



**Mataza & 8 others v T.M Ganjee & Abdul Hassanali & Co (Environment and Land Case E023 of 2024) [2025] KEELC 7312 (KLR) (15 October 2025) (Judgment)**

Neutral citation: [2025] KEELC 7312 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT MALINDI  
ENVIRONMENT AND LAND CASE E023 OF 2024  
EK MAKORI, J  
OCTOBER 15, 2025**

**BETWEEN**

**BARAKA MATAZA ..... 1<sup>ST</sup> APPLICANT  
WANJE MATAZA ..... 2<sup>ND</sup> APPLICANT  
DANIEL MATAZA ..... 3<sup>RD</sup> APPLICANT  
TATIZO MATAZA ..... 4<sup>TH</sup> APPLICANT  
BEATRICE KABIBI KESI ..... 5<sup>TH</sup> APPLICANT  
JOB MWANGI ..... 6<sup>TH</sup> APPLICANT  
ENOCK OBIRI OMBOGO ..... 7<sup>TH</sup> APPLICANT  
LYDIA WAIRIMU MUTAHI ..... 8<sup>TH</sup> APPLICANT  
BEATRICE KARIMI MBAABU ..... 9<sup>TH</sup> APPLICANT**

**AND**

**T.M GANJEE & ABDUL HASSANALI & CO ..... RESPONDENT**

**JUDGMENT**

1. The Applicants initiated the proceedings herein through an Originating Summons dated 13 November 2024. The applicants seek the following reliefs:
  - a. The respondent's title over the parcel of land known as LR NO. 498 Malindi is hereby extinguished and cancelled, and the same is vested in the name of the applicants.
  - b. Costs be provided for.



2. The applicants' case is that they, along with their families, have occupied LR No. 498 Malindi since their parents first took possession of the land over 50 years ago, starting in the 1950s.
3. The applicants' parents are deceased, but they still occupy and have built homes on the land, cultivating crops and raising livestock. They have enjoyed peaceful, exclusive possession without interference or claims from third parties.
4. The respondent has not appeared nor filed any response despite proper service being effected on 13 February 2025 through an advertisement in the Daily Nation newspaper, as ordered by the Court.
5. At the close of the applicants' case, the court directed counsel for the applicant, Mr. Maina, to file written submissions; he complied. I appreciate the submissions from learned counsel, which greatly assisted this court in reaching its decision.
6. The issues I frame for the court's determination are whether the applicants are entitled to the reliefs sought and who should bear the costs of the current litigation.
7. This court was moved under Order 37 Rule 7 of the Civil Procedure Rules, which provides the procedure for filing suits under Adverse Possession. It states that it shall be done through the Originating Summons.
8. Adverse possession is addressed in sections 7, 13, 17, 37, and 38 of the Limitations of Actions Act, Cap 22 Laws of Kenya. These sections cover adverse possession of land and also include provisions for revocation and registration of the new owner.
9. The applicants have, on a balance of probabilities, demonstrated that they have occupied the suit property for a period exceeding twelve years without any interference from third parties, as detailed in the affidavit supporting the originating summons. They have constructed structures on the property and are engaged in agricultural activities thereon. Photographic evidence was submitted to substantiate this assertion.
10. In the case of *Mbira v Gachuhi* [2002] IEALR 137, it was held that adverse possession must accrue under specific legal conditions:

“..... a person who seeks to acquire title to land by the method of adverse possession for the applicable statutory period must prove non-permissive or non-consensual actual, open, notorious, exclusive and adverse use by him or those under whom he claims for the statutory prescribed period without interruption....”
11. Adverse possession is widely recognized under Kenyan law. The applicants have demonstrated that they have physically occupied the property for over 12 years without any interference. They have fulfilled the criteria to be recognized as the owners of the suit property in question.
12. The court will allow the applicants' claim as prayed in the OS.

**DATED, SIGNED, AND DELIVERED VIRTUALLY AT MALINDI ON THIS 15<sup>TH</sup> DAY OF OCTOBER, 2025.**

**E. K. MAKORI**

**JUDGE.**

In the presence of:

Mr. Maina for the Applicant



Happy: Court Assistant

