

**IN THE COURT OF
APPEAL AT
NAIROBI**

(CORAM: MUSINGA (P), KIAGE & GATEMBU, JJ.A.)

CIVIL APPEAL NO 484 OF 2019

BETWEEN

FRANCIS MBURU MUTHANDI.....APPELLANT

AND

PETER KIHUHA MUTHANDI.....RESPONDENT

*(Being an appeal from the Judgment and Decree of the
Environment and Land Court at Nairobi (**Okong'o, J.**) delivered
on 12th April 2019*

in

ELC Case No. 788 of 2007)

JUDGMENT OF THE COURT

1. The dispute culminating in this appeal is between two brothers, **Francis Mburu Muthandi** (the appellant), and **Peter Kihuha Muthandi** (the respondent). The appellant is the eldest son, and both are children of the late **Elijah Muthandi Kimani**. The conflict concerns ownership of land parcel **Ndeiya/Ndeiya/508 (the suit property)**, a twelve-acre property in Ndeiya, Kiambu.

2. In his suit, *to wit*, **ELC No. 788 of 2007** and which was commenced by way of a Plaint dated **31st July 2007**, the appellant asserted that he was the registered and absolute owner of the suit property. He claimed that in May 2006, the respondent unlawfully entered the land, occupied a house on it, cut down indigenous trees valued at Kshs. 750,000 and continued to trespass thereon, despite being issued with a notice to vacate.
3. Among the prayers sought in the suit were a declaration that the appellant was the absolute owner of the suit property, and that the respondent's occupation was illegal; an eviction order requiring the respondent, his family and anyone claiming under him to vacate both the disputed portion of the land and the part of the house he occupies; a permanent injunction to restrain the respondent and those associated with him from remaining on, cultivating, cutting trees, or in any way interfering with the suit property; general damages for trespass, interference with the land and illegal cultivation, as well as exemplary damages; mesne profits of Kshs. 12,000.00 per month for fifteen months amounting to Kshs. 180,000.00 and continuing monthly until determination of the suit; and compensation of Kshs.

750,000.00 for blue gum and black wattle trees allegedly cut and converted into charcoal.

4. The respondent through his Defence and Counterclaim dated 1st October 2007 contended that the appellant was never the true owner of the suit property but was registered as proprietor only as a trustee for their father and the wider family during land consolidation in 1956, since their father was in prison at the time and the appellant, as the eldest son, was the appropriate family representative. He denied the allegation that he entered the land unlawfully in 2006 or committed any of the acts alleged in the plaint. In his counterclaim, he maintained that when their father was released in 1957, he trusted the appellant to continue holding the land on behalf of the family and therefore did not pursue a transfer. He sought a declaration that the suit property belonged jointly to the four brothers (**Peter Kihuha Muthandi, James Ngigi Muthandi, George Wanjohi Muthandi** and **Francis Mburu Muthandi**; an injunction to prevent the appellant from interfering with his and his brothers' occupation; and, in the alternative, a declaration that he had acquired three acres by adverse possession, and the same be registered in his name.
5. At the hearing, the appellant testified as PW1. He told the court that he acquired the 12-acre property in 1950s from the Kiambu

County Council during the land demarcation exercise and that
he

was allocated the land in 1953 while working with the Survey of Kenya. He stated that the Land Registrar later informed him in 1981 that his title was ready, and he collected it in 1983 in the presence of his parents, neither of whom ever laid any claim to the land. He produced receipts for payments he said were made for the property and explained that he had moved his parents from the emergency village, built a house for them on the land, and installed electricity and telephone services. He denied holding the property in trust and denied that their father had paid for it. He maintained that the respondent had no right to enter the land and said he reported the matter to the area chief and the police when he discovered the alleged trespass.

6. The appellant's neighbour, **Thuo Kamau Muthandi**, testified as PW2 and stated that he and the appellant each received individual 12-acre parcels during demarcation at a time when the appellant's father was in jail. He emphasized that the allocations were made to individuals rather than families and recalled that the appellant later relocated his mother to the land. Another neighbour, **Leah Wanjiku Wanyoike**, testified as PW3 and similarly stated that land was allocated to individuals. She remembered the appellant's parents living on

the property while the appellant was abroad and

said the respondent never resided there, adding that the parents consistently affirmed the land belonged to the appellant. The appellant's sister, **Leah Wanjiku Njenga**, testified as PW4 and stated that the appellant obtained the land because of his work with a surveyor. She confirmed that the appellant moved their mother to the property, sent her money for payments, and that the respondent made no contribution towards either the acquisition of the land or the construction of the house built for their mother.

7. **Lucia Wanjiru Muthandi**, a younger sister of the appellant testified as PW5. She stated that the appellant had assisted surveyors during demarcation and was allocated the land in his own right. She recalled that he moved their parents to the property, built a permanent house for them, and later asked her to remain there with her children after their mother died. Like PW4, she maintained that the respondent had never lived on the land before 2006 and that he had been residing in Dandora. She stated that the respondent only came to the land in 2006 and began cutting trees, which led her to report the matter to the appellant. **Joseph Maina Njoroge**, a forest officer, testified as PW6 and stated that upon a complaint to the police, he

assessed the value of the cut trees at Kshs 21,600 and produced his valuation report. The final

witness for the appellant was **George Waiganjo Wanjiru**, the son of PW5, who testified as PW7. He said that he had grown up on the land and only knew the respondent as a visitor during their grandfather's funeral in 1985. According to him, the respondent moved to the land in May 2006 and occupied their grandmother's house.

8. On his part, the respondent who testified as DW1 stated that he was born in 1950 in Ndeiya and had lived there all his life. He said the family originally lived elsewhere, moved to a colonial village in 1956 during the emergency and, after land demarcation, moved to the suit property in 1959. He insisted that the suit property was allocated to their father, not the appellant, but because their father was in jail and land was not allocated to women, the appellant, as the eldest son, was registered to hold the land in trust for the family. He explained that their paternal uncle, who was a chief, helped arrange this. He stated that the whole family, including the unmarried sisters and younger brother, settled on the land while the appellant never lived there and left for Germany in 1962, only visiting occasionally. He maintained that their parents paid the land charges and built the permanent house in 1976 using their

mother's resources, assisted by himself and James Ngigi
Muthandi

(DW4), and that the appellant contributed nothing. He added that the appellant secretly took the title deed to Germany, prompting their father to write to him in 1984 asking him to return it. He stated that the family attempted to subdivide the land into four equal portions in 1983, and that this was later recorded in a written agreement signed in 1993, but the appellant refused to co-operate. He denied cutting any trees and said the appellant wanted him off the land in order to sell it.

9. **Godfrey Wainaina Mwangi**, a cousin of the respondent, testified as DW2. The gist of his testimony was that he attended a 1993 family meeting where the parties' mother expressed her wishes as to how the suit property ought to be shared. Another cousin, **Peter Muthandi Wanjohi**, testified as DW3 and provided a detailed history of the land, explaining that the consolidation exercise in 1956-1958 returned residents to their original holdings and that the suit property was registered in the appellant's name only because their father was in jail and women could not be registered as proprietors. He stated that the appellant never lived on the land, and that the permanent house was built by the mother around 1978 using her own money and with help from the respondent. **James Ngigi**

Muthandi (DW4), a brother to both parties, reiterated

that the appellant was registered as a trustee, never resided on the property, and was regarded by the family as the “muramati,” or customary trustee. The respondent’s final witness, **Joshua Kariuki** testified that he was the contractor who built the house for the parties’ mother, that he was paid by her using proceeds from her Subukia land, that he was assisted by the respondent and DW4 during construction, and that he had never met the appellant before coming to court.

10. After a full hearing, the trial court delivered judgment on 12th April 2019. As to whether the appellant held the land in trust for himself and his brothers, the trial court, guided by established authorities on customary and resulting trusts, reiterated that a trust is a matter of fact and must be proved by evidence. After analysing the history and the testimony presented, the court found that the appellant’s registration as owner in 1956 occurred only because their father was in jail at the time of demarcation and land could not be registered in the name of a woman. The court noted that the appellant, then an 18-year-old and still in school, gave no convincing reason why he alone would have been allocated a full 12 acres. The respondent’s version was, in the court’s view,

consistent with Kikuyu customary principles of a “muramati”,
and

the court therefore concluded that the appellant was registered to hold the land in trust for the family.

11. On the question of trespass, the court held that once it was established that the appellant held the property in trust and that the respondent was a beneficiary entitled to reside on the land, his occupation could not, therefore, amount to trespass. The court found that the respondent had a legitimate basis for being on the property, and the appellant had not proved any unlawful entry or occupation.
12. On remedies, the trial court held that since the appellant had failed to prove exclusive ownership or any wrongful entry by the respondent, he was not entitled to the prayers sought. The court also noted that the claims for mesne profits and the value of trees were special damages that had neither been proved nor connected to the respondent.
13. In the end, the appellant's suit was dismissed. The trial court proceeded to allow the counterclaim and issued a declaration that the appellant holds the suit property in trust for himself, the respondent and their other siblings. It also issued an injunction restraining the appellant, whether personally or through his agents, from evicting the respondent from the land

until the trust

is fully resolved by the appellant through a proper subdivision and distribution of the property among his siblings, including the respondent.

14. Being aggrieved and dissatisfied with the decision of the trial court, the appellant preferred this appeal. Although the memorandum of appeal contains twenty-nine (29) grounds of appeal, the main grounds are that the learned judge erred in law and in fact by finding that a customary trust existed over the suit property despite the respondent failing to discharge the burden of proof; by relying on unproven assertions of Kikuyu customary law, including the concept of a “muramati”, without any expert testimony; by disregarding **section 28** of the **repealed Registered Land Act** and the principle of indefeasibility of title; by dismissing credible evidence from neighbours and the appellant’s sisters who confirmed that land in Ndeiya was individually allocated, that the suit property was always treated as belonging to the appellant, and that the respondent had never lived on it before 2006.
15. Others grounds of appeal relied upon by the appellant include failing to properly consider documentary evidence, including receipts showing that the appellant personally made land

payments and financed construction and improvements, and

improperly rejecting the appellant's evidence concerning the burial of his brother, which he relied on as confirmation of exclusive ownership; by overlooking the fact that all the appellant's brothers received their own three-acre parcels during demarcation, undermining any claim to the appellant's twelve-acre plot; by holding that the respondent was not a trespasser when this finding stemmed only from the erroneous presumption of a trust; by disregarding uncontroverted expert valuation evidence on the destruction of trees; by wrongly granting declarations and injunctive orders in favour of non-parties; and by issuing reliefs not pleaded by the respondent.

16. At the hearing of this appeal the appellant was represented by learned counsel, **Mr. Gaturu**, while learned counsel, **Mr. Ndiba**, appeared for the respondent. Both counsels elected to rely entirely on their respective client's written submissions without making any oral highlights.
17. In his written submissions dated 12th August 2020, the appellant asserts that the trial court's finding of a customary trust was wholly unsupported by evidence. He submits that the respondent never proved the existence of a trust and that the court ignored the legal principle that trust is a question of fact

requiring proof. He

maintains that his own witnesses consistently testified that land in Ndeiya at the time was allocated to individuals through public acclamation during demarcation and not to families. According to the appellant, this evidence established that his registration was personal and not on behalf of the wider family.

18. He further contends that the trial judge improperly relied on unproven assertions of Kikuyu customary law without expert testimony, instead inferring a “muramati” relationship from the respondent’s narrative. He asserts that the court disregarded statutory protections under **section 28** of the repealed **Registered Land Act** which provided that a registered proprietor’s title is indefeasible unless a trust is proved. He also faults the court for dismissing credible testimony from neighbours and his sisters confirming that his parents recognized the property as his and that the respondent had never lived on the land prior to 2006.
19. The appellant further contends that he produced receipts for land- related payments issued in his name and explained that he would send money from Germany to his parents to make those payments. He maintains that he also financed construction of the homestead and installed amenities such as

electricity and telephone. According to the appellant, the trial court unfairly disregarded this

evidence and instead accepted the respondent's unsupported claim that the parents paid for the land and built the house entirely on their own resources.

20. The appellant further submits that the trial judge improperly dismissed his evidence concerning the burial of his brother George Wanjohi. He maintains that the burial at Lang'ata Cemetery occurred because he objected to the interment on the suit property, which he considered his private land. According to the appellant, this was further confirmation of exclusive ownership, and he asserts that even the respondent acknowledged the burial location.
21. The appellant further maintains that all his brothers acquired their own three-acre parcels during the demarcation period and therefore had no plausible claim to the twelve-acre suit property. He insists that the respondent only entered the land in May 2006, unlawfully occupying his late grandmother's house, cutting trees, prompting him to report the incident to the area Chief and the police. He faults the trial court for finding that the respondent was not a trespasser, a conclusion that flowed solely from the court's incorrect assumption of a trust.
22. As regards the destruction of trees occasioned by the

respondent, he challenges the learned judge's treatment of the evidence related

to the said destruction. He notes that a forest officer, PW6, assessed the value of the cut trees at Kshs. 21,600, yet the trial court dismissed the valuation and the related evidence entirely. The appellant maintains that this finding was unfounded and reflected the trial court's selective analysis of the record.

23. The appellant further contends that the trial court erred in granting declarations and injunctive orders in favour of siblings who were not parties to the suit, contrary to the established principle that courts may not grant reliefs to non-parties; and that the court also issued orders the respondent had not pleaded, despite the rule that parties are bound by their pleadings.
24. He also points out that the trial court contradicted itself by both declaring a customary trust and entertaining a claim of adverse possession. He submits that a beneficiary under a trust cannot at the same time claim adversely to the trustee and that the respondent could not meet the twelve-year statutory period in any event because he only entered the land in 2006 and was promptly confronted, arrested and sued.
25. Finally, the appellant contends that the land records show a clean chain of ownership from the Kiambu County Council to

him in 1983 without any indication of a trust, and that this official

documentation should have carried significant weight. He asserts that the impugned judgment is biased, speculative, and unsupported by evidence, resulting in a miscarriage of justice. He therefore urges this Court to set aside the judgment; enter judgment in his favour as prayed in the plaint; award him costs in both courts; and issue any additional orders necessary to meet the ends of justice.

26. On his part, the respondent through written submissions dated 7th September 2020 contends that the trial court correctly evaluated both the evidence and the applicable law before finding that the appellant held the suit property in trust for himself and his siblings. The respondent reiterates the family history given at the trial, including the fact that their father was imprisoned between 1952 and 1959 and their mother between 1952 and 1956, during which time the family lived in a colonial village under the care of their paternal uncle, a local headman. According to the respondent, evidence tendered before the trial court established that during the 1956–1958 land consolidation and demarcation exercise, residents were being restored to their original holdings and since the parents were both in custody and women could not be registered as proprietors at

the time, the appellant, then an

eighteen-year-old student, was registered solely as a representative of the family. The respondent asserts that the trial court was entitled to rely on this evidence of Kikuyu customary practices, including the concept of the eldest son serving as a “muramati” (trustee), and notes that the family settled on the suit property in 1959, lived there continuously, and that the appellant left for Germany in 1962 and has never lived on the land.

27. Citing case law such as **Mumo v Makau [2004] 1 KLR 13** where the court held that trust is a question of fact that must be proved through evidence, and that section 28 of the repealed Registered Land Act preserves customary trusts even over first registration, the respondent maintains that the trial court correctly applied the governing legal principles on customary trusts. He also relies on **Muiruri v Kimemia [2002] 2 KLR 677**, where the court held that the absence of a reference to a trust in the land register does not defeat a customary trust. The respondent further relies on the decision of this Court in **John Gitiba Buruna & Another v Jackson Rioba Buruna**, Civil Appeal No. 89 of 2003, where

the Court affirmed that statutory indefeasibility under section 28 of the Registered Land Act (repealed) does not relieve a registered proprietor of obligations arising from an existing trust. The

respondent submits that the trial court correctly applied these principles and properly found that the appellant offered no convincing explanation for being allotted twelve acres as an individual, especially given his age, schooling, and absence of documentary evidence supporting his claim that he personally paid for the land or funded construction of the homestead.

28. On the question of trespass, the respondent agrees with the trial court's reliance on the definition in **Clerk & Lindsell on Torts**, 18th ed., para. 18-01, that trespass requires unjustified intrusion upon land in another's possession. He contends that once the court found that a customary trust existed, his occupation of the land as a beneficiary was justified and could not constitute trespass.
29. Regarding whether the appellant was entitled to the reliefs sought in the plaint, it is contended that the appellant failed to prove any of the special damages he pleaded, including alleged mesne profits or the value of trees said to have been cut, noting that the forest officer, PW6, placed the value at only Kshs 21,600 and did not attribute the felling to him. The respondent reiterates the law on special damages which is that the same must not only be pleaded but must also be strictly proved.

30. Lastly as regards the counterclaim which was allowed by the trial court, the respondent contends that it was properly allowed because the evidence showed the land belonged collectively to the sons of Elijah Muthandi Kimani and that he was entitled to protection from eviction.
31. In sum, the respondent contends that the trial court's conclusions were firmly rooted in the evidence and in the applicable law and therefore this Court should not interfere with the said decision unless it is shown that it was arrived at from a misapprehension of the evidence, or wrong legal principles, which the appellant was unable to demonstrate.
32. As this is a first appeal, it is our duty to analyze and re-assess the evidence on record and reach our own conclusions in the matter. It was put more appropriately in **Selle v Associated Motor Boat Co. [1968] EA 123**, thus:

“An appeal to this Court from a trial by the High Court is by way of retrial and the principles upon which this Court acts in such an appeal are well settled. Briefly put they are that this Court must reconsider the evidence, evaluate it itself and draw its own conclusions though it should always bear in mind that it has neither seen nor heard the witnesses and should make due allowance in this respect. In particular this Court is not bound necessarily to follow the trial judge’s findings of fact if it appears either that he has clearly

failed on some point to take account of particular circumstances or probabilities materially to estimate the evidence or if the impression based on the demeanor of a witness is inconsistent with the evidence in the case generally (Abdul Hameed Saif vs. Ali Mohamed Sholan (1955), 22 E. A. C. A. 270)."

33. We have considered the record, the submissions by counsel and analyzed the judgment of the trial Court. In our view, this appeal turns on the single question of whether the trial court erred in finding that the appellant held the suit property in trust for himself, the respondent and their other siblings.

34. It is trite law that a party who alleges the existence of a trust bears the burden of proving it. This flows from **section 107** of the **Evidence Act** which requires a person asserting a fact to prove it. This Court in Mwangi Mbothu and 9 Others v Gachira Waitimu

and 9 Others [1986] KECA 68 (KLR) held thus:

"The law never implies, the court never presumes, a trust but in case of absolute necessity. The courts will not imply a trust save in order to give effect to the intentions of the parties. The intention of the parties to create a trust must be clearly determined before a trust will be implied.

Cook v Fountain (1676), 36 ER 984, 987,

Marie Ayoub, & Others v Standard Bank of South Africa

Ltd and Another [1963] EA 619, 622 (PC-K);
Joseph

Kamau Kamere v Ndungu Kiiru C A E A Civil Appeal

***43 of 1976, Wambuzi P, Law VP and Musoke, J A
August 26, 1977."***

35. Customary trusts, however, occupy a specific category of trusts recognized under the **Registered Land Act** (repealed) and now the Land Registration Act as overriding interests, meaning they bind the land regardless of whether they are noted on the register. In **Kanyi Muthiora v Maritha Nyokabi Muthiora [1984] KECA 23 (KLR)**, this Court held thus:

“Registered land, however, by section 163 of the Act is subject to “the common law of England, as modified by equity” which brings in the equitable doctrines of implied constructive and resulting trusts arising out of the facts set out in the answer to the previous issue. And the appellant as proprietor by this first or any subsequent registration is not relieved by anything in section 28 from any duty or obligation to which she is subject as a trustee as its proviso declares.”

36. The Supreme Court in **Kiebia v M’lintari & another [2018] KESC 22 (KLR)** delineated some elements that would qualify a claimant as a trustee. It pronounced itself succinctly thus:

“52. Flowing from this analysis, we now declare that a customary trust, as long as the same can be proved to subsist, upon a first registration, is one of the trusts to which a registered proprietor, is subject under the proviso to Section 28 of the Registered Land Act. Under this legal regime, (now repealed), the content of such a trust can take several forms. For example, it may emerge through evidence, that part of the land, now registered,

was always reserved for family or clan uses, such as burials, and other traditional rites. It could also be that other parts of the land, depending on the

specific group or family setting, were reserved for various future uses, such as construction of houses and other amenities by youths graduating into manhood. The categories of a customary trust are therefore not closed. It is for the court to make a determination, on the basis of evidence, as to which category of such a trust subsists as to bind the registered proprietor. Each case has to be determined on its own merits and quality of evidence. It is not every claim of a right to land that will qualify as a customary trust. In this regard, we agree with the High Court in Kiarie v. Kinuthia, that what is essential is the nature of the holding of the land and intention of the parties. If the said holding is for the benefit of other members of the family, then a customary trust would be presumed to have been created in favour of such other members, whether or not they are in possession or actual occupation of the land. Some of the elements that would qualify a claimant as a trustee are:

- 1. The land in question was before registration, family, clan or group land.**
- 2. The claimant belongs to such family, clan, or group.**
- 3. The relationship of the claimant to such family, clan or group is not so remote or tenuous as to make his/her claim idle or adventurous.**
- 4. The claimant could have been entitled to be registered as an owner or other beneficiary of the land but for some intervening circumstances.**
- 5. The claim is directed against the registered proprietor who is a member of the family, clan or group.”**

37. From the foregoing, it is clear in our minds that while trusts must be proved by the party asserting them, customary trusts are

determined through the broader context of family history, occupation and the circumstances surrounding registration. Once established, it binds the registered proprietor as an overriding interest.

38. Turning to the circumstances of this appeal, there are several indisputable facts which we seek to highlight. Firstly, the appellant and the respondent are brothers, born to Elijah Muthandi Kimani and Rahab Wambui Muthandi, both now deceased, and they come from a family of eight children comprising four sons and four daughters. The appellant is the eldest son. Their father was jailed in 1952 for seven years, during which time the family, then living in Ndeiya Location in Kiambu, was moved to a colonial village following the declaration of a state of emergency. Land consolidation and demarcation in Ndeiya began around 1956, with residents being allocated twelve-acre parcels, but because their father was still in prison he could not be registered as an allottee. At that time, the appellant was about eighteen years old and still in school, yet he was the one allocated the twelve-acre suit property. After the state of emergency ended, the family left the colonial village and settled on the suit land in 1959. A formal title in the

appellant's name was later issued on 17th January 1983.

Both parents lived on the property until their respective deaths in 1985 and 1997, and notably, no dispute ever arose regarding the ownership or occupation of the land during their lifetimes.

39. The above factual background, in our view, fits squarely within the framework of customary trust as recognized under the law, particularly in situations involving land adjudication during the colonial and early post-colonial periods. It is a fact that when land consolidation began in Ndeiya in 1956, the appellant's father was still in jail and the mother could not be registered due to colonial-era restrictions on women. At that time, the appellant was only around 18 years old and still in school, making it unlikely that he was the intended individual beneficiary of a 12-acre allocation. The appellant's registration therefore appears to have arisen out of necessity rather than ownership. The family moved onto the land immediately after the end of the state of emergency in 1959, and the respondent grew up there. Their parents lived and died on the property and no dispute arose during their lifetimes. This long, peaceful occupation by the entire family, coupled with the appellant's departure for Germany in 1962 and near-total absence thereafter, underscores that beneficial possession was held by

the family and not by the appellant individually. The Supreme Court

in **Kiebia v M'lintari & Another** (supra) recognized that long-term occupation by family members is one of the strongest indicators of a customary trust, particularly where the registered proprietor has not exercised exclusive control.

40. The issuance of a title in the appellant's name in 1983 did not, in our view, displace the trusteeship, nor did it invoke the doctrine of indefeasibility in a manner that would extinguish pre-existing customary rights. It is well settled that a customary trust need not be noted on the register and, as an overriding interest, it survives first registration despite the general protections afforded to a registered proprietor. The appellant's registration therefore cannot, by itself, be treated as conclusive proof of absolute ownership. The surrounding circumstances show that the title was issued as a practical expedient during adjudication, at a time when the appellant was still a youth, his father who would naturally have been the allottee was in prison, and women were ineligible for registration. The family's uninterrupted occupation, the appellant's prolonged absence from the land, and the historical context of land consolidation all point toward a beneficial ownership vested in the wider family. In those circumstances, indefeasibility under the

Registered Land Act could not operate to defeat a customary trust that clearly existed prior to and survived registration.

41. In the end, we see no basis for interfering with the trial court's findings. The evidence before it firmly demonstrated that the appellant held the suit property in trust for the family rather than as an absolute owner.
42. Consequently, this appeal is without any merit and is hereby dismissed in its entirety. Given that this dispute is between siblings, we make no order on costs.

Dated and delivered at Nairobi this 28th day of November 2025.

D. K. MUSINGA, (PRESIDENT)

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JUDGE OF APPEAL

P. O. KIAGE

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JUDGE OF APPEAL

S. GATEMBU KAIRU, FCIArb, C.Arb.

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JUDGE OF APPEAL

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

Signed

DEPUTY REGISTRAR.