevented from execution by the administrators or by factors they could not control. Indeed, what appears clear is that they slept on their rights. CMCC 188/1998 appears to be still pending. It is not clear whether Naivasha No. 356/2003 is still pending. There is nothing shown to suggest that the protestors could not have pressed on those cases to conclusion in order to protect their rights. Equity does not aid the indolent.

43. My position is that the circumstances of the protestors in this case are quite akin to those of the interested party as found by the Court of Appeal in its decision in **M'Ikiara M'Rinkanya & Another v Gilbert Kabeere M'Mbijiwe** where the court stated:

***“The interested party has not shown any justifiable reason why the decree has not been enforceable during the lifetime of the deceased's wife and or within the period provided in law. The interested party had the opportunity of taking out citation proceedings and call upon persons entitled to take out letters of administration to accept or refuse grant.”***

44. This position is not inconsistent with that reached by the Court of Appeal in the earlier cited case of **Kiura Nyaga & 2 Others**. There, the Court said the question of the validity or otherwise of the decree dated 9<sup>th</sup> July, 1993, did not fall for the Court's determination but for the trial court which would have an opportunity to interrogate the issues of the fraud alleged. Here, the protestors have all along been in a position to determine their rights conclusively in several suits. Nothing prevented them from so doing.

#### **Disposition**

45. In light of all the foregoing facts and circumstances, and applying the law, the protest fails. The proper orders are to allow the confirmation proceedings to continue, until the court is satisfied as to the identities and shares of all beneficiaries in terms of section 71(2)(d) of the Law of Succession Act.

46. Accordingly, I direct that the confirmation proceedings which had commenced but had not concluded, are to continue and shall be concluded within sixty (60) days of the commencement of the third session of the High Court's 2020 sittings.

47. I make no order as to costs herein, as these are administration proceedings to identify the proper beneficiaries for succession purposes.

#### **Administrative directions**

48. Due to the current inhibitions on movement nationally, and in keeping with social distancing requirements decreed by the state due to the Corona-virus pandemic, this Judgment has been rendered through Zoom/Teams video/tele-conference with the consent of the parties noted hereunder, who were also able to participate in the conference. Accordingly, a signed copy of this judgment shall be scanned and availed to the parties and relevant authorities as evidence of the delivery thereof, with the High Court seal duly affixed thereon by the Deputy Registrar/Executive Officer, Naivasha.

49. A printout of the parties' written consent to the delivery of this judgment shall be retained as part of the record of the Court.

50. Orders accordingly.

**Dated at Naivasha this 2<sup>nd</sup> day of September, 2020**

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**RICHARD MWONGO**

**JUDGE**

Delivered in the presence of:

1. Mr Mbiyu h/b for Mr Mutonyi for the Applicants/ Administrators
2. Mr Gachiengo for the Protestors/ Respondents

Court Clerk: Quinter Ogutu