



**REPUBLIC OF KENYA**

**IN THE ENVIRONMENT AND LAND COURT AT MURANG'A**

**ELC NO. 380 OF 2017**

**BILHA NJERI KABIRU.....1<sup>ST</sup> PLAINTIFF**

**LOISE WAMBUI MUTUA.....2<sup>ND</sup> PLAINTIFF**

**VS**

**ONESMUS KARINA WAIMIRI (Sued on his own and as the legal Representative  
of the estate of WAIMIRI KARINA).....1<sup>ST</sup> DEFENDANT**

**PETER MAINGI MITHEKO.....2<sup>ND</sup> DEFENDANT**

**HON. ATTORNEY GENERAL.....3<sup>RD</sup> DEFENDANT**

**MURANGA LAND REGISTRAR.....4<sup>TH</sup> DEFENDANT**

**JUDGMENT**

**Background**

1. The parties to this suit are related. The Plaintiffs and the 1<sup>st</sup> Defendant are siblings, being the children of the late Waimiri Karina. Waimiri Karina owned the suit land LOC 19/RWATHIA/1083 (the suit land). He was the maternal Uncle to the 2<sup>nd</sup> Defendant. He died on the 26/8/1972. The parties therefore are cousins. Upon his death the 1<sup>st</sup> Defendant was appointed the administratrix of his estate vide letters of representation issued on the 24/8/2001. The certificate of confirmation of grant was issued on the 5/2/2002 where the suit land was distributed to the Plaintiffs to own in equal shares as beneficiaries.

**The Pleadings**

2. The Plaintiffs filed suit against the Defendants 12/4/2001 seeking the following orders;

- a. An order of cancellation of the registration of Peter Maingi Mitheko as the owner of the title of land parcel No. LOC 19/RWATHIA/1083 and the lifting of the restriction thereof.
- b. As against the 2<sup>nd</sup> Defendant, mesne profits accruing from the 18/1/2002 until the date of judgment.
- c. A mandatory injunction compelling the 2<sup>nd</sup> Defendant to vacate the suit land and remove all the developments and or structures on the suit land.
- d. Costs of the suit.

3. The Plaintiffs aver that they could not implement the orders in the confirmed grant because they discovered that the suit land had been transferred to the 2<sup>nd</sup> Defendant without their knowledge. The change of title from their late father to the 2<sup>nd</sup> Defendant was illegal, fraudulent and the actions were perpetrated in collusion by the 1<sup>st</sup> 2<sup>nd</sup> and 4<sup>th</sup> Defendants. They have particularized acts of fraud and illegality on the part of the Defendants jointly and severally under para 8 of the plaint.

4. Further the Plaintiffs have pleaded that the 2<sup>nd</sup> Defendant was charged with conspiracy to defraud contrary to section 317 of the penal code and obtaining land registration by false pretenses and found guilty and sentenced on the 13/1/2006. An appeal proffered in the High

Court in Embu by the 2<sup>nd</sup> Defendant was dismissed as the superior Court held that the title was a forgery.

5. The 1<sup>st</sup> Defendant filed his statement of defence and reply to the 2<sup>nd</sup> Defendants amended counterclaim on the 25/7/18. He denied the particulars of fraud and illegality as pleaded under para 8 of the Plaintiff. He pleaded that he is a stranger to the criminal cases relating to the suit and sought to put the Plaintiffs to strict proof thereof. In his defence to the Counterclaim he claimed that he did not lease the Suitland to the 2<sup>nd</sup> Defendant. He averred that the 2<sup>nd</sup> Defendant fraudulently and illegally transferred the suit land to himself. Further he denied selling the suit land to the 2<sup>nd</sup> Defendant and urged the Court to dismiss the Counterclaim.

6. The 2<sup>nd</sup> Defendant denied the Plaintiffs' claims in his defence and counterclaim filed on the 23/5/11 and later amended with the leave of the Court on the 26/7/16. He averred that at the time of the Succession cause in 2001 the suit land had already been transferred to his name and therefore the certificate of search dated the 29/3/2001 showing the registered land owner was Waimiri Karina was a forgery. He accused the Plaintiffs and the 1<sup>st</sup> Defendant of giving false information to the Court and argued that by 2001 the land had been transferred to him in 1994. He denied the particulars of fraud and illegality in the manner that he acquired the suit land. He stated that he is been in open occupation of the suit land since 1994 by way of purchase of the same from the 1<sup>st</sup> Defendant. He averred that the 1<sup>st</sup> Defendant transferred the suit land to him legally and denied any fraud. He stated that he has developed the suit land extensively by planting 2400 tea bushes and the property is now valued at Kshs 1,440,000/-. He sought the following orders;

- a. He is in occupation of the suit land legally and the prayers sought by the Plaintiffs be dismissed as they were obtained through false swearing.
- b. The 1<sup>st</sup> Defendant be condemned to pay to the 2<sup>nd</sup> Defendant such a sum to be assessed by the Court being compensation equivalent for wrongful acts and restriction filed herein do remain in force as security until payment in full.
- c. Costs of the counterclaim to be provided for
- d. Any other relief the honourable Court may deem for to grant.

7. In reply to the 2<sup>nd</sup> Defendants' statement of defence and defence to the Counterclaim the Plaintiffs responded in their reply to the Defence and Counterclaim filed on the 3/6/11 that the registration of the 2<sup>nd</sup> Defendant as owner of the suit land purportedly pursuant to an agreement of sale was fraudulent ab initio. The 1<sup>st</sup> Defendant leased albeit without authority the suit land to the 2<sup>nd</sup> Defendant on a short-term basis in the 1990s. The 2<sup>nd</sup> Defendant was supposed to vacate the suit land once the letters of grant were obtained by the 1<sup>st</sup> Defendant. The Plaintiff denied the 2<sup>nd</sup> Defendants' Counterclaim and reiterate their claim that the transaction was fraudulent.

8. The 3<sup>rd</sup> and 4<sup>th</sup> Defendants denied the Plaintiffs claim and averred that the restriction placed on the suit land was regular, reasonable and procedurally and legally sound and in furtherance of its statutory duties and that the Plaintiffs were informed of the reasons for the same. They aver that the suit is statute barred and the same is an abuse of the process of the Court.

9. On the 27/11/14 the 2<sup>nd</sup> Defendant under Order 1 rule 24(1) notified the 1<sup>st</sup> Defendant that it is claiming Kshs 1,440,00/- as damages and costs and interests of the suit at the conclusion of the suit.

10. On the 2/5/16 the 2<sup>nd</sup> Defendant requested for judgement against the 1<sup>st</sup> Defendant in default of appearance and file a defence or reply to the Counterclaim.

### **The evidence of the parties**

11. The 1<sup>st</sup> Plaintiff testified on her own behalf and that of the 2<sup>nd</sup> Plaintiff. She stated that vide Succession Cause No SRMCC 177 of 2001 she and her co- Plaintiff were declared the beneficiaries of the estate of their late father to share the suit land equally. However unknown to them the suit land had been transferred illegally and unlawfully to the 2<sup>nd</sup> Defendant in 1994 by the 1<sup>st</sup> Defendant without their knowledge and authority. She reiterated the particulars of para 8 of the plaintiff. She further stated that the 1<sup>st</sup> Defendant had no capacity to convey any interest or rights in the suit land to the 2<sup>nd</sup> Defendant as her father's estate had not been succeeded. She claimed that upon discovery of the fraud the Plaintiff filed suit SPMCC No 229 of 2002 Muranga which was later withdrawn to pave way for filing of a criminal complaint against the 2<sup>nd</sup> Defendant vide Criminal case no 354 of 2004 – R vs Peter Maingi Mitheko. The 2<sup>nd</sup> Defendant was charged with conspiracy to defraud contrary to section 317 of the penal code and obtaining land registration by pretenses contrary to section 320 of the penal code and was found guilty and convicted on the 13/1/2006. The 2<sup>nd</sup> Defendant filed an appeal in HCCA No 37 of 2006 Embu which appeal was dismissed by the Court. The Court determined that the title in the name of the 2<sup>nd</sup> Defendant was a forgery. She contended that the criminal cases settled the facts surrounding the acquisition of the title to the suit land by the 2<sup>nd</sup> Defendant. However, she claims they are unable to transfer the suit land to themselves and hence the suit herein.

12. The Plaintiffs sought mesne profits from the 2<sup>nd</sup> Defendant whom they claim has been deriving profits unlawfully. In respect to the restriction subsisting on the title, the Plaintiff blamed the 4<sup>th</sup> Defendant for adamantly maintaining the restriction on the title without any justifiable cause despite the conclusion of the investigations.

13. On cross examination by Mr Ndegwa Mbue for the 1<sup>st</sup> Defendant, the 1<sup>st</sup> Plaintiff stated that her father died in 1972 and the 1<sup>st</sup> Defendant was appointed as legal representative of their father's estate in 2001. Their father owned the suit land. She informed the Court that the 2<sup>nd</sup> Defendant is farming on the land and that she was unaware how the 2<sup>nd</sup> Defendant entered the suit land. When cross examined by Mr

Gacheru for the 2<sup>nd</sup> Defendant, the 1<sup>st</sup> Plaintiff clarified that they are 4 siblings; 3 daughters and one brother. The three sisters are all married and none of the siblings occupy the suit land. The 2<sup>nd</sup> Defendant tills the land and she claimed that she does not know how he entered into the land. At the point of filing the transmission forms at the lands office they discovered that the suit land had been registered in the name of the 1<sup>st</sup> Defendant and subsequently the 2<sup>nd</sup> Defendant. She stated that they were not aware of the transfers. Mr. Motari on behalf of the 3 & 4<sup>th</sup> Defendant cross examined the 1<sup>st</sup> Plaintiff who stated that the 2<sup>nd</sup> Defendant was found guilty of fraudulently acquiring the suit land and fined Kshs 50,000/- and the conviction and sentence was upheld in the High Court on appeal. Finally, she stated that 2<sup>nd</sup> Defendant is her cousin and is not entitled to inherit their father's estate. She added that the 1<sup>st</sup> Defendant did not attend land control board meeting to seek consent for the transfer of the suit land to the 2<sup>nd</sup> Defendant. That even the 1<sup>st</sup> Defendant has not denied that they are entitled to inherit their fathers land.

14. DW1- Onesmus Karina stated that the suit land was registered in his father's name in 1963. That before his demise in 1972, he used to lease the suit land to the 2<sup>nd</sup> Defendants' mother for farming. That after his father's death he himself continued to so lease the suit land to her until such time that she could not till the land due to old age. He stated that at that point the 2<sup>nd</sup> Defendant requested to lease the land whereupon they drew an agreement of lease in the offices of the 2<sup>nd</sup> Defendants' lawyers. He denied selling the land to the 2<sup>nd</sup> Defendant arguing that prior to 2001, the estate of his late father had not been succeeded and therefore could not have sold the land because he had no legal capacity to do so as the land was still registered in the name of his late father. Further that there are no Land Control Board consents to support the said sale. He stated that he is aware that the 2<sup>nd</sup> Defendant was tried and convicted for forgery of title to the suit land in Muranga, which conviction and sentence was upheld at the High Court in Embu.

15. During cross examination he stated that at the time of filing Succession cause the entries in the suit land were as follows; Entry No 1- 3 Waimiri Karina, Onesmus Karina Waimiri and Peter Maingi Muthoko respectively. Curiously he informed the Court that he did not know how he became registered as owner of the suit land. He stated that the 2<sup>nd</sup> Defendant did not purchase land from him. He denied the agreement of sale dated the 4/8/94. He stated that he visited the offices of J N Mbuthia Advocate for purposes of drawing the lease agreement between him and the 2<sup>nd</sup> Defendant.

16. On Cross examination by Mr Motari representing the Hon. Attorney General, he stated that the 2<sup>nd</sup> Defendant did not produce any agreement for sale in the criminal case in Muranga. *Inter alia* he reiterated that he did not sign any agreement of sale, attend Land Control Board, neither owned the suit land nor had capacity to so transfer as alleged by the 2<sup>nd</sup> Defendant. That in any event a purchase of land cannot be registered as a gift as was the case against the entry in the name of the 2<sup>nd</sup> Defendant. That the 2<sup>nd</sup> Defendant did not produce the title that he alleges was sold by the 1<sup>st</sup> Defendant in the criminal case which goes to show that there was none at all.

17. Whilst being cross examined by the Plaintiffs' Counsel, Mr Waweru, the 1<sup>st</sup> Defendant informed the Court that the 2<sup>nd</sup> Defendant became registered owner of the suit land by way of fraud in 1994 long after his father had passed away. He clarified that the Plaintiffs are joint beneficiaries of the suit land.

18. DW2- the 2<sup>nd</sup> Defendant led evidence that he purchased the suit land from the 1<sup>st</sup> Defendant vide an agreement of sale dated the 4/9/94 entered at the offices of J N Mbuthia Advocates. The consideration was Kshs 154,000/- which amount was paid to the vendor at different dates. *Inter alia* he stated that the 1<sup>st</sup> Defendant executed all the documents of transfer and obtained Land Control Board consent whereupon the transfer was registered and the title issued in his name. Upon being given vacant possession by the 1<sup>st</sup> Defendant he stated that he commenced developments in earnest on the suit land to wit; planting nappier grass as well as 2400 tea bushes for which he has continuously and without interruption harvested. Further he stated that the 1<sup>st</sup> Defendant and the Plaintiffs have all along been aware of his occupation and possession of the suit land and have never raised any objection.

19. In respect to the official land search dated the 23/1/2004, he explained that he obtained it from the land office and it contained the 3 entries of the land register of Waimiri Karina, Onesmus Karina and finally his name. That his original title is still with the District Criminal Investigating Officer, Muranga. He stated that if paid his money as demanded in the counterclaim, he will return the land to the Plaintiffs.

20. In cross examination by Mr. Waweru for the Plaintiffs he stated that the 1<sup>st</sup> Defendant did not show him a title in his name at the time he entered into the sale agreement. He confirmed that the Plaintiffs are the beneficiaries of the suit land pursuant to the confirmed grant issued in 2001. He maintained his willingness and readiness to retransfer the land if paid the cost of the developments on the suit land. In further cross examination by Mr. Ndegwa for the 1<sup>st</sup> Defendant, the witness informed the Court that the late Waimiri Karina was his uncle and owned the suit land. That he is not a beneficiary to his estate neither did he know if the suit land had been transferred to the 1<sup>st</sup> Defendant. He stated that his mother Sarah Wairimu had leased the suit land. He denied leasing the land from the 1<sup>st</sup> Defendant. He stated that he and the 1<sup>st</sup> Defendant attended the Kangema Land board and all the documents they obtained were kept by the 1<sup>st</sup> Defendant. He attempted to persuade the Court that he followed due process in the purchase, transfer and issuance of the title to the suit land. That at the time of purchasing the land, the official search showed that the land was registered in the name of Waimiri Karina. That notwithstanding, he still went ahead to buy the land from a stranger who was not the owner.

21. He informed the Court that he was charged in Muranga Court with a criminal offence and found guilty and convicted to pay Kshs 51,000/- on each count. On appeal the sentence and convictions were upheld. He stated that in 1994, he had no knowledge if the family of the late Waimiri Karina had petitioned for succession. During Cross examination by Mr Motari, the witness stated that that though he conducted a search on the suit land he did not produce the same as it was with the 1<sup>st</sup> Defendant. That the 1<sup>st</sup> Defendant became registered owner of the suit land on the 4/8/94 the same date that the agreement of sale was entered into. He informed the Court that the 1<sup>st</sup> Defendant kept the transfer documents in respect to the suit land. When showed the green card for the suit land he conceded that there is no entry to show that the late Waimiri Karina was ever issued with a title.

#### **The written submissions.**

22. The parties filed lengthy submissions which I have carefully read and considered. I will not replicate them but will refer to them in the analysis as I go along.

23. Issues for determination

- a. Did the 1<sup>st</sup> Defendant have the capacity to sell the land to the 2<sup>nd</sup> Defendant
- b. Whether there was a valid agreement for sale and transfer of the land to the 2<sup>nd</sup> Defendant
- c. Did the 2<sup>nd</sup> Defendant validly acquire title to the suit land?
- d. Whether the restrictions registered on the suit land should be removed
- e. Whether the 2<sup>nd</sup> Defendant is entitled to his claims in the counterclaim?
- f. Whether the Plaintiffs are entitled to mesne profits?
- g. Costs of the suit

23. Did the 1<sup>st</sup> Defendant have the capacity to sell the land to the 2<sup>nd</sup> Defendant? It is commonly acknowledged that the land in question belonged to Waimiri Karina having become registered on the 17/4/1963. According to the certified copy of the green card, the said registered owner was never issued with a title. It is also not in dispute that the beneficiaries of the estate of the late Waimiri Karina according to the confirmation of grant dated 5/2/2002 were the Plaintiffs. According to the Court orders they are to share the suit land equally amongst themselves. The administrator of the estate of the deceased was the 1<sup>st</sup> Defendant pursuant to the letters of grant of administration issued on the 24/8/2001. This has been commonly acknowledged and admitted by the 1<sup>st</sup> Defendant as much. The 2<sup>nd</sup> Defendant too informed the Court that he is not a beneficiary of the estate of the late Waimiri Karina. It is also commonly agreed that the 2<sup>nd</sup> Defendant is in occupation of the suit land.

24. As at the time that the 2<sup>nd</sup> Defendant alleges to have entered into an agreement for sale with the 1<sup>st</sup> Defendant in 1994, the estate of the deceased had not been succeeded. The letters of representation were only issued on the 24/8/2001 where the 1<sup>st</sup> Defendant was appointed as the legal representative and the administrator of the estate of his deceased father. Prior to that period he had no legal capacity to transfer the suit land to the 2<sup>nd</sup> Defendant. The 1<sup>st</sup> Defendant has denied entering into the sale agreement with the 2<sup>nd</sup> Defendant. Even if he did, it would amount to intermeddling with the property of a deceased person which is prohibited under section 45 of the Succession Act. It is admitted on record by the 2<sup>nd</sup> Defendant that the 1<sup>st</sup> Defendant did not possess a title to the suit land at the time of the alleged sale. The question then remains how did the 1<sup>st</sup> Defendant with no title transfer the land to him?

25. Whether there was a valid agreement for sale and transfer of the land to the 2<sup>nd</sup> Defendant. The 1<sup>st</sup> Defendant has denied entering into the agreement of sale dated the 4/8/94. He alleges that the agreement was signed at the law firm offices of J K Mbutia. The said Advocate was not called to testify in Court. According to the 1<sup>st</sup> Defendant they entered into a lease agreement with the 2<sup>nd</sup> Defendant over the suit land while the 2<sup>nd</sup> Defendant has flatly denied ever leasing the land nor signing a lease agreement. The lease agreement was never produced in evidence.

26. Curiously no documents such as transfer, land control consent or application for it, evidence of payment of consideration were adduced in evidence by the 2<sup>nd</sup> Defendant. He alluded that the documents were in the custody of the 1<sup>st</sup> Defendant who denied any knowledge of them. It is on record that Waimiri Karina was never issued with a title. The 2<sup>nd</sup> Defendant has admitted that the 1<sup>st</sup> Defendant did not have any title in his name at the time of entering into the agreement of sale in 1994. This is because no title was ever issued to his father in the first place. The question that remains unanswered is how the 1<sup>st</sup> Defendant became registered as owner of the land on the 4/8/94 the same date that the purported agreement of sale was entered into? It is purported that the transaction was a gift to the 1<sup>st</sup> Defendant. Who donated/gifted the land to the 1<sup>st</sup> Defendant in 1994. His father had passed away in 1972? It is not plausible that he rose from the dead and gifted his son land.

27. According to the said green card, the 2<sup>nd</sup> Defendant was registered as owner of the land on the same date 4/8/94. This entry was deleted and a subsequent entry No 4 in his name is entered as the owner on the 4/9/94 by way of gift. The evidence of the 2<sup>nd</sup> Defendant that he wishes the Court to believe is that he purchased the land from Onesmus Karina. This state of affairs is irreconcilable and the only conclusion that the Court can draw is that the said entries are forgeries. In any event the evidence of the 2<sup>nd</sup> Defendant is that he purchased the land. He has not produced any documentary evidence such as transfer, land control board consent, payment of purchase price, interalia, to support any purchase.

28. In answer to that issue the Court finds and holds that there was no valid agreement of sale entered between the 1<sup>st</sup> Defendant and the 2<sup>nd</sup> Defendant. The whole transaction was fraudulent and the Court finds that the Plaintiffs have proved fraud as pleaded as required in the case of the former Court of Appeal for Eastern Africa in **R.G. Patel versus Lalji Makanji (1957) EA 314** stated as follows:

“Allegations of fraud must be strictly proved; although the standard of proof may not be so heavy as to require proof beyond reasonable doubt, something more than a mere balance of probabilities is required.”

29. Did the 2<sup>nd</sup> Defendant validly acquire title to the suit land? The finding and reasoning in a and b above is called in aid of this issue. Such information must be read together with the fact of the 2<sup>nd</sup> Defendant having been charged and convicted in Criminal case No 354 of 2004 whose decision was upheld in criminal appeal of 2006 for the offence of fraudulently acquiring title to the suit land. Section 47A of the evidence Act states as follows;

“A final judgment of a competent Court in any criminal proceedings which declares any person to be guilty of a criminal offence shall, after the expiry of the time limited for an appeal against such judgment or after the date of the decision of any appeal therein, whichever is the latest, be taken as conclusive evidence that the person so convicted was guilty of that offence as charged”.

There is no evidence or information of a further appeal after the High Court decision in criminal appeal of 37 of 2006. Such finding by the Court specifically that the 2<sup>nd</sup> Defendant obtained title to the suit land fraudulently is conclusive so as to disentitle the 2<sup>nd</sup> Defendant of any defense or counterclaim in respect to the suit land.

30. In view of the forgoing therefore the Court finds and holds that the 2<sup>nd</sup> Defendant did not validly acquire any title in the suit land.

31. Whether the restrictions registered on the suit land should be removed. Restriction are governed under section 76 -78 of the Land Registration Act. According to the Act, restrictions should be for a limited period and a legitimate purpose. If the purpose comes to an end then you do not need a restriction. For example, the purpose are spent with the conclusion of investigation, prosecution, conviction and sentence given and an appeal heard and determined. The purpose is therefore spent and there is no justifiable reason to sustain the restriction. It must be removed and the Court will make appropriate orders in the end.

32. Whether the 2<sup>nd</sup> Defendant is entitled to his claims in the counterclaim? In the counterclaim the 2<sup>nd</sup> Defendant prays under para 19 for an order that he is in occupation of the suit land and a compensation in the sum of Kshs 1,440,000/-. In so far as ownership, occupation and or possession of the suit land is concerned the Court has found in the analysis in issue No. c. that he is not entitled to lay a claim in the matter. Further even if the Court were to determine the issue the 2<sup>nd</sup> Defendant did not lead any evidence for such value and developments which could lie against the Plaintiff other than to state that he will give back the land once paid for the developments. Although the valuation report is on record it was not tendered in evidence by the 2<sup>nd</sup> Defendant. This Counterclaim is dismissed.

33. Whether the Plaintiffs are entitled to mesne profits? The Plaintiffs have not led any evidence to support this claim and to guide the Court in respect of the loss suffered in form of mesne profits. It is declined.

34. I need to say something about the 1<sup>st</sup> Defendant in this case. From the observation of his demeanour during trial, weighing his evidence and his responses, I am persuaded that his evidence and conduct falls below the bar of credibility so much so that he did not explain how he became registered as owner of the land in 1994, how he gave possession of the land to the 2<sup>nd</sup> Defendant inter alia. As an administrator of the estate of the deceased he had a legal duty to administer the estate as per law provided and account to the beneficiaries of the estate. Like the Appellate Court noted in the Criminal case at Embu, I am persuaded that he was not an innocent by-stander.

35. **Final orders;**

- a. The 2<sup>nd</sup> Defendant's Counterclaim is dismissed.
- b. Title for LOC 19/RWATHIA/1083 registered in the name of the 2<sup>nd</sup> Defendant be and is hereby cancelled and reverted to Waimiri Karina, deceased.
- c. A mandatory injunction be and is hereby issued directing the 2<sup>nd</sup> Defendant to remove all developments and all structures on the land and vacate the suit land within a period of 90 days from the date of the judgment.
- d. In default eviction shall issue in strict adherence of the provisions of section 152 G of the Land Act.
- e. Costs of the suit are payable by the 2<sup>nd</sup> Defendant to the Plaintiffs. The Court directs the 1<sup>st</sup> Defendant to pay his own costs of the suit.

**Orders accordingly**

**DELIVERED, DATED AND SIGNED AT MURANG'A THIS 21<sup>ST</sup> DAY OF MARCH, 2019.**

**J G KEMEI**

**JUDGE**

**Delivered in open Court in the presence of:**

Kinyanjui HB Irungu Kangata for the Plaintiffs

Ndegwa for the 1<sup>st</sup> Defendant

Peter Muthoni HB for Gacheru for the 2<sup>nd</sup> Defendant

3<sup>rd</sup> & 4<sup>th</sup> Defendants – Attorney General Absent

Irene and Njeri, Court Assistants