

REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT KERICHO
ELC CASE NO. 8A OF 2023(OS)
IN THE MATTER OF LIMITATION OF ACTIONS ACT
AND
IN THE MATTER OF LAND PARCEL REFERENCE NO.
KERICHO/KAPSOIT/437

SAMWEL KIPKOECH CHERUIYOT

(Suing as the administrator of the estate of KITUR ARAP MILGO).....

.....PLAINTIFF

VERSUS

JOSEPH KIPKEMOI KIRUI.....1ST
DEFENDANT

STEPHEN NGENO.....2ND
DEFENDANT

JUDGEMENT.

INTRODUCTION.

1. The Plaintiff commenced the present proceedings vide the Originating Summons dated 14th July, 2023. The Originating Summons is expressed to be brought under **Sections 17,**

18, 37 and **38** of the Limitations of Actions Act and **Order 37 Rule 7 & 8** of the Civil Procedure Rules.

2. The Plaintiff seeks the following orders;

a. *That the two acres of the area with tea bushes and homestead of the Plaintiff herein be declared to be legally entitled to the Plaintiff by virtue of adverse possession for over forty years.*

b. *That the Defendants be compelled to excise and or curve two areas (sic) of the area with tea bushes and residential home for registration in favour of the Plaintiff.*

c. *That the Defendant (sic) do execute the necessary documents to effect the transfer of the said two (2) acres of land parcel Kericho/Kapsoit/437 to the Plaintiff.*

d. *That cost of the application be provided for.*

3. The application is supported by the affidavit of **Samwel Kipkoech Cheruiyot** sworn on 14th July, 2023.
4. He contends that in the year 2000, his deceased father one **Kitur A. Milgo** gave him a portion of land measuring approximately two acres.
5. He also contends that he conducted a search and found that the said portion of land was part of land parcel No. Kericho/Kapsoit/437.
6. He further contends that his father first occupied the said parcel of land in the year 1960 and stayed thereon until the year 2000 when he died.
7. It is his contention that he built his residential house and tea bushes on the said portion of land. He goes on to state that the tea bushes were planted in the years 1970, 1973 and 2000.

- 8.** It is also his contention that his late father was the registered owner of land parcel No. Kericho/Kapsoit/435. He goes on to state that the portion of land he is claiming ought to have formed part of land parcel No. Kericho/Kapsoit/435 but there was an erroneous demarcation during the survey that was done a few years after independence.
- 9.** It is further his contention that the Defendants were issued with a temporary grant of representation in Kericho CM Succession Cause No.70 of 2022.
- 10.** He contends that his deceased father was in occupation of the said parcel of land for a period of over forty years.
- 11.** He also contends that he was born and brought up on the said parcel of land. He goes on to state that he inherited the tea bushes that were planted by his late father and that he planted some more tea bushes on the land.

- 12.** He further contends that he has lived in the residential home on the said portion of land for a period of over twenty-two years.
- 13.** It is his contention that in the year 2021, the family of the late **Kipkurui Arap Chepkwony**, the registered proprietor of land parcel No. Kericho/Kapsoit/437, tried to claim proprietary interest on the 2-acre portion of land that he has been in occupation of.
- 14.** It is also his contention that the issue was discussed at length and it was resolved that the said portion of land belonged to his deceased father.
- 15.** It is further his contention that they have been in occupation of the said portion of land for a period of over twelve years with the knowledge of the Defendants.
- 16.** He contends that they did not pay the Defendants any rent, license fees or any other consideration and therefore their

occupation was adverse to their interests. He goes on to state that the Defendants have never interfered with his occupation of the suit parcel of land until the year 2021.

- 17.** He ends his deposition by stating that he has been advised by his Counsel on record that he has acquired the said portion of land by way of adverse possession as he has been in uninterrupted, continual and exclusive possession.

DEFENDANTS RESPONSE.

- 18.** In response to the Originating Summons, the Defendants filed a Replying Affidavit sworn by **Stephen Ngeno** the 2nd Defendant on 23rd January, 2024.
- 19.** He deposes that he has the authority of the 1st Defendant to swear the Replying Affidavit.
- 20.** He also deposes that they are the administrators of the estate of their late father **Kipkurui Arap Chepkwony**.

- 21.** He further deposes that their deceased father was the registered owner of land parcel No. Kericho/Kapsoit/437.
- 22.** It is his deposition that their deceased father and the Plaintiff's father did not have any dispute over any parcel of land when they were alive.
- 23.** It is also his deposition that land parcel No's Kericho/Kapsoit/437 and 435 share a common boundary that separates the said parcels of land.
- 24.** It is further his deposition that their late father died in the year 1996 while the Plaintiff's father died on 21st March, 2000.
- 25.** He deposes that soon after the demise of his father, the Plaintiff destroyed the boundary of land parcel No. Kericho/Kapsoit/437 and encroached on a portion of the said parcel of land and planted tea bushes. He goes on to state that the Plaintiff further encroached on the said parcel of land and built structures on it.

- 26.** He also deposes that they prevailed upon the Plaintiff to stop the said encroachment but he became arrogant and violent. He goes on to state that the Plaintiff later erected a fence around the said portion of land.
- 27.** He further deposes that they sought the intervention of village elders and relatives to try and resolve the said issue but the Plaintiff was uncooperative.
- 28.** It is his deposition that in the year 2022, they filed Kericho CM Succession Cause No. E070 of 2022 in order for them to get a grant of letters of administration with respect to the estate of their deceased father. He goes on to state that they intended to file a suit against the Plaintiff after getting the said grant. The intended suit was for the encroachment and intermeddling of the estate of their deceased father.
- 29.** It is also his deposition that soon after they filed the said succession cause, the Plaintiff filed the present suit and a protest in the succession cause.

- 30.** It is further his deposition that the Plaintiff has not acquired the said portion by way of adverse possession and he has instead intermeddled with the estate of a deceased person.
- 31.** He deposes that the Plaintiff begun to interfere with the said parcel of land in the year 2000 which was after the death of their father.
- 32.** He also deposes that the said parcel of land is yet to be transferred to their names as they have only recently commenced succession proceedings.
- 33.** He further deposes that the Plaintiff's claim of adverse possession is defective, illegal and does not meet the threshold of adverse possession.
- 34.** He deposes that they counterclaim (sic) that the Plaintiff is an intermeddler and/or encroacher on land parcel No. Kericho/Kapsoit/437 which belongs to **Kipkurui Arap Chepkwony** (deceased).

35. He ends his deposition by stating that a government surveyor should re-establish the boundary between land parcel No's Kericho/Kapsoit/437 and 435 and a permanent injunction be issued against the Plaintiff stopping him from interfering in any way with the suit parcel of land.

**PLAINTIFF'S RESPONSE TO THE DEFENDANTS
REPLYING AFFIDAVIT.**

36. In response to the Defendants Replying Affidavit, the Plaintiff filed a Supplementary Affidavit sworn on 8th February, 2024.

37. He deposes that it is true that during the lifetime of his late father and the Defendants deceased father, there was no dispute on the area that each of them occupied.

38. He reiterates that the two-acre portion he is claiming has tea bushes that were planted in the years 1970 and 1973. He goes on to state that they have been plucking the said tea as a family since they were young to date.

- 39.** He also deposes that he did not interfere with the boundary of the suit parcel of land in the year 2001 as alleged. He goes on to state that the Defendants have pending succession proceedings before the Chief Magistrate's Court at Kericho where the issue of intermeddling can be raised.
- 40.** He further deposes that he was in occupation of the disputed portion before his father died on 21st March, 2000. He goes on to state that his father gave him the tea bushes before his demise.
- 41.** He ends his deposition by stating that he has been in continuous, uninterrupted occupation of a two-acre portion of land parcel No. Kericho/Kapsoit/435 until the year 2021 when the Defendants begun to raise issues.

FACTUAL BACKGROUND.

- 42.** On 23rd April, 2024 the Court gave directions that the Originating Summons dated 14th July, 2023 be deemed as a

Plaint. The Replying Affidavit was deemed as a Statement of Defence.

- 43.** Further directions were that the Originating Summons would be heard by way of viva voce evidence.
- 44.** On 6th February, 2025, the parties informed the Court that they had agreed and/or opted to canvass the Originating Summons by way of written submissions.
- 45.** The matter was mentioned severally to confirm filing of submissions and on 15th July, 2025 it was reserved for judgement.

ISSUES FOR DETERMINATION.

- 46.** The Plaintiff filed his submissions on 6th March, 2025 while the Defendants filed their submissions on 6th May, 2025.
- 47.** The Plaintiff submits on the following issues;

- a. Whether the Plaintiff has been in occupation of a portion measuring 2 acres comprised in all that property known as LR No. Kericho/Kapsoit/437 for a period of at least 12 years.**
- b. Whether the Plaintiff has been in open, quiet and exclusive possession of 2 acres comprised in LR No. Kericho/Kapsoit/437 for a period of 12 years.**
- c. What remedies are available to the parties herein.**

- 48.** On the first issue, the Plaintiff submits that he has been in peaceful and uninterrupted occupation of a two-acre portion of land parcel No. Kericho/Kapsoit/437 for a period of over twelve years.
- 49.** The Plaintiff while reiterating the averments of his affidavit in support of the Originating Summons submits that the Defendants concede that there was no dispute between the

two families during the lifetime of the registered proprietor of the suit parcel of land.

- 50.** The Plaintiff submits that the Defendants allegations that he begun intermeddling with the estate of the deceased in the year 2001 are not true.
- 51.** The Plaintiff also submits that if at all meetings were held to discuss the said issue, then the Defendants would have produced minutes as evidence.
- 52.** The Plaintiff further submits that if any deliberations were held post the year 2001, then they ought to have been captured in the minutes of 4th December, 2021.
- 53.** It is therefore the Plaintiff's submissions that he has on a balance of probability established that he has been in peaceful and uninterrupted occupation of the two-acre portion of the suit parcel.

54. On the second issue, the Plaintiff relies on the judicial decision of **Kasuve vs Mwaani Investments Limited & 4 Others [2004] eKLR** and submits that he has been in occupation of a portion of the suit parcel of land for a period of over forty years.
55. The Plaintiff also submits that he has undertaken various developments on the suit parcel of land as he has planted tea and built houses.
56. The Plaintiff relies on the judicial decisions of **Celina Muthoni Kithinji vs Safiya Binti Swaleh & 8 Others [2018] eKLR** in support of his submissions.
57. The Plaintiff also submits that his claim for adverse possession is against the estate of **Kimisik Soo** (deceased) which claim is sustainable and justiciable. The Plaintiff relies on the judicial decision of **Mate Gitabi v Jane Kabubu Muga alias Jane Kaburu Muga & 3 others [2017] KECA 596 (KLR)** as was cited in **Phyllis Wanjiru**

Kamau vs Wilson Gichuhi Gachagwe & 2 Others [2019]

eKLR in support of his submissions.

58. The Plaintiff concludes his submissions by urging the Court to allow his Originating Summons dated 14th July, 2023 as prayed.

59. The Defendants submit on the following issues;

a. *Whether the Plaintiff has met the threshold for grant of orders for adverse possession to qualify him acquire two acres piece of land comprised under title number Kericho /Kapsoit/437 (sic).*

b. *Who will bear the costs of this suit?*

60. On the first issue, the Defendants reiterate their averments in their Replying Affidavit and submit that the Plaintiff has failed to prove that he has acquired a portion of the suit parcel by way of adverse possession.

61. The Defendants also submit that their father died on 9th March, 1996.

62. The Defendants further submit that the Plaintiff has failed to avail any evidence to show that his (Plaintiff) father was in occupation of the suit parcel before the year 1996 and he has instead dwelt on his own occupation of the said portion of land from the year 2000.
63. The Defendants reiterate that the Plaintiff is intermeddling with the estate of a deceased person and they rely on **Section 45** of the Succession Act in support of their submissions.
64. It is the Defendants submissions that no survey was done to show the acreage of the land the Plaintiff is claiming to have acquired by way of adverse possession.
65. The Defendants rely on the judicial decisions of **Khnyeleli & another ((Suing as The Legal Administrators of The Estate of JOSHUA ANDALA MASINGILA - (Deceased)) v Nasipwondi [2022] KEELC 12772 (KLR), Mtana Lewa v Kahindi Ngala Mwagandi [2015]eKLR, R vs**

Oxfordshire Ex parte Sunningwell Parish Council (1999) 3 ALL ER 391, Kimani Ruchine vs Swift Rutherford & Co. Ltd [1980] KLR 10, Grace Wairimu Soroma v Chaka Ltd & Others [2017]eKLR in support of their submissions.

- 66.** The Defendants submit that the Plaintiff took possession of a portion of the suit parcel forcefully and that he has not produced any evidence to show how long he has been in possession.
- 67.** The Defendants also submit that the Plaintiff did not call any witnesses to prove how long he has been in occupation of the said portion of land and whether his occupation has been continuous, exclusive and without interruption.
- 68.** The Defendants rely on the judicial decision of **Nderu (Suing as administrator of the Estate of Gacheru Kanungu - Deceased) v Babu [2025] KEELC 7588 (KLR)**

and submit that a claim of adverse possession ought to be against the registered owner of a parcel of land.

69. The Defendants reiterate that at the time the Plaintiff alleges to have taken possession of a portion of the suit parcel of land, that is in the year 2000, the registered owner was dead. They submit that they have never been registered as owners of the suit parcel of land.

70. The Defendants conclude their submissions by urging the Court to dismiss the Plaintiff's suit with costs.

ANALYSIS AND DETERMINATION.

71. After considering the pleadings and the submissions, it is my view that the following issues arise for determination;

a. Whether the Plaintiff has acquired a two-acre portion of land parcel No. Kericho/Kapsoit/437 by way of adverse possession.

b. Whether the Plaintiff is entitled to the orders sought in the Originating Summons.

c. Who should bear costs of the suit.

A. Whether the Plaintiff has acquired a two-acre portion of land parcel No. Kericho/Kapsoit/437 by way of adverse possession.

- 72.** The Plaintiff contends that his deceased father, one **Kitur Arap Milgo**, took possession of a portion of land parcel No. Kericho/Kapsoit/437 measuring 2 acres in the year 1960.
- 73.** The Plaintiff also contends that his deceased father occupied the said portion of land for over forty years until his death in the year 2000.
- 74.** The Plaintiff further contends that he was born on the said parcel of land and upon the death of his father, he inherited the tea bushes that his father had planted.
- 75.** It is the Plaintiff's contention that in the year 2021, the Defendants began to claim proprietary interest over the said

portion of land which issue was discussed and it was resolved that the land belonged to his deceased father.

- 76.** The Plaintiff has attached to his affidavit in support of the Originating Summons a copy of a Grant Ad Litem issued in CM Ad Litem No. E112 of 2022 in the matter of the estate of the late **Kitur Arap Milgo** (deceased). It was issued to **Samwel Kipkoech Cheruiyot** on 4th April, 2023.
- 77.** The Plaintiff has also attached a copy of a Certificate of Death No. 535101. It states that **Kitur Arap Milgo** died on 21st March, 2000 and his death was registered on 31st March, 2000. The Certificate of Death was issued on 18th April, 2000.
- 78.** Colored photographs have also been attached to the affidavit in support of the Originating Summons. The first photograph is of a homestead and the second photograph is of a path and some trees.
- 79.** A black and white photograph of tea bushes has also been attached.

80. A copy of a map together with a certificate of official search of land parcel No. Kericho/Kapsoit/435 has been attached. The Certificate of Official Search was issued on 1st December, 2022 and it shows that **Kitur A. Milgo** was registered as the owner of the said parcel of land on 1st July, 1975. It also shows that a title deed was issued on 3rd May, 1976. The Certificate of Official Search is signed by **Hellen C. Mutai** Land Registrar.

81. A copy of a Grant of Letters of Administration Intestate for the estate of the late **Kipkurui Arap Chepkwony** has also been attached. It was issued in Kericho CM Succession Cause No. E070 of 2022 to **Joseph Kipkemoi Kurui** and **Stephen Kiprono Ngeno** on 2nd November, 2022.

82. A copy of a Certificate of Search for land parcel No. Kericho/Kapsoit/437 has been attached. It shows that **Kipkurui Arap Chepkwony** was registered as the owner on 1st July, 1975 and was issued with a title deed on 12th

January, 2015. The Certificate of Official Search was issued on 5th December, 2022 and it is signed by **H.C Mutai** Land Registrar.

83. A copy of a Commercial Share Certificate No. TG 01052 issued by **Tegat Tea Factory Company Limited** has also been attached. It is issued to **Kitur A. Milgo** and states that as at 31st December, 1999, he had 1796 shares.

84. A copy of minutes of a meeting held on 4th December, 2021 has been attached. The minutes are titled;-

“A meeting convened to resolve land dispute between Kitur A. Milgo and Kipkurui Chepkwony Families that took place on Saturday 4th December, 2021 as at 10.00 am.”

85. The minutes show that there were thirty-five members present. Under paragraph 2 of page 3 of the said minutes, it is stated that **Kirui Joseph** explained to the members present that they did a search which showed that their

parcel of land was seven acres and yet on the ground it was five acres.

- 86.** The minutes capture the deliberations of the people present at the meeting and the last paragraph of page 6 of the said minutes is as follows;

“N/B Elders present during the meeting resolved that the land on (sic) dispute belongs to Arap Chelimbojet since he had been cultivating it for long but on the map, it shows that it belongs to Kipkurui Arap Chepkwony”

- 87.** The Defendants on the other hand contend that they are the administrators of the estate of **Kipkurui Arap Chepkwony**.

- 88.** The Defendants also contend that **Kipkurui Arap Chepkwony** (deceased) is the registered owner of land parcel No. Kericho/Kapsoit/437 which measures approximately 2.8 Ha.

- 89.** The Defendants further contend that during the lifetime of their deceased father, there was no dispute between him and **Kitur Arap Milgo** (deceased) the Plaintiff's father over any land.
- 90.** It is the Defendants contention that there is a clear boundary between the said parcels of land.
- 91.** It is also the Defendants contention that in the year 2001, the Plaintiff begun to interfere with the boundary of land parcel No. Kericho/Kapsoit/437.
- 92.** It is further the Defendants contention that the Plaintiff encroached on the said parcel of land, planted tea bushes and built permanent structures.
- 93.** The Defendants therefore contend that the Plaintiff is intermeddling with the estate of their deceased father.
- 94.** A copy of a Certificate of Death has been attached to the Defendants Replying Affidavit. It states that **Musa Kipkurui**

Arap Chepkwony died on 9th March, 1996. The Certificate number and the date of registration is not clear.

- 95.** A copy of a grant of letters of administration ad litem is also attached. It is issued in Kericho CM Succession Cause No. E070 of 2022 to **Joseph Kipkemoi Kurui** and **Stephen Kiprono Ngeno** on 2nd November, 2022.
- 96.** A copy of a Certificate of Search for land parcel No. Kericho/Kapsoit/437 is attached. It states that on 1st July, 1975, **Kipkurui Arap Chepkwony** was registered as the owner and on 12th January, 2015 a title deed was issued. The Certificate of Official Search is signed by **H.C Mutai** Land Registrar and issued on 15th November, 2021.
- 97.** A copy of an Affidavit of Protest has been attached. It is filed in Kericho CM Succession Cause No. 70 of 2022 In the matter of the estate of the late **Kipkurui Arap Chepkwony** (deceased). The Petitioners are **Joseph Kipkemoi Kirui** and **Stephen Ngeno**. The affidavit is sworn by **Samwel Kipkoech Cheruiyot**. It has no date.

98. It is not disputed that land parcel No. Kericho/Kapsoit/437 is registered in the name of **Kipkurui Arap Chepkwony** (deceased). It is also not disputed that the Plaintiff is in occupation of a portion of the said parcel of land. What is disputed is whether the estate of **Kitur Arap Milgo** has acquired a two-acre portion of the said parcel of land by way of adverse possession.

99. Section 38 (1) and (2) of the Limitation of Actions Act provides as follows:

***“(1) Where a person claims to have become entitled by adverse possession to land registered under any of the Acts cited in section 37 of this Act, or land comprised in a lease registered under any of those Acts, he may apply to the High Court for an order that he be registered as the proprietor of the land or lease in place of the person then registered as proprietor of the land.*”**

(2) An order made under subsection (1) of this section shall on registration take effect subject to any entry on the register which has not been extinguished under this Act.”

100. The Court of Appeal in **Kasuve Vs Mwaani Investments Limited & 4 others 1 KLR 184** held as follows;

“In order to be entitled to land by Adverse Possession, the claimant must prove that he has been in exclusive possession of the land openly and as of right without interruption for a period of 12 years either after dispossessing the owner or by discontinuation of possession by the owner on his own volition”. (Emphasis mine)

101. In the judicial decision of **Richard Wefwafwa Songoi v Ben Munyifwa Songoi [2020] eKLR** the Court of Appeal held as follows;

“40.A person who claims adverse possession must inter alia show:

(a) on what date he came into possession.

(b) what was the nature of his possession?

(c) whether the fact of his possession was known to the other party.

(d) for how long his possession has continued and

(e) that the possession was open and undisturbed for the requisite 12 years.”

102. The Plaintiff has commenced the present proceedings in his capacity as the administrator of the estate of **Kitur Arap Milgo** (deceased).

103. He contends that his deceased father took possession of a two-acre portion of land parcel No. Kericho/Kapsoit/437 in the year 1960.

104. He also contends that his deceased father occupied the said portion of land until his demise in the year 2000.

105.The Defendants on the other hand contend that during the lifetime of their father and the Plaintiff's father, there was no dispute between the two families over any land.

106.The Defendants in their response did not dispute the Plaintiff's contention that his (Plaintiff) father was initially in occupation of a two- acre portion of the suit parcel of land.

107.The Plaintiff has attached a Certificate of Official Search for land parcel No. Kericho/Kapsoit/437. It shows that **Kipkurui Arap Chepkwony** was registered as the owner on 1st July, 1975. That being the case, between the year 1960 and 1975, the land was not registered.

108.In the judicial decision of **Daniel Gikundi M'Impwi & 7 others v Charles Mutura Njau [2019] eKLR** the Court held as follows;

"29. According to Section 37 and 38 of the Limitations of Actions Act, land must be registered in the

name of another for whom the claimant is claiming adverse position. (sic) The rational (sic) for registration is to be found under section 41 which provides for exemptions of the Limitations of Actions Act in certain case such as land owned by the Government of Kenya, Settlement Fund Trustee, trust land. In the case of Erick Chepkwony Aengwo Vs Jonathan Rutto Kibiesang ELC 743 OF 2012, the Court held that Adverse Possession does not begin to run for land that is unregistered.”

(Emphasis mine)

109. In the above cited judicial decision, the Court held that a claim of adverse possession cannot accrue against land that is unregistered. Therefore, the period between **1960** to **1975** is excluded when computing time. This means that the Plaintiff cannot claim adverse possession between the years **1960** to **1975**.

110. Between the year **1975** to the year **2000** when **Kitur Arap Milgo** (deceased) died, a period of about twenty-five years had lapsed.

111. Given the said circumstances, it is my view that the Plaintiff has demonstrated that his deceased father was in exclusive possession of a two-acre portion of land parcel No. Kericho/Kapsoit/437, that his deceased's father's possession was exclusive, open and without interruption for a period of over twelve years.

112. Further, the Defendants contend that in the year 2001, the Plaintiff destroyed the boundary of land parcel No. Kericho/Kapsoit/437, planted tea bushes and built structures.

113. The Defendants also contend that the said actions amounted to intermeddling with the estate of a deceased person.

114. The Defendants urge the Court to find that the Plaintiff is an intermeddler and issue an order for a surveyor to establish the boundaries between land parcel No's

Kericho/Kapsoit/437 and 435. The Defendants also urge the Court to issue a permanent injunction against the Plaintiff from dealing in any way with land parcel No. Kericho/Kapsoit/437.

115. In response, the Plaintiff denies that he interfered with the said boundary and contends that there is a pending succession cause, that is Kericho CM Succession Cause No. 70 of 2022, where any issues of intermeddling can be raised and/or addressed.

116. It is important to note that no evidence in support of the assertions of intermeddling have been produced and therefore the said assertions remain to be mere allegations.

B. Whether the Plaintiff is entitled to the orders sought in the Originating Summons.

117. Having found in favour of the Plaintiff under issue (a) above i.e. that the Plaintiff has proved his claim of adverse

possession, it follows that the Plaintiff is entitled to orders sought in the Originating Summons.

C. Who should bear costs of the suit.

118. The general rule is that costs follow the event. This is in accordance with the provisions of **Section 27** of the **Civil Procedure Act. (Cap 21)**. A successful party should ordinarily be awarded costs of an action unless the Court, for good reason directs otherwise.

DISPOSITION.

119. In the result, I find and order as follows;

a. The estate of the late Kitur Arap Milgo is hereby declared to have acquired a two-acre portion of land parcel No. Kericho/Kapsoit/437 by way of adverse possession.

b. The Defendants are hereby directed to execute, within 90 days of the date of delivery of this judgment, all the

necessary documents for purposes of the subdivision, transfer and registration of the two-acre portion of land comprised in the land known as Kericho/Kapsoit/437 in the Plaintiff's name.

c. In default of (c) above, the Deputy Registrar of this Court shall execute the said documents.

d. The Plaintiff shall have costs of the suit.

120. It is so ordered.

**DATED, SIGNED AND DELIVERED VIRTUALLY AT KERICHO
THIS 27TH DAY OF NOVEMBER, 2025.**

**L. A. OMOLLO
JUDGE.**

In the presence of: -

Mr. Mbeche for the Plaintiff - Absent

Mr. Koske for the Defendant.

Court Assistant; Mr. Joseph Makori