



Kithinji & 2 others v MRaiji (Suing as the Legal Representative of the Estate of M’Raiji Miriti alias Raiji Miriti alias M’Raishi Miriti – Deceased); Kaburu (Interested Party) (Environment and Land Case E012 of 2024) [2025] KEELC 6396 (KLR) (23 September 2025) (Judgment)

Neutral citation: [2025] KEELC 6396 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT CHUKA
ENVIRONMENT AND LAND CASE E012 OF 2024
BM EBOSO, J
SEPTEMBER 23, 2025**

BETWEEN

**FREDRICK KITHINJI 1ST APPELLANT
ELIPHAS MBAE 2ND APPELLANT
IAN GITONGA KITHINJI 3RD APPELLANT**

AND

**NKINGA M’RAIJI RESPONDENT
SUING AS THE LEGAL REPRESENTATIVE OF THE ESTATE OF M’RAIJI
MIRITI ALIAS RAIJI MIRITI ALIAS M’RAISHI MIRITI – DECEASED**

AND

IAN KABURU INTERESTED PARTY

(An Appeal against the Judgment of the Chief Magistrate Court at Chuka (Hon J. M Gandani CM), rendered on 1/7/2024 in Chuka CMC E & L Case No. 171 of 2014)

JUDGMENT

Introduction

1. The 1st and 2nd appellants are sons of the late M’Raiji Miriti alias Raiji Miriti alias M’Raishi Miriti. The respondent is a daughter of the late M’Raiji Miriti. She filed the suit giving rise to this appeal on the basis of a limited grant relating to the estate of the late M’Raiji Miriti. The 3rd appellant and the interested party are grandsons of the late M’Raiji Miriti. For convenience, in this judgment, I will refer to the late M’Raiji Miriti simply as “the deceased.”



2. The appeal challenges the judgment of the Chief Magistrate Court at Chuka (Hon J. M Gandani CM), rendered on 1/7/2024 in Chuka CMC E&L Case No 171 of 2014. Two of the key issues that fell for determination in the suit were: (i) Whether the subdivision of land parcel number Mwimbi/Murugi/810 (registered in the name of the late M'Raiji Miriti alias Raiji Miriti alias M'Raishi Miriti) into parcel numbers Mwimbi/Murugi/3762, 3763, 3764, and 3765 in February 2012 was fraudulent and dishonest; and (ii) Whether the transfers of the said four resultant subdivision titles to the appellants were fraudulent and dishonest. Invariably, these are some of the key issues that fall for determination in this first appeal. Before I analyse and dispose the issues that fall for determination, I will outline a brief background to the appeal. I will also outline the grounds of appeal and a summary of the parties' respective submissions in the appeal.

Background

3. Through a plaint dated 26/3/2013, the respondent instituted Meru ELC Case No 98 of 2013 against the three appellants and the interested party. She sought: (i) a declaration that the dealings of the appellants and the interested party in parcel number Mwimbi/Murugi/810 were both fraudulent and dishonest and decreeing the Land Registrar to cancel the registers relating to parcel numbers Mwimbi/Murugi/3762, 3763, 3764 and 3765 which had been created as subdivisions out of the said land and had been registered in the names of the three appellants and the interested party; and (ii) costs of the suit. On 16/12/2014, the ELC at Meru (P. M Njoroge J) transferred the case to Chuka Chief Magistrate Court where it was registered as Chuka CMC E&L Case No 171 of 2014.
4. The case of the respondent was that the 1st and 2nd appellants were her blood brothers, while the 3rd appellant and the interested party were her nephews sired by her two brothers. Parcel number Mwimbi/Murugi/810 (the suit land) belonged to her late father, M'Raiji Miriti, who died on 29/6/2011. She lived and worked on the suit land. She was unmarried. Subsequent to the death of her father, the appellants caused the suit land to be fraudulently and dishonestly subdivided into the four parcels which they fraudulently and dishonestly caused to be registered in their names.
5. The respondent contended that during his lifetime, the late M'Raiji Miriti gifted the 1st and 2nd appellants, who were his sons, parcel number Mwimbi/Murugi/492 measuring 10.63 acres and parcel number Mwimbi/Murugi/587 measuring 10.02 acres, respectively, leaving the suit land which measures 2.985 hectares, where she and her unmarried sister, Mercy Ruguru, live. She contested the appellants' allegation that the impugned subdivision and transfers were done by their late father.
6. The appellants filed a joint defence dated 18/6/2013 in which they contested the respondent's claim. Their case was that parcel number Mwimbi/Murugi/810 was, indeed, at all material times, registered in the name of the deceased but denied dealing with the land fraudulently and dishonestly. They contended that the process of conveyance leading to the subdivision of the land into the four subdivisions were "initiated and executed" by the deceased prior to his demise. They denied the allegation of fraud and dishonesty.
7. Upon conducting trial and upon receiving submissions, the trial court found and declared that the appellants' dealings in the suit land (subdivision and transfer of the suit land) were fraudulent and dishonest. The trial court decreed cancellation of the subdivisions and the transfers and reinstatement of the suit land into the name of the deceased.

Appeal

8. Aggrieved by the findings and decree of the trial court, the appellants brought this appeal, advancing the following twelve (12) grounds of appeal;



1. That the Learned Magistrate erred in law and in fact by failing to consider relevant matters thereby arriving at an erroneous decision.
2. That the Learned Magistrate erred in law and in fact by finding in favor of the plaintiff without proof of the claim for fraud, thereby arriving at erroneous decision.
3. That the Learned Magistrate erred in law and in fact by failing to consider the evidence adduced by the 1st - 3rd defendants as well as evidence by “PW1,” the Land Registrar at Meru South Tharaka, thereby arriving at an erroneous decision.
4. That the Learned Magistrate erred in law and in fact by failing to consider the testimony of “PW1” who confirmed to the Court that the deceased was indeed involved in the subdivision of the L.R No. Mwimbi/Murugi/810 which testimony corroborates that of the appellants.
5. That the Learned Magistrate erred in law and in fact by failing to note that the documents produced by “PW1” were certified by the Land Registrar and the respondent herein did not raise any query as to their authenticity nor cross-examine the Land Registrar to prove the contrary, thus arriving at an erroneous decision.
6. That the Learned Magistrate erred in fact and in law by arriving at a finding that there were irregularities in the registration of the conveyancing documents despite the evidence adduced by the defence and PW1, thereby arriving at an erroneous decision.
7. That the Learned Magistrate erred in law and in fact by failing to put into consideration that the respondent herein already occupies land parcel number 3764, belonging to the interested party herein and has neither been evicted therefrom to date, thereby arriving at an erroneous decision.
8. That the Learned Magistrate erred in law and in fact by imputing evidence of witnesses not called to testify before the trial court thus arriving at an erroneous decision.
9. That the Learned Magistrate erred in law and in fact by upholding the claim of fraud without establishment of any proof of fraud and forgery, without any expert opinion on the fingerprint impressions, thereby arriving at erroneous decision.
10. That the Learned Magistrate erred in law and in fact by considering without prejudice the testimony alone and not actual proof of fraud and forgery on the part of the appellants, thereby arriving at an erroneous decision.
11. That the Learned Magistrate erred in law and in fact by failing to make a determination on whether the suit properties were transferred as a gift inter vivos and whether the deceased had the capacity to transfer, thereby arriving at an erroneous decision.
12. That the judgement of the Learned Magistrate is manifestly a miscarriage of justice.
9. The appellants urged this court to allow the appeal by setting aside the judgment of the trial court. They prayed for costs of this appeal.

Appellants’ Submissions

10. The appellants filed written submissions dated 21/5/2025 and supplementary submissions dated 17/7/2025 through Mutuma & Koskei Advocates. The appellants identified the following as the five issues that fell for determination in the appeal: (i) Whether fraud was proved against the appellants; (ii) Whether the Learned Magistrate erred in law by finding irregularities in the process of registration



- of the titles thereby arriving at an erroneous decision; (iii) Whether the property was transferred as a gift inter vivos; (iv) Whether the deceased had capacity to transfer the suit property; and (v) Whether the appellants are entitled to the prayers sought.
11. On whether fraud was proved, counsel for the appellants submitted that the transfer of parcel number Mwimbi/Murugi/810 was neither illegal nor fraudulent, adding that due process was followed and the appellants were issued with indefeasible titles. Counsel contended that the respondent's witness, one Winfred Muguro, confirmed that the register relating to land parcel number Mwimbi/Murugi/810 was closed following the subdivision that created parcel numbers 3763 to 3765.
 12. Counsel submitted that the Land Registrar confirmed that the deceased had signed the transfer documents conveying the suit land to the appellants and the interested party, thus corroborating their evidence. Counsel argued that the evidence of the Land Registrar was proper, adding that if the evidence was detrimental to the respondent, the respondent could have applied to have her declared a hostile witness. Counsel pointed out that the Land Registrar produced a certified copy of the mutation, application for transfer, and an application for consent relating to land parcels 3762-3765, which confirmed the legality of the process.
 13. Counsel contended that the Land Control Board sat on 27/1/2011 and issued the consent for transfer. Counsel pointed out that Raiji Miriti (deceased) was alive then, and he actively participated in the transfer of the suit land to his sons. Counsel added that there were no allegations of fraud nor coercion at the time the deceased was making the transfer. Counsel submitted that officials of the Land Control Board and or the advocate who prepared the transfer forms were not summoned in relation to the allegations of fraud.
 14. Counsel argued that the respondent made an application dated 9/9/2019 seeking the Office of the DCI, Meru South Sub-County, to investigate and file a report on the thumbprint of the deceased. Counsel contended that the report was forwarded to the Court through a letter, but was never produced as an exhibit by the respondent. Counsel pointed out that the maker of the impugned report was not called to verify whether the report was genuine. Counsel further submitted that the appellants were not privy to the report, adding that they were denied the opportunity to challenge the report, which was contrary to the right to a fair hearing under Article 50 (k) of *the Constitution*. Counsel further submitted that the appellants urged the court not to admit the report but they were ignored. Counsel argued that if the trial court did not rely on the impugned report, then the trial magistrate made her conclusions and misdirected herself on forgery in the absence of evidence.
 15. Counsel argued that it was not enough to infer fraud from facts without any report by the DCI. Counsel contended that the trial court erred by imputing evidence that M.G Kathumbi alias M.G Gathumbi applied for the registration of the mutation in place of the deceased. Counsel contended that M.G Gathumbi was not summoned by the court to verify the said allegations.
 16. On whether the trial magistrate erred by finding irregularities in the process of registration of titles, counsel contended that the trial magistrate stated that the transfer form was not attested by the deceased since the form had a missing thumbprint. Counsel argued that the allegation of a missing thumbprint in one of the parcels of land does not vitiate the legality of the others. Counsel submitted that the trial magistrate did not render her findings on tangible evidence but formed her own conclusion. Counsel relied on the pronouncement in *Kinyanjui Kamau v George Kamau (2015) eKLR*.
 17. Counsel submitted that the trial court usurped the role of counsel for the respondent by pleading on her behalf and determining the matter without cogent evidence. Counsel further submitted that he who alleges must prove, adding that the burden of proof rested upon the respondent. Counsel relied on the case of *Anne Wambui Ndiritu v Joseph Kiprono Ropkoi & Another (2005) 1 EA 334, Central*



Bank of Kenya Ltd v Trust Bank Ltd & 4 Others, Armitage v Nurse and Paragon Finance PLC V D B Thakerar & Co.

18. On whether the suit land was a gift given inter vivos, counsel faulted the trial court for failing to determine the question, adding that the omission occasioned the appellants injustice. Counsel contended that the respondent stated that she appeared on behalf of one of her sisters, but she never filed any authority nor called her as a witness. Counsel relied on the case of Robertson v Hayton (2003) O.J No. 4538(SCJ), Royal Trust Co. v Diamant, (1953) 3 D.L.R 102 (BCSC) and Stoppel v. Loesner, 1974 CarswellMan 141 (QB) and Registered trustees, Anglican Church of Kenya Mbeere Diocese v Rev. David Waweru Njoroge Civil Appeal No. 108/2002 and Pennington v Waine (2002) 1WLR 2075.
19. Counsel submitted that the deceased willingly transferred the properties to the appellant, adding that the fact that the titles were obtained after the demise of the deceased did not vitiate the fact that he concluded the transfer process. Counsel added that the green cards produced as evidence demonstrate that there was no consideration since the land was given as a gift inter vivos.
20. On whether the deceased could execute transfer documents relating to the suit land, counsel relied on Section 107 of the *Evidence Act* and argued that the respondent gave contradicting evidence on the alleged sickness of the deceased, adding that the death certificate indicated a different cause from what was alleged by the respondent. Counsel relied on the case of Re of Gatuthu Njuguna(deceased) (1998) eKLR and James Maina Anyanga v Lorna Yimbiha Ottaro & 4 Others (2014) eKLR. Counsel argued that if there was no medical evidence to support the allegation of sickness, then the evidence ought to have been ignored. Counsel contended that the cause of death was a urinary complication, yet the death certificate indicated a natural death.
21. On whether the appellants are entitled to the prayers sought, counsel argued that the appellants possess indefeasible titles and there is no proof of fraud, hence they are entitled to the prayers sought in the counterclaim.

Respondent's Submissions

22. The respondents filed written submissions dated 5/6/2025 through M/s I.C Mugo & Co Advocates. Counsel for the respondent identified the following as issues that fell for determination in the appeal; (i) What is the effect of the interested party failing to be part of the proceedings in land parcel Mwimbi/ Murugi /3764?; (ii) Whether fraud was proved against the appellants; (iii) Whether the magistrate erred by finding irregularities in the process of registration of the titles thereby arriving at an erroneous decision; (iv) Whether the property was transferred as a gift inter vivos; (v) Whether the deceased had capacity to transfer the suit property; (vi) Whether the appellants are entitled to the prayers sought; and (viii) Who should pay costs of this appeal and the proceedings in the primary case.
23. Counsel submitted that from the onset, the interested party, Ian Kaburu, intimated that he was not interested in the appeal. Counsel submitted that the interested party conceded to the findings of the trial court. Counsel added that the failure of the interested party to contest the appeal confirmed that the interested party got the land fraudulently and he was not opposed to the properties reverting to the original title.
24. Counsel further submitted that the transfer form, which allegedly conveyed parcel number Mwimbi/ Murugi/3764 to the interested party, was not signed nor thumb-printed by the transferor, adding that there were alterations in the date to create the impression that M'Raiji Miriti executed the transfers form in 2011. Counsel argued that the alterations were made after the appellants realized that the fraudulent transfers bore the year 2012 as the year of execution.



25. On whether fraud was proved, counsel relied on the case of *Kinyanjui Kamau v George Kamau* (2015)eKLR. Counsel submitted that the appellants dealt with parcel Mwimbi /Murugi/810 fraudulently. Counsel pointed out the application dated 9/9/2019 wherein the respondent prayed for orders that all conveyancing documents relating to the subdivision be examined by a handwriting expert and establish whether M'Raiji Miriti executed the conveyancing documents. Counsel submitted that the findings of the DCI were presented to the trial court by one of the officers from the DCI Office. Counsel further submitted that the findings were part of the record and it was evident that the transfers were fraudulent. Counsel contended that the documents presented to the court from the DCI's Office were not subjected to cross-examination because the appellant's counsel did not believe in the findings in the report.
26. Counsel argued that the findings of the forensic report on handwriting had detected forgery in the conveyancing documents relating to parcel numbers Mwimbi/Murugi/3762, 3763, 3764 and 3765. Counsel further submitted that the application for subdivision of Mwimbi/Murugi/810 was presented by one M.G Kathumbi and not M'Raiji Miriti, the registered proprietor, yet the deceased had not authorized M.G Kahumbi to apply for the subdivisions. Counsel argued that it was a fallacy for the appellants to allege that the respondent was to be catered for by Ian Kaburu Mbae. Counsel argued that the appellants' acts and omissions amounted to fraud.
27. Counsel further argued that a succession cause was not filed after the death of M'Raiji Miriti because the appellants did not want the respondent and her sisters to benefit from their father's land. Counsel argued that the only inference is that the appellants were involved in a fraudulent scheme where they executed the mutation form in order to acquire the suit land illegally.
28. Counsel submitted that the appellants and M. G Gathumbi engaged in a fraudulent scheme to have M'Raiji Miriti's land. Counsel further added that registration of the appellants as proprietors was fraudulent. Counsel contended that the subdivision ought to be cancelled by the Land Registrar. Counsel relied on the case of *ELC Case No.63 of 2017 Kibiro Wagoro v Francis Nduati Macharia & Standard Chartered Bank* (2018) eKLR.
29. On whether the appellants and interested party's titles were valid, counsel contended that the appellants' titles were tainted with fraud and were not good titles. Counsel cited the pronouncement in *ELC Appeal No.133 of 2011 Moses Muriungi Julius v Julius M'Rimberia* (2017) eKLR. Counsel argued that it was not enough for the appellants to wave their titles, adding that they were obligated to demonstrate that their titles were acquired legally and procedurally. Counsel relied on *Munyu Maina v Hiram Gathiha Maina Civil Appeal No.239 of 2009* eKLR.
30. On whether M'Raiji Miriti gifted the appellants and the interested party the suit land, counsel contended that the deceased did not gift the suit land to them. Counsel relied on the case of *Re estate of the late Gedion Manthi Nzioka (deceased)* (2015)eKLR. On whether M'Raiji Miriti had the capacity to effect the transfer of the suit land to the appellants and the interested party, counsel submitted that M'Raiji Miriti started ailing in 2009, adding that although the certificate of death indicated that he died a sudden death, he was unwell for a long time.
31. On whether the appellants deserved the prayers sought in the appeal, counsel submitted that the appellants were in the amphitheater of a fraudulent scheme and did not deserve the reliefs. Counsel pointed out tht the interested party elected not to be party to the appeal. Counsel urged the court to reject the appeal.



Analysis and Determination

32. I have read and considered the original record of the trial court; the record filed in this appeal; and the parties' respective submissions in the appeal. I have also considered the relevant legal frameworks and jurisprudence. The four key issues that fall for determination in the appeal are: (i) Whether the subdivision of land parcel number Mwimbi/Murugi/810 (registered in the name of the late M'Raiji Miriti alias Raiji Miriti alias M'Raishi Miriti) into parcel numbers Mwimbi/Murugi/3762; 3763; 3764; and 3765 in February 2012 was fraudulent and dishonest; (ii) Whether the transfers of the said four subdivision titles to the appellants and to the interested party were fraudulent and dishonest; (iii) Whether the respondent was entitled to the reliefs that were sought in the plaint; and (iv) What order should be made with regard to costs. Before I analyse and dispose the four issues, I will outline the principle that guides this court when exercising appellate jurisdiction.
33. The principle upon which a first appellate court exercises jurisdiction was summarized by the Court of Appeal in the case of *Susan Munyi v Keshar Shiani* [2013] eKLR as follows:
- “As a first appellate court our duty of course is to approach the whole of the evidence on record from a fresh perspective and with an open mind. We are to analyze, evaluate, assess, weigh, interrogate and scrutinize all the evidence and arrive at our own independent conclusions.”
34. The principle was similarly outlined in *Abok James Odera t/a A.J Odera & Associates v John Patrick Machira t/a Machira & Co. Advocates* [2013] eKLR as follows:
- “This being a first appeal, we are reminded of our primary role as a first appellate court, namely, to re-evaluate, re-assess and re-analyse the extracts on the record and then determine whether the conclusions reached by the learned trial judge are to stand or not and give reasons either way.”
35. By dint of Sections 107, 108 and 109 of the *Evidence Act*, the party who bore the burden of proof was the respondent. For clarity, the three sections provide as follows:
- (107) Whoever desires any court to give judgment as to any legal right or liability dependent on the existence of facts which he asserts must prove that those facts exist.
- (2) When a person is bound to prove the existence of any fact it is said that the burden of proof lies on that person.
- (108) The burden of proof in a suit or proceeding lies on that person who would fail if no evidence at all were given on either side.
- (109) The burden of proof as to any particular fact lies on the person who wishes the court to believe in its existence, unless it is provided by any law that the proof of that fact shall lie on any particular person.”
36. Lastly, the law on pleadings and proof of fraud is well settled. In *Kinyanjui Kamau v George Kamau* (2015), the Court of Appeal outlined the law as follows:
- “...It is trite law that any allegations of fraud must be pleaded and strictly proved. See *Ndolo vs 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” ...“In cases where fraud is alleged, it is not enough to simply infer fraud from the facts.”

37. Was the subdivision of the suit land fraudulent and dishonest? The case of the respondent was that the subdivision was fraudulent and dishonest. On their part, the appellants contended that the subdivision and the subsequent transfers were “initiated and executed” by the deceased.
38. From the evidence on record, the suit land was land that existed in the name of the deceased at the time of his death on 29/6/2011. The mutation which gave rise to the impugned subdivision titles is expressed as having been registered on 29/2/2012. The application for the registration of the mutation indicates that the mutation was dated 29/2/2012. On its face, the mutation was registered on the same day, 29/2/2012. The respondent contended and led evidence that, as at the time the appellants procured the impugned subdivisions, the deceased had died and the appellants did not have a grant of probate or a grant of letters of administration relating to the estate of the deceased.
39. The deceased having died on 29/6/2011, the provisions of the Law of Succession Act became applicable to all the assets/properties that were in his name at the time he died. The only person with authority to lodge a mutation for registration or to procure a subdivision of land that existed in the name of the deceased would be his duly appointed personal representative within the meaning of the Law of Succession Act. None existed on 29/2/2012 when the appellants made the mutation, lodged it and caused it to be registered, subdividing the suit land amongst themselves. Clearly, the appellants impersonated the deceased and procured the registration of the impugned subdivisions on 29/2/2012. That was fraud and dishonest.
40. Were the transfers to the appellants fraudulent? The court has made a finding to the effect that the appellants fraudulently procured the registration of the subdivision mutation on 29/2/2012 in the name of the deceased long after the deceased had died. To procure legitimate transfers relating to any legitimate subdivision titles that may have existed in the name of the deceased, the appellants needed fresh consents from the Land Control Board relating to transfer of the new subdivision titles which could only have been applied for and procured upon registration of the subdivision titles. The consents could only be obtained by the duly appointed personal representative of the deceased. None existed as at 29/2/2012. This means the transfer of the subdivision titles which had been fraudulently created on 29/2/2012 was effected on the same day (29/2/2012) without the necessary consents of the Land Control Board. That was fraud.
41. The appellants relied on instruments of transfer bearing altered year of execution. The year 2012 had been altered on all the four transfers to read 2011. The date of presentation was 5/3/2012 on all the transfers. In 2011, the four subdivision parcel numbers did not exist because the mutation had not been lodged for registration and had not been registered. It logically follows that the deceased could not have executed the four transfers relating to the four subdivision parcels that did not exist in 2011. Subdivision parcel numbers were given by the Land Registry after the mutation was registered on 29/2/2012. The mutation relating to the four impugned subdivision titles was expressed as having been registered on 29/2/2012. Those parcel numbers did not exist on 5/4/2011 when the subdivision transfers are alleged to have been executed by the deceased.



42. Secondly, the deceased having died on 29/6/2011, only his duly appointed personal representative could execute or present the transfers in March 2012. None had been appointed by 5/3/2012 and none was involved in the execution and presentation of the impugned transfers instruments.
43. The appellants faulted the trial court for not finding that they were given the subdivision parcels as gifts inter vivos. This was not pleaded by the appellants as a defence. The respondent is the one who pleaded that the 1st and 2nd appellants had each been gifted different parcels measuring more than 10 acres each. Secondly, when land is bequeathed as an inter vivos gift and the registered proprietor dies before formally completing the formal conveyance of the gift, the framework in the Law of Succession Act comes to play. Only the duly appointed personal representative can convey the gift. There was, however, no evidence of gifting of the suit land by the deceased prior to his death.
44. For the above reasons, this court, like the trial court, comes to the finding that there was fraud and dishonest in the procurement of the impugned subdivision registrations and in the transfers of the subdivision titles to the appellants and to the interested party.
45. Was the appellant entitled to the reliefs sought? The appellant sued in her capacity as the personal representative of the late M'Raiji Miriti. In light of the findings of the court on the first two issues, the court comes to the finding that the appellant was entitled to the reliefs that were sought in the plaint.
46. On costs, the general principle is that, costs follow the event. There are no special circumstances to warrant a departure from the general principle. Consequently, the appellants shall bear costs of this appeal.

Disposal Order

47. In the end, having re-evaluated the pleadings and the evidence that was before the trial court, I come to the finding that the respondent proved her case to the required standard and that this appeal lacks merit. The appeal is rejected and dismissed for lack of merit. The appellants shall bear costs of the appeal.

DATED, SIGNED AND DELIVERED AT CHUKA THIS 23RD DAY OF SEPTEMBER, 2025.

B M EBOSO [MR]

JUDGE

In the Presence of:

Mr. I. C. Mugo for the Appellants

Mr. Joel Mutuma for the Respondent

Court Assistant – Mr. Mwangi

