



**Kisoso v Wisliffe Investment Limited & another (Civil Appeal
E365 of 2023) [2025] KECA 1473 (KLR) (12 September 2025) (Judgment)**

Neutral citation: [2025] KECA 1473 (KLR)

**REPUBLIC OF KENYA
IN THE COURT OF APPEAL AT NAIROBI
CIVIL APPEAL E365 OF 2023
W KARANJA, P NYAMWEYA & SG KAIRU, JJA
SEPTEMBER 12, 2025**

BETWEEN

JULIUS MATERIAN KISOSO APPELLANT

AND

WISHLIFE INVESTMENT LIMITED 1ST RESPONDENT

THE COUNTY LAND REGISTRAR, KAJIADO COUNTY ... 2ND RESPONDENT

(Being an appeal from the Judgment of the Environment and Land Court of Kenya at Kajiado (M.N. Gicheru, J.) dated 27th March 2023 in ELC Case No. 241 of 2017)

JUDGMENT

1. In a dispute over the ownership of a property known as Title Number Kajiado/Kitengela/5477 (the suit property) between the appellant and the 1st respondent, the Environment and Land Court (ELC) (M. N. Gicheru, J.) in its judgment delivered on 27th March 2023 upheld the 1st respondent's title to the suit property over that of the appellant. Aggrieved, the appellant lodged this appeal. The main issue for determination is who, between the appellant and the 1st respondent, is the rightful owner of the suit property.
2. Based on the pleadings and the evidence tendered before the trial court, the facts are that the appellant, Julius Materian Kisoso, who testified as PW1 was the registered owner of the property known as Title Number Kajiado/Kitengela/4076, measuring approximately 50 acres which he inherited from his father. In 1994, he sub-divided that property into two parcels, namely, Kajiado/Kitengela/5476 and the suit property (Kajiado/Kitengela/5477). He asserts that he was issued with two separate title deeds for the respective portions which he says he retained in his custody at his home.
3. He averred that in September 2015 he discovered that he had lost or misplaced his title deed in respect of the suit property; that he reported the loss to the Lands Office and was shocked to learn that the Green



Card at the lands registry was also missing; that he reported the matter at the Kajiado Police Station and that after investigations were carried out, the Directorate of Criminal Investigations submitted its report to the Land Registrar and the process of processing a replacement title began; that the necessary notices of the loss of the title deed and the Green Card were published in the Kenya Gazette and in the local newspapers and he was thereafter issued with a replacement title deed for the suit property on 14th January 2016.

4. To the appellants chagrin, sometimes in March 2016, he was summoned to the Directorate of Criminal Investigations where he was informed that the Land Registrar had by a letter dated 3rd March 2016 asserted that the replacement title deed in respect of the suit property issued to him was issued by mistake; that he was then given a copy of the title deed in respect of the suit property in favour of Wish Life Investment Limited, the 1st respondent, indicating that the 1st respondent became the registered proprietor of the suit property on 8th July 1994.
5. According to Wish Life Investment Limited, the 1st respondent, immediately upon the sub-division of Title Number Kajiado/Kitengela/4076, the appellant sold the suit property to it and the same was immediately transferred to it and a title deed for the same issued in its favour.
6. By his plaint dated 5th December 2016, the appellant instituted suit before the ELC at Machakos, being Suit No. 212 of 2016, against the 1st respondent, as 1st defendant, and against The County Land Registrar, Kajiado County, as the 2nd defendant in which he sought, among other reliefs, a declaration that he is the lawful and legal owner of the suit property; an order for cancellation of the title in favour of the 1st respondent; and orders of injunction to restrain the 1st respondent from dealing with the suit property. It was his case that he never sold the suit property to the 1st respondent; that he was always in possession of the suit property; and that the 1st respondent had colluded with the Land Registrar and had the property fraudulently registered in its name.
7. On its part, the 1st respondent in its defence and counterclaim and in evidence in support thereof maintained that it is lawful registered owner of the suit property having legally purchased it from the appellant for consideration; that upon subdivision of Title Number Kajiado/Kitengela/4076, the suit property was successfully transferred and registered in its name in 1994 until the “fraudulent re-registration by the [appellant] in the year 2016”; it denied that due process was followed in the issuance of the replacement title in favour of the appellant; that the appellant misrepresented himself to the Land Registrar, who, “through negligence, complicity, fraud, collusion and/or in a corrupt scheme issued the second title”.
8. According to the 1st respondent, the claims by the appellant that he lost the title deed and the process undertaken in the replacement title was no more than a charade and a stratagem to defeat the 1st respondent's title to the suit property.
9. In its counterclaim, the 1st respondent sought judgment against the appellant for a declaration that it is the rightful, lawful and legal owner of the suit property; an order for cancellation of the appellant's title to the suit property; an order for the eviction of the appellant from the property; and injunction to restrain the appellant from dealing with the suit property.
10. In its statement of defence filed through the Attorney General buttressed by the testimony of the Land Registrar, the 2nd respondent supported the 1st respondent's title to the suit property asserting that the appellant ceased to be the registered owner of the suit property upon sale and transfer of the same to the 1st respondent for a consideration of Kshs. 1,625,000.00; that under the mistaken belief that the report on loss of title by the appellant was genuine and that the same had indeed been lost, the Land Registrar followed due legal process in re-issuing him with a new title for the suit property; that



- the appellant dishonestly, fraudulently and/or illegally misrepresented to the 2nd respondent that the title was lost, which was not the case; and that the 1st respondent was the registered owner of the suit property from inception when the title to the suit property was created.
11. During the trial, the appellant was categorical that he never sold the property to the 1st respondent. He reiterated the averments in his plaint that he lost or misplaced the title to the suit property and became aware of this in 2015 and went through the legal process of obtaining a replacement title; that he built on the suit property and resides on it. He acknowledged under cross examination that he presented the mutation to the lands office for purpose of sub-division but denied simultaneously presenting a transfer of the suit property in favour of the 1st respondent; that his title deed got lost in 1995 and the Land Registrar informed him that the Green Card in respect of the suit property was also missing; that he only got to know of the 1st respondent through the Land Registrar.
 12. The appellant was supported in his testimony by his neighbour Paul Lainan Nkina (PW2) who testified that the appellant lives on the suit property where he “built two rooms with cemented floors” and has fenced it; and that he was not aware that the suit property had been sold to the 1st respondent in 1994.
 13. The appellant’s brother, Andrew Parkeenka Kiso tested as PW3. He stated that like the appellant, he inherited about 50 acres of his father’s land; that he learnt that the appellant had sub-divided his property; that his brother (the appellant) informed him that he had disposed of parcel 5476 and went on to say that, “he has not sold 5477. I am not aware my brother sold 5477”; that he was not certain where the appellant lost the title but that he “adhered to the proper legal procedure to get his title in 2016”; and that he was present when people from the lands office “came to investigate.”
 14. Lucy Wangari Akweyu testified as DW1. She stated that her late sister Purity Wanjiru Mwangi was one of two shareholders and directors of the 1st respondent; that she came to know about „the land in Kitengela# in 1996 when her late sister took her there; that the land was bought by the 1st respondent in which her late sister was the majority shareholder; that her sister fell ill in September 2001 and died on 11th January 2002; and that she (DW1) was the administratrix of her sister’s estate.
 15. It was DW1’s testimony that the appellant got the suit property fraudulently; that despite the Land Registrar asking the appellant to surrender his title to the suit property, he did not do so; that the 1st respondent acquired the suit property through a purchase; that her late sister had custody of the title deed dated 8th July 1994 when she died; that the Green Card was missing at first and that the Land Registrar by the name Mr. Koskei started the process of reconstructing the Green Card.
 16. She stated further that there were cases with her late sister’s other shareholder and co-director, one Leone Giuseppe, who she described as corrupt; and that Giuseppe used to visit the land in her absence and that is why she became suspicious. She maintained that the 1st respondent is the owner of the suit property even though she had “no evidence on how Wish Life obtained this property.”
 17. On record is a witness statement by Maureen Waitherero Mwangi, the daughter of Purity Wanjiru Mwangi, deceased, in which she stated that she inherited her mother’s shares in the 1st respondent; that following the death of her mother, the co-director, Leone Giuseppe “fraudulently transacted several businesses”; that upon discovery of the „schemes# by the co-director, she applied to court and obtained a prohibitory order which was registered against the suit property to protect the 1st respondent’s interest having purchased the same in 1994. Maureen Waitherero Mwangi did not however testify.
 18. David Nyambaso Nyandoro, a Senior Assistant Chief Land Registrar testified as DW2 adopting his witness statement dated 8th March 2018 as his evidence in chief. It was his evidence that based on records, the suit property was a resultant sub-division of title Number Kajiado/Kitengela/4076 owned



by the appellant; that the mutation for sub-division of that property was booked as entry number 125 of the Presentation Book on 8th July 1994; that concurrently with the booking of the mutation, a transfer for the suit property was also booked as entry number 126 of the Presentation Book “the transferor being [the appellant] and the transferee being the 1st [respondent] for a consideration” of Kshs. 1,625,000.00. He produced a copy of the relevant page of the Presentation Book.

19. He stated further that on 18th September 2015, the appellant reported to the Land Registrar Kajiado that he had allegedly lost the title deed “knowing very well that he had transferred the same” to the 1st respondent; that coincidentally, on checking the binder, the Green Card for the property was missing whereupon he wrote to the Criminal Investigation Officer (CIO) Kajiado requesting for an investigation to be carried out before the loss of the Green Card and the title deed could be gazetted; that a report of the investigations by CIO confirmed that the appellant was the actual owner of the suit property following which the loss was published in the newspapers of 16th October 2015 and in the Kenya Gazette of 30th October 2015 inviting objections to the issuance of a new title to the appellant; that there being no objections within 60 days, the Green Card was reconstructed and a new title deed re-issued in favour of the appellant on 14th January 2016 after payment of the requisite charges by the appellant. In addition, the appellant signed an Indemnity on 27th October 2015 indemnifying the Land Registrar against all claims that might arise as a result.
20. DW2 testified further that on 15th February 2016, a lady claiming to have interest in the 1st respondent went to their offices to carry out a search with a view to booking succession documents and had in her possession “the original copy of the title deed in the name of the 1st respondent issued on 8th July 1994”, and on checking the safe “we came across a reconstructed Green Card in the name of the 1st [respondent].” He stated that on discovering that the appellant had fraudulently misrepresented to the Land Registrar the alleged loss of title leading to the re-issuance of the new title, the appellant was summoned to return the same for cancellation by letters dated 19th May 2016 and 9th June 2016 but the appellant did not do so and neither did he respond to those letters. He also produced a Certificate of Search of the property as at 2nd September 2009 which indicated that the 1st respondent as the registered owner of the suit property.
21. According to DW2, the appellant “in a well planned scheme and through misrepresentation and giving of false information albeit under oath managed to have himself re-issued with a title deed that had not been lost in the first place.”
22. After reviewing the evidence, including the bundles of documents produced as exhibits, and after considering the submissions by counsel, the learned Judge delivered the impugned Judgment dated 23rd March 2023 dismissing the appellant’s claim and upholding the 1st respondent’s counterclaim. The learned Judge held that the 1st respondent was the bona fide owner of the suit property. In doing so, the learned Judge stated that the Land Registrar is the best authority on the issuance of title deeds; that the evidence of the Land Registrar in this case “is supported by the extract of the presentation book for 8/7/1994 which shows that the [appellant] was on that day transferring the suit land to the first [respondent]” and that “it is supported further by the Registrar’s evidence that the title deed presented to him by the first [respondent] was the original title deed.”
23. The Judge further stated that although the issuance of the second title to the appellant followed due process, “the problem with it all is that it was based on a misrepresentation. It was not based on the truth.” Moreover, the Judge held that the appellant who had the burden to prove the particulars of fraud he pleaded, failed to do so because, “not a single particular of fraud has been proved.”



24. Based on the Memorandum of Appeal, the appellant complains that the learned Judge erred in: declaring that the 1st respondent as the owner of the suit property; finding that he (the appellant) sold and transferred the suit property to the 1st respondent; and holding that the evidence of the Land Registrar was conclusive on the issue of ownership. The other complaint is that the Judge erred in failing to hold that the 1st respondent's pleadings had not been authorized by the directors of the 1st respondent and that the same were therefore null and void.
25. During the hearing of the appeal, learned counsel Mr. Nyaata in orally highlighting the appellant's written submissions urged that this is a proper case for this Court to interfere with the decision of the ELC; that the appellant was categorical that he never sold the suit property to the 1st respondent; that it was incumbent on the 1st respondent which claimed to have purchased the property to prove that it had done so; that in that regard, DW3 stated that she was not aware how the 1st respondent acquired the property. It was submitted on the strength of the decision of this Court in *Munyu Maina vs. Hiram Gathiha Maina*, Civil Appeal No. 239 of 2009 [2013] KECA 94(KLR), that it was not sufficient for the 1st respondent "to dangle" its title as proof of ownership, when that is what was being challenged.
26. Regarding reliance by the trial court on the entries in the Presentation Book, counsel submitted that the same was not conclusive proof of the alleged sale and transfer to the 1st respondent; that the Presentation Book contains entries by land registry personnel and the appellant did not affix his signature to the same. It was submitted that the Directorate of Criminal Investigation investigated the matter and confirmed the appellant to be the owner.
27. It was submitted that the title issued to the 1st respondent was unprocedural; that no evidence was presented to show that land control board consent was obtained; that the 1st respondent did not tender any evidence of having paid stamp duty and other registration fees; that there was overwhelming evidence that the title deed in favour of the 1st respondent "was obtained fraudulently and unprocedurally" and the 1st respondent cannot therefore be protected under Section 26 of the [*Land Registration Act*](#).
28. As regards the re-issue of title in favour of the appellant, it was submitted that the same accorded with Section 33 of the [*Land Registration Act*](#); that the claims by the 1st respondent that the appellant colluded with officials of the land registry was not proved.
29. As to whether the counterclaim was filed by an authorized person, it was submitted that the same should have been struck out as the verifying affidavit was sworn by DW3 who was not a director of the 1st respondent and neither was there a resolution of the board of directors of the 1st respondent authorizing DW3 to prosecute the counterclaim. Decisions in *Bugerere Coffee Growers Limited vs. Sebaduka & Another* [1970] EA 147 and the case of *Board of Trustees National Social Security Fund vs. Michael Mwalo* [2015] eKLR were cited in support of the argument that the defence and counterclaim were improperly filed and should have been struck out.
30. Counsel concluded by urging that, where, as is the case in the present case, the court is faced with two titles over the same property, the court has to investigate and determine which title to uphold; that the investigation must start with the root of title; that in this case the appellant established the root and foundation of his title and produced overwhelming evidence in support of his claim.
31. In opposing the appeal, learned counsel for the 1st respondent Mr. Kamunda also relied on written submissions which he orally highlighted. Counsel urged that the basis on which the appellant sought to impeach the 1st respondent's title was that the same was fraudulently and un-procedurally issued; that the critical question in this appeal therefore is whether the appellant proved fraud against the



- 1st respondent to the required standard. Citing the case of *Mbuthia Macharia vs. Annah Mutua & Another* [2017] eKLR counsel argued that the appellant had the legal burden to prove fraud on the part of the 1st respondent but failed to discharge the same. It was submitted that the 1st respondent acquired the suit property in 1994, the same time the appellant admits having sub-divided the property resulting in the suit property.
32. It was submitted further that the 1st respondent as the legal owner of the suit property is entitled to protection by the Court in accordance with Article 40 of *the Constitution* of Kenya; that under Section 26 of the *Land Registration Act*, the 1st respondent's title to the suit property is absolute and indefeasible absent prove of fraud or misrepresentation to which it is demonstrated to have been a party. In that regard the case of *Dr. Joseph N. K. Ng'ok vs. Justice Moiwo ole Keiwua and 2 others*, C.A. No.60 of 1997 and the case of *Alice Chemutai Too vs. Kipkurui Korir & 2 others* [2015] eKLR was cited.
 33. Moreover, it was submitted that the 1st respondent's title is first in time relative to that of the appellant, and so, the 1st respondent's title should prevail. The case of *Wambui Mwangi & 3 Others*, Civil Appeal No. 465 of 2019) [2021] KECA 144 was cited among others.
 34. As to whether the 1st respondent's pleadings were authorized by the company, counsel found support in the case of *Assia Pharmaceuticals vs. Nairobi Veterinary Centre Limited* [2000] eKLR and *Makupa Transit Shade Limited & Another vs. Kenya Ports Authority & Another* [2015] eKLR for the proposition that the majority of members of a company are entitled to decide for the company; that the absence of a resolution is not fatal to the suit and in any event Maureen Waitherero Mwangi stated on oath that she had the authority to defend the suit and institute the counterclaim.
 35. We have, in keeping with our mandate reviewed the record, the evidence and the submissions with a view to drawing our own conclusions. As already stated, the central issue in the appeal is who, as between the appellant and the 1st respondent, is the rightful owner of the suit property. There is a secondary issue whether the absence of a company resolution authorizing the claim by the 1st respondent is fatal.
 36. Regarding the ownership of the suit property, there is no dispute that the appellant was the registered proprietor of the property known as *Kajiado/Kitengela/4067* measuring approximately 50 acres, an inheritance from his father. It is also common ground that in July 1994 the appellant sub- divided that parcel into two parcels namely Title Number *Kajiado/Kitengela/5476* and the suit property (*Kajiado/Kitengela/5477*). It is the appellant's case that he was issued with the two separate title deeds for the two parcels which he retained in his house. He pleaded that in September 2015, approximately 21 years after the sub- division, he discovered that he had lost the title deed in respect of the suit property. Under cross examination however he mentioned the loss was in 1995.
 37. The 1st respondent's claim on the other hand is that immediately upon the sub-division of *Kajiado/Kitengela/4067*, the title in respect of the suit property was issued to it as a purchaser thereof.
 38. The plea by the appellant is that he discovered sometime in March 2016 that the 1st respondent and the Land Registrar had "colluded and fraudulently registered" the property in favour of the 1st respondent. The particulars of "collusion, fraud, illegality, unlawfulness" pleaded by the appellant as against the 1st respondent and the Land Registrar are that: they dealt with or transacted with the suit property without his consent or knowledge or authority; they dealt with and transacted in the property with the knowledge that it belonged to him; that the land registrar caused the first respondent to be registered as the owner and issued a title deed to him without transfer papers with the knowledge that the appellant had a clean title to the suit property; that the Land Registry in collusion with the 1st respondent



- changed entries in the register without notifying him denoting that they knew they were perpetrating an illegality to deprive the appellant of his property; and that the land registrar in collusion with the 1st respondent removed the title abstract registered in favor of the appellant from the register.
39. The 1st respondent in its defence and counterclaim denied those allegations maintaining that it was duly registered as owner of the property having purchased the same and asserted that the appellant feigned the loss of the title deed to fraudulently defeat its title. As we have already seen above, 1st respondent was supported in that plea by the Land Registrar.
40. As the Court stated in *Vijay Morjaria vs. Nansingh Madhusingh Darbar & Another* [2000] eKLR:
“It is well established that fraud must be specifically pleaded and that particulars of the fraud alleged must be stated on the face of the pleading. The acts alleged to be fraudulent must of course be set out, and then it should be stated that these acts were done fraudulently. It is also settled law that fraudulent conduct must be distinctly alleged and as distinctly proved, and it is not allowable to leave fraud to be inferred from the facts.”
41. In the same vein, this Court in *Kinyanjui Kamau vs. George Kamau Njoroge* [2015] eKLR stated that:
“It is trite law that any allegations of fraud must be pleaded and strictly proved. See *Ndolo v Ndolo* (2008) 1 KLR (G&F) 742 wherein the Court stated that:
“...We start by saying that it was the respondent who was alleging that the will was a forgery and the burden to prove that allegation lay squarely on him. Since the respondent was making a serious charge of forgery or fraud, the standard of proof required of him was obviously higher than that required in ordinary civil cases, namely proof upon a balance of probabilities; but the burden of proof on the respondent was certainly not one beyond a reasonable doubt as in criminal cases...””
42. To the extent that the parties were challenging each other's ownership of the suit property on grounds of fraud, both parties had the burden to prove the respective allegations of fraud they were levelling against each other. The learned trial Judge found that the appellant failed to prove any of the particulars of fraud pleaded. We are not persuaded that the Judge erred in making that finding. The appellant's testimony and that of his witnesses Paul Lainan Nkina and Andrew Parkeenka Kisoso did not at all speak to the particulars of fraud pleaded in the plaint. The appellant's testimony focused on his alleged loss of the title deed, the process he undertook in getting a replacement title; and on the denial of having sold the suit property to the 1st respondent. He essentially left it to the court to infer that there was fraud in the acquisition of the 1st respondent's title.
43. In what in our view is a tacit acknowledgment by the appellant that he fell short of proving the particulars of fraud or collusion he pleaded before the ELC, the appellant now claims before this Court, that absence of land control board consent and absence of proof of stamp duty in respect of the registration of the 1st respondent as owner constitutes evidence of fraud. None of those grounds were pleaded or raised before the trial court and cannot be taken up for the first time on appeal to buttress the appellant's case.
44. Given the diametrically opposed positions taken by the parties, the credibility of the witnesses became critical and in that regard, the learned trial Judge was impressed by the testimony of the Land Registrar. It is notable that the appellant readily accepted during his testimony that he presented the Mutation to the lands office Kajiado for purpose of effecting the sub-division. That testimony is buttressed by



the Presentation Book, an extract of which was produced before the trial court and which the Land Registrar testified was entry number 125 of 18th July 1994. Under that entry, the nature of document present is clearly indicated as “Mutation” by the appellant and relates to the property clearly indicated as “KJD/Kitengela/4076”.

45. The appellant however denies the simultaneous entry number 126. That entry relates to “Transfer Julius Muterian Kisoso”. The appellant is indicated as the person from whom the transfer is made while “Wish Life Investment Ltd” is indicated as the person to whom the transfer is made for the amount of KShs. 1,625,000. The description of the property is clearly indicated as “KJD/Kitengela/5477”.
46. The evidence before the trial court, in particular a letter from the Registrar of Companies dated 4th June 2015 indicates that the shareholders/directors of the 1st respondent were Purity Wanjiru Mwangi and Leone Giuseppe with 600 and 400 shares each respectively. The certificate of death in respect of Purity Wanjiru Mwangi shows that she died on 11th January 2002. It is somewhat intriguing that it was after her death that the appellant says he discovered that the title deed in his custody was missing or misplaced and thereafter embarked on the process of applying for its replacement. During cross examination, he attempted to change the date when he had said he made the discovery of the loss. It is also noteworthy that when the Land Registrar wrote letters to the appellant inviting him to surrender the re-issued title, he neither protested nor replied.
47. Based on the foregoing, on a preponderance of the evidence, the learned Judge was in our view justified in preferring the evidence of the Land Registrar to that of the appellant.
48. It is correct, as held by the Court in *Munyu Maina vs. Hiram Gathiha Maina* that it was not sufficient for the 1st respondent “to dangle” its title as proof of ownership, when that title was the subject of challenge. The circumstances in this case are however distinguishable. The transaction resulting in the transfer in favour of the 1st respondent was said to have taken place in 1994. The challenge to the 1st respondent’s title was made over twenty years later in 2017 after the death of the principal shareholder and director of the 1st respondent and when the other minority director is shown to have been hostile to the administratrix of the estate of the principal shareholder. In effect the principal actors in the 1st respondent were unavailable during the trial. Yet, an official search of the suit property done in 2009, which was produced, showed that the 1st respondent as the registered owner of the suit property.
49. All in all, we are unable to fault the learned Judge for concluding as he did that the appellant did not discharge its burden of proof to the required standard and for dismissing his claim on that account.
50. As to whether the absence of a company resolution authorizing the claim by the 1st respondent is fatal, the learned Judge stated:

“On the issue of whether the Defendants’ defense and counterclaim were filed by an unauthorized person and if it should be struck out, I find that Maureen Waitherero being the majority shareholder of the first Defendant was the right person to swear the verifying affidavit. According to her evidence, she had the authority of the only other shareholder who is the daughter of Leone Giuseppe. There is no evidence to the contrary. The authority of *Nairobi Veterinary Centre Limited -versus- Asia Pharmaceuticals HCCC 391 OF 200* also held that the majority of the members of the company are entitled to decide even to the extent of overruling the directors. From the evidence of Maureen Waitherero, she is the majority shareholder with 600 shares as opposed to Leone Guiseeppe’s daughter who has 400 shares. As the majority shareholder, she is the proper person to defend the suit and institute the counter claim.”



51. That view is supported by the decisions of this Court in Assia Pharmaceuticals vs. Nairobi Veterinary Centre Limited [2000] eKLR and Makupa Transit Shade Limited & Another vs. Kenya Ports Authority & Another [2015] eKLR to which we were referred. We are unable to fault the Judge in that regard.

52. In conclusion therefore, the appeal fails and is hereby dismissed with costs to the 1st respondent.

DATED AND DELIVERED AT NAIROBI THIS 12TH DAY OF SEPTEMBER 2025.

W. KARANJA

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JUDGE OF APPEAL

S. GATEMBU KAIRU, C.Arb, FCIArb.

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JUDGE OF APPEAL

P. NYAMWEYA

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JUDGE OF APPEAL

I certify that this is a true copy of the original.

Signed

Deputy Registrar

