



THE JUDICIARY



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT NAROK

ELC LC CASE NO. E008 OF 2024

TATAYO OLE MIYION 1ST

PLAINTIFF

JOYCE MEYION 2ND PLAINTIFF

VERSUS

LEMISHEN JOEL LETOLUO 1ST

DEFENDANT

NAROK LAND REGISTRAR 2ND

DEFENDANT

ATTORNEY GENERAL..... 3RD

DEFENDANT

JUDGMENT

1. The plaintiffs herein vide a **Plaint** dated **3rd May 2024**, have sought for judgment against the 1st defendants herein for: -
 - a. A declaratory order that the title deed for parcel No. Cis Mara/Olosho Ole Sito/3, was fraudulent acquired by the 1st Defendant herein and subsequent order of cancellation of the said title deed.***

- b. An order directing the Land Registrar Narok County to revert the title in respect of Cis Mara/Olosho ole Sito/3, to the Plaintiffs to hold in trust for the children of the late William Konana Miyion.***
- c. A permanent injunction restraining the 1st defendant, their agents, employees or any other person known to the 1st defendant from further encroaching and/or trespassing, interfering with boundaries for land parcel No. Cismara/Olosho ole Sito/3.***
- d. Costs of this suit and any other relief that the court may deem fit and just to grant.***

2. It is the Plaintiffs claim that the 1st Plaintiff is the father of ***William Konana Miyion (deceased)***, who at all material times was a bonafide member of the ***Olosho Lolesito Adjudication Section***, and the 2nd Plaintiff is the widow of ***William Konana Miyion*** (deceased). That the late ***William Konana Miyion*** filed an objection against the 1st defendant on a boundary dispute in which the 1st Defendant laid claim on land parcel No. 3 in Olosho ***Lolesito Adjudication Section***.

3. The Plaintiffs further claimed that ***William Miyion*** had been lawfully allocated land parcel No. 3 during the ***Olosho Ole***

Sito adjudication, and he took possession, settled on it, and lived thereon until his death in **2014**.

4. Further, that boundary disputes had earlier been resolved in his favour, and in the year 2024, the Plaintiffs discovered that the 1st defendant (**Lemishen Joel Ole Letoluo**), had been issued with a title deed for the entire Land Parcel **No. Cis-Mara/Olosho Ole Sito/3**, through fraudulent means. As a result, the Plaintiffs placed a caveat on the said parcel.
5. The plaintiff pleaded particulars of **fraud, illegality and procedural impropriety** as follows: -
 - i) **The 1st defendant acquired land Title deed from the Narok Land Registry through misrepresentation using proceedings of an alleged appeal to the minister in the year 2022 long after the demise of William Konana Miyion,**
 - ii) **Non-disclosure of material facts during the cancellation of the name of William Miyion from the land adjudication Register;**
 - iii) **That during the hearing of the alleged appeal to the minister no summons were issued upon the late William Konana Miyion as he was deceased and the committee never made any follow up they just cancelled**

the name of William Miyion from the Land Adjudication Register;

iv) That the 1st defendant acquired title deed for the whole parcel without the knowledge of the plaintiffs.

6. The Plaintiff further pleaded that as a result, the 1st defendant is in the process of trying to push them out this suit land that has always been their home, and that there is eminent danger of losing and wasting away their land. It is their further claim that the process was unfairly determined as the adjudication committee held hearings of the land dispute without summoning the plaintiffs father who was deceased then or his representatives.
7. The Plaintiffs pray for a declaration that the title deed for parcel of land ***Cismara/Olosho ole Sito/3***, was fraudulently acquired by the 1st defendant herein, and subsequent order of cancellation of the said title deed, and an order be issued to the Land Registrar-Narok to revert the title deed for parcel of land ***Cismara/Olosho ole Sito/3***, to the plaintiffs to hold in trust for the children of the late ***William Konana Miyion***.
8. The suit is contested and the 1st defendant filed his statement of Defence dated ***27th September 2024***, and disputed the Plaintiffs claim, and he also denied each and

every allegation of fact and law pleaded in the Plaint. He averred that **William Konana Ole Miyion's** (hereinafter the deceased) father was **Daniel Parsaloi Miyion** who is also deceased.

9. The 1st Defendant alleged that he has been in ownership and occupation of the suit property (**Cis Mara/Olosho Ole Sito/3**) since 1969, and denied the deceased's claim over the said property. He claimed that the deceased was neither a proprietor nor in possession of the suit property. The 1st Defendant also argued that the deceased lacked title to the adjacent plot (**Cis Mara/Olosho Ole Sito/2**), which was public land registered under Narok County Council.
10. Further, the 1st Defendant averred that the Plaintiffs, as personal representatives of the deceased, lacked *locus standi* to institute the suit. The 1st Defendant prayed for the dismissal of the suit with costs.
11. The 2nd and 3rd Defendants also filed their Statement of Defence dated **6th June 2024**, wherein they denied all allegations made in the Plaint except those expressly admitted. They also denied the allegations that **William Konana Miyion(deceased)**, had filed an objection against the 1st Defendant on a boundary dispute in which the 1st defendant laid claim on his parcel of land No.3 Olosho

Lolesito Adjudication Section. Further, that the parcel was generated from **Olosho ole /Sito** by the Adjudication Officer and each member was given his own portion including 1st defendant and that **William Konana ole Miyioni(deceased)** lived on the said land until his demise in the **year 2014**.

12. The 2nd and 3rd Defendants maintained that any registration of **Cis-Mara/Olosho Ole Sito/3** in favour of the 1st Defendant was based on documents duly presented, upon which the 2nd Defendant exercised due diligence in accordance with the law. They further denied all particulars of **fraud** alleged in paragraph 13 of the plaint. The 2nd and 3rd Defendants insisted that any transfer or registration was conducted **legally** and **procedurally**, and that the 3rd Defendant acted within his statutory mandate.
13. The 2nd and 3rd Defendants also denied the allegations that the adjudication committed held the hearings of the land dispute in the absence of their father who was deceased then or his representatives and that the defendants are in the process of pushing the plaintiffs out of their land claiming ownership through the fraudulently acquired title deed.
14. The 2nd and 3rd Defendants affirmed that the adjudication and registration processes in the **Olosho Ole Sito section** were carried out lawfully. They disputed the existence of any other

pending proceedings involving the parties as alleged in the plaint. The court's jurisdiction, was admitted, but they urged the court to dismiss the Plaintiffs' suit with costs.

15. After the pre-trial conference, the suit proceeded for hearing via viva voce evidence. The Plaintiffs called one witness and closed their case. The 1st Defendant also gave evidence through one witness, and so did the 2nd and 3rd Defendants.

PLAINTIFFS' CASE.

16. **PW1; Tatayo Ole Miyioni**, the 1st Plaintiff gave evidence on his behalf and on behalf of the 2nd Plaintiff. He testified that there has been a long standing land dispute between 1st Plaintiff's brother Daniel (deceased) before his demise over land parcel No. **Cismara/Olosho Ole Sito/3, b** and the 1st Defendant. He also testified that they did not know how the 1st defendant entered into the suit land.
17. The 1st Plaintiff further testified that after his brother's demise, he left the disputed land with his son **William Konana**, who died in 2007, and the 1st Plaintiff inherited the said land was issued with a title deed for **Cismara/Olosho Ole Sito/3** by the 2nd Defendant.
18. The **PW1** also testified that in **2007**, which time William Konana was already deceased, the 1st Defendant appealed to the Minister through the District Commissioner(DC).

Further, that in **October 2023**, the 1st Defendant in company of goons and the police officers went to the suit land claiming they had won the case against William who was already dead, and it was not possible to win Case against a deceased person.

19. That when the Land Registrar gave them the proceedings before the Minister, they noted that the proceedings were done on **29th December 2022**, a period when the government offices are normally closed for Christmas festivities.
20. That thereafter, PW1 went to the Land Registrar, a one Mr. Mwangi who gave them a copy of appeal proceedings before the Minister. He testified that they reported the matter to the Director of Criminal Investigations for interrogations at Ntulele. However, the 1st Defendant obtained a title deed for the suit land in **2024**.
21. Ultimately, he adopted his witness statement as his evidence in chief, and also produced the list of documents as his **P.EXHIBITS 1 to 6**. He urged the court to allow his claim.
22. In their submissions the Plaintiffs, argued that the title was procured through misrepresentation, irregular processes, and unsupported documentation, violating the **Constitution** of

Kenya, 2010, the Land Registration Act, and the Law of Succession Act. The Plaintiffs assert that the suit land was the sole estate asset of the late William Konana Ole Miyion, who occupied it until his death in **2014**, and that the 1st Defendant failed to produce valid appeal proceedings, relying instead on personal notes. The Registrar's contradictory and unsupported report further undermines the legitimacy of the Defendant's claim.

THE 1ST DEFENDANT'S CASE.

23. **DW1; PASTOR LEMISHENI JOEL OLE LETULO, adopted** his witness statement as his evidence in chief. He also produced his list of documents as **D. Exhibits 1-10** and he urged the court to dismiss the Plaintiffs case with costs.

24. In his statement, he averred that he is the proprietor of the suit property Cis Mara/Olosho ole Sito/3, which he was given by the Sito family in **1969**. That he was shown the extent of his parcel of land by Mr Simale of the Sito family, and the same was demarcated together with Cis Mara/Olosho Ole Sito/2, which was adjacent to the suit land.

25. Further that **Olosho Ole Sito/2** was donated for public purposes, and the same earmarked for the construction of the nursery and a dispensary , and it was registered under the Narok County Council, to hold in trust for the public.

26. He also testified that in 1977, the boundaries between the suit property and land parcel No 2 were fixed, by the demarcation committee, further that Daniel Parsaloi Miyion attempted to interfere with the parcel no 2, and the demarcation as set out in order to claim more acreage for himself.
27. Due to the said interference, the District Officer, Chief and surveyor visited the properties in 1989, wherein they affirmed the boundaries to be appropriate as demarcated by the demarcation committee.
28. It is therefore clear that the dispute is over the boundary between the suit property and parcel No 2, and not ownership, and a title deed was issued to him to reflect his ownership. He urged the court to dismiss the Plaintiffs suit with costs.
29. On cross examination by Ms Kudate for the Plaintiffs and after being shown the Appeal proceedings, he alleged those were his personal notes and not official minutes. He confirmed that Sito donated parcel No 2 for public purpose, and that according to adjudication list, parcel No 3 was for Kuseyio and not Joel.

30. DW1 claimed that he has lived on this parcel of land since 1969, and he got the title deed on the 20th November 2023, and the since of the land 21 acres.
31. Upon cross examination by Mr Mwambonu for the 2nd and 3rd Defendants, he said the family of Miyion has never been his neighbour, and adjudication was done in 1977, and he was allocated the land in 1969 by the Sito Family. He denied that the land was allocated to him through fraud.

THE 2ND AND 3RD DEFENDANTS CASE.

32. **DW2: Kennedy Too**, the Land Registrar Narok to the court that he prepared a Report concerning the suit property, which is dated **10th May 2025**. However, they were unable to finalise the said Report. He later finalized it on **23rd June 2025**, and he relied on it entirely. He produced the Report as DW2 Exhibit 1.
33. On cross examination by **Ms Kudate** for the Plaintiffs, he testified that the report is over the ownership of the suit land, as boundary issue had been concluded. He also testified that the final report shows that the land parcel no 3 is for Kuseyio ole Letulo.
34. After the viva voce evidence, parties did file and exchange their respective written submissions.

35. The Plaintiffs filed their written submissions dated 4th September 2025, and raised the following issues for determination:

- a. Whether the 1st Defendant's title deed was fraudulently procured and is impeachable under Section 26(1)(b) of the Land Registration Act;***
- b. Whether the 1st Defendant's reliance on personal notes in place of valid appeal proceedings invalidates his claim;***
- c. Whether the Registrar's contradictory and unsupported report can confer legitimacy on the Defendant's title;***
- d. Whether the Plaintiffs, as lawful dependants and representatives of the estate, are entitled to restoration of the suit land; and***
- e. What reliefs and costs should be awarded to ensure justice.***

36. Citing the decided cases such as ***Gatimu v Njoroge & another (Environment & Land Case E021 of 2022)*** and ***Munyu Maina v Hiram Gathiha Maina [2013] KECA 94 (KLR)***, the Plaintiffs submitted that titles obtained through fraud or irregularities are ***void ab initio*** and cannot confer proprietary rights. They also emphasized their succession rights under Sections 29 and 35 of the Law of Succession Act, as the widow and minor children of the deceased.

37. The Plaintiffs sought for declarations that the title deed issued to the 1st Defendant is ***null and void***, cancellation of the title, restoration of the land to the estate of the deceased, a permanent injunction against the Defendant, and costs of the suit. They conclude that the fraudulent title is legally void and urge the Court to restore the land to the estate for the benefit of the widow and children.

38. The 1st Defendant, ***Lemishen Joel Letoluo*** filed his submissions dated ***3rd October 2025***, through ***Okwach & Co Advocates, a*** and raised the issues for determination as follows:

i. Whether the dispute over Cis Mara/Olosho Ole Sito/3 was one of ownership or boundary.

ii. Whether the Plaintiffs have proved their claim to the required standard.

39. ***On whether the dispute over Cis Mara/Olosho Ole Sito/3 was one of ownership or boundary***, 1st Defendant submitted that the Plaintiffs claimed that the suit property belonged to the deceased(***William Konana Miyion***) and that the 1st Defendant fraudulently acquired the title after the deceased's demise, was not true. The 1st Defendant

argued that the dispute was strictly a boundary issue, as evidenced by certified copy of proceedings from the **Land Adjudication Office**, appeal notices, and a letter dated **30th October 2023**.

40. He submitted that these documents confirmed that the deceased raised objections regarding the boundary between **Cis Mara/Olosho Ole Sito/3** and **Cis Mara/Olosho Ole Sito/2**, and that the deceased himself as was captured in the proceedings before the Land Adjudication Officer acknowledged that he did not have ownership of **Cis Mara/Olosho Ole Sito/2**, which belonged to the Narok County Council.
41. The 1st Defendant relied on **Section 83** of the **Evidence Act, Cap. 80**, which presumes the validity of certified public documents unless proven otherwise. He also submitted that the Plaintiffs failed to refute the authenticity of these documents or provide evidence to support their claim of ownership over the suit property. The 1st Defendant cited the case of **Rhoda Kandie & 2 others v Kanziwa Limited [2011] KEHC 1489 (KLR)** to support the presumption of validity of certified documents.
42. **On whether the Plaintiffs have proved their claim to the required standard**, the 1st Defendant submitted that

the Plaintiffs have not met the burden of proof as required under **Section 107** of the Evidence Act, Cap 80, which states that the party asserting the existence of facts must prove them. Further, that the standard of proof in civil cases is on a balance of probabilities, as established in **Palace Investments Limited v Geoffrey Kariuki Mwenda & another [2015] KECA 616 (KLR)**.

43. Furthermore, the 1st Defendant argued that since the Plaintiffs allege fraud, the standard of proof is higher than in ordinary civil cases, as stated in **Koinange & 13 others v Charles Karuga Koinange [1986] KLR and Kinyanjui Kamau v George Kamau [2015] eKLR**.

44. The 1st Defendant further submitted that the Plaintiffs failed to provide evidence of the deceased's possession or ownership of the suit property, nor did they present any public records supporting their claim. He argued that the Land Registrar's reports confirmed that the dispute was over a boundary, and that the 1st Defendant is the legitimate owner of the suit property. Further the 1st Defendant averred that the Plaintiffs did not impeach the credibility of the Land Registrar or the evidence presented.

45. In conclusion the 1st Defendant submitted that the Plaintiffs have failed to prove their claim to the required standard and

that the suit is **frivolous, vexatious**, and intended to **annoy** the 1st Defendant. The 1st Defendant requested the court to dismiss the suit with costs, citing **Rai & 3 others v Rai & 4 others [2014] KESC 31 (KLR)** and **Haraf Traders Limited v Narok County Government [2022] KEHC 2357 (KLR)** to support the principle that costs follow the event.

46. The 2nd and 3rd Defendants did not file any written submissions to support their claim, or refute the other parties respective positions. The court will consider the available evidence and the rival written submissions as filed by the Plaintiffs and 1st Defendant.
47. The court has considered the available evidence and written submissions herein, cited authorities and the relevant provisions of law, and finds the issues for determination are; i) whether the Plaintiffs suit/Claim is merited; ii) who should bear costs of this suit.

I). whether the Plaintiffs' claim or suit is merited.

48. It is the Plaintiffs claim that one William Konana Miyion was the owner of land parcel No Cis Mara /Olosho ole Sito/ 3, which he took possession sfter the after the adjudication committee had given him possession, and had been cultivating and developing it.

49. The Plaintiffs also claimed that the said William Konana Miyion continued to live on the suit land until his demise in 2014. However, in 2024, the Plaintiffs came to learn that the 1st defendant had been issued with the title deed for the suit land, Cis Mara /Olosho Ole Sito/3, which title was issued to him through fraud. The particulars of fraud were stated in para 13 of the Plaint.
50. However, the 1st Defendant denied allegations of fraud, and averred that the suit property was allotted to him in 1969 by the Sito Family, and that the dispute that existed between him and **William Konana Ole Miyion** was a boundary dispute and that **William Konana Ole Miyion** was never a proprietor of the suit land.
51. The Plaintiffs have alleged, and so the burden of proof is upon them as provided by **Section 107** and **109** and the **Evidence Act**, which provide;
- “107..1) Whoever desires any court to give judgment as to any legal right or liability dependent on the existence of facts which he asserts must prove that those facts exist.**
- (2) When a person is bound to prove the existence of any fact it is said that the burden of proof lies on that person.**

109..The burden of proof as to any particular fact lies on the person who wishes the court to believe in its existence, unless it is provided by any law that the proof of that fact shall lie on any particular person.”.

52. The Plaintiffs averred that the suit property belonged to the **William Konana Ole Miyion**, and that the 1st Plaintiff is the father to the late **William Konana Ole Miyion**, who allegedly died in **2014**. The 2nd Plaintiff is the wife of the late **William Konana Ole Miyion**. Though the Plaintiffs took out **Limited Grant Ad litem** dated **15th March 2024**, for purposes of filing a suit as personal representatives, this suit is not filed by the two Plaintiffs as Personal Representatives of the said **William Konana Ole Miyion**.

53. It is trite that when personal representatives of a deceased person file a suit, the plaint must clearly state their representative capacity and adhere to the standard requirements for any civil plaint. Such Plaint should be drawn with the following specific details to reflect the representative nature of the suit, in the Case Title, the plaintiff's name must be followed by wording that clarifies their role. Such Example: "[Name of Representative, the two Plaintiffs herein (suing as the personal representative of the estate of [Name of Deceased], **William Konana Ole Miyion**."

54. Clearly, the Plaint herein failed to adhere to the proper drafting of a Plaint which is brought on behalf of a deceased person. The Plaint is therefore defective for want of form.
55. Be that as it may, and being guided by the provisions of **Article 159(2)d)** of the Constitution and **Sections 1A,1B** and **3A** of the **Civil Procedure Act**, the court will not determine the suit on mere technicalities, but on the substance of the case. For personal representative to have legal standing (**locus standi**) to sue, the said **personal representative** must hold or must have obtained a **Grant of Representation**, be they full or limited. The Plaintiffs herein have a Limited Grant Ad litem over the estate of **William Konana Ole Miyion**, and therefore, they have capacity to sue.
56. The court finds and holds that because on the face of it, the Plaintiffs have Limited Grant for purpose of filing a suit, and the Plaint was drawn by their Advocates, and not the parties themselves, then the mistakes or omissions of an advocate should not be visited on the litigants. See the case of **Philip Chemwolo & Another vs Augustine Kubende [1982-1988]KLR 103,**

57. On the substantive issues, it is evident that the 1st Defendant herein **Lemishen Joel Ole Letoluo**, is in possession of a Certificate of title, which was issued to him on **27th November 2023**. The 1st Defendant alleged that he was issued with the said certificate of title **legally**, and **procedurally** as he has been in **possession** and **occupation** of the suit land since **1969**, when the suit land was given to him by the **Sito Family**. As provided by **section 26** of the **Land Registration Act**, then primafaciely, the 1st Defendant is the **indefeasible** and **absolute** owner of the suit property.

58. Further, as provided by **Section 25** of the said Act, his ownership cannot be defeated except as provided by the law. **See section 25(1) of Land Registration Act;**

“(1) The rights of a proprietor, whether acquired on first registration or subsequently for valuable consideration or by an order of court, shall not be liable to be defeated except as provided in this Act, and shall be held by the proprietor, together with all privileges and appurtenances belonging thereto, free from all other interests and claims whatsoever,

59. However, the Plaintiffs have alleged that the 1st Defendant acquired this suit land No 3 through fraud, since he appeared

before the Minister for Appeal during the period when William Konana was deceased, and there was for representative of his estate.

60. It is trite that though **Section 26** of the **Land Registration Act** gives protection to a proprietor of a certificate of title, such title can be impeached if the same was not acquired legally, procedurally or regularly. See **Section 26(1) 1 & b** of Land Registration Act;

(1) The certificate of title issued by the Registrar upon registration, or to a purchaser of land upon a transfer or transmission by the proprietor shall be taken by all courts as prima facie evidence that the person named as proprietor of the land is the absolute and indefeasible owner, subject to the encumbrances, easements, restrictions and conditions contained or endorsed in the certificate, and the title of that proprietor shall not be subject to challenge, except—

(a) on the ground of fraud or misrepresentation to which the person is proved to be a party; or

(b) where the certificate of title has been acquired illegally, un-procedurally or through a corrupt scheme.

61. Courts have severally held that the law offers no protection to an illegally acquired property. See the case of ***Elijah Makeri Nyangwara vs Stephen Mungai Njuguna & Another, Eldoret ELC Case No. 609 B of 2012*** where the court held;

"...it needs to be appreciated that for Section 26(1) (b) to be operative, it is not necessary that the title holder be a party to the vitiating factors noted therein which are that the title was obtained illegally, unprocedurally or through a corrupt scheme. The heavy import of Section 26 (1) (b) is to remove protection from an innocent purchaser or innocent title holder. It means that the title of an innocent person is impeachable so long as that title was obtained illegally, un-procedurally or through a corrupt scheme. The title holder need not have contributed to these vitiating factors. The purpose of Section 26 (1) (b) in my view is to protect the real title holders from being deprived of their titles by subsequent transactions."

62. The Plaintiffs alleged that the 1st Defendant's title was acquired through fraud. Fraud is a serious allegation which must be specifically pleaded and proved in court. See the case of ***Terer vs State Law & 2 others [2025] KEELC 22 (KLR)(Nakuru)***.
63. Have the Plaintiffs herein been able to call sufficient evidence to prove that the suit land was initially owned by the late ***William Konana Ole Miyion***, and it was later transferred to 1st Defendant through fraud?
64. The 1st, 2nd and 3rd Defendants denied these allegations of fraud, and the Plaintiffs had the onerous task of calling sufficient evidence to prove their case on the required standard of balance of probabilities.
65. From the onset, the Plaintiffs on paragraph 6 of the Plaint that the late ***William Konana*** filed an objection against the 1st Defendant over boundary dispute, and thus it is clear that the initial dispute was over boundary dispute, but not ownership of the land parcel No ***Cis Mara /Olosho Ole Sito/3***.
66. The Plaintiffs also produced a document though handwritten, showing the names of the land owners, and the sketch plan.

In the said Document which was produced as exhibit P.exhibit No, **Kuseyo Ole Lotoluo**, the father to the 1st Defendant is indicated against **Plot No 3**, and **Plot No. 2** is indicated reserved for Olesita Dispensary.

67. The 1st Defendant testified that the dispute between **William Konana Ole Miyion** was over boundary dispute, and not ownership. The proceedings before Land Adjudication Officer which culminated in the decision of **10th May 2007**, which time the Late **William Konana** was alive clearly indicates that the dispute was a boundary dispute and not ownership dispute.
68. Since the Plaintiffs are the ones who had alleged, they ought to have called evidence from the lands office to confirm whether indeed the suit land was allocated to **William Konana Ole Miyion**, and not the 1st Defendant. They did not do so.
69. The Land Registrar **Kennedy Too** produced a Report dated **23rd June 2025**, which report confirmed that the suit land belonged to **Kuseyo Ole Letoluo**, but not **William Koanana Ole Miyion**. Further the adjudication Record dated **24th March 2003**, also shows that the land parcels No 3 belongs to **Kuseyo Ole Lotolo**, who is the father to the 1st Defendant.

70. The Plaintiffs did not call any evidence to link this parcel of land ***Cis Mara/ Olosho ole Sito/3*** to ***William Konana Ole Miyion***, whose estate is represented by the plaintiffs herein.
71. The 1st Defendant testified that he took possession of the suit land in 1969, when he was given the land by the Family of Sito. There was no evidence called to controvert this evidence by the 1st Defendants. The Plaintiffs alleged, but they did not call evidence to support their claim. Mere allegations is not enough to prove a case on the required standard. See then case of ***Evans Otieno Nyakwara vs Cleopas Bwana Ongaro (2015)eKLR***.
72. The 1st Defendant herein is in possession of a certificate of title issued to him on ***27th March 2023***, and which certificate of title has not been refuted and/or cancelled by the 2nd Defendant. As provided by ***Section 24*** of the Land Registration Act, the 1st Defendant has the absolute proprietorship, with all rights appurtenant thereto. See ***Section 24*** Land Registration Act.
73. The 1st Defendant being the absolute and indefeasible Owner of this suit property ***Cis Mara/ Olosho Ole Sito/3***, then without any evidence of illegal acquisition of the same and or any prove of fraud on the acquisition of the said parcel of

land, then this court cannot make declarations as sought by the Plaintiffs in their plaint, and or allow the Plaintiffs' claim.

74. Consequently, having carefully considered the available evidence herein, and the cited authorities, the court finds and hold that the Plaintiffs have failed to prove their case on the required standard of balance of probabilities.

75. For the above reasons, the Plaintiffs suit is dismissed entirely with costs to the 1st Defendants, since costs normally follow the events as provided by **Section 27** of the **Civil Procedure Act**.

It is so ordered.

Dated, signed and delivered virtually at Narok this 18th day of December 2025.

L. Gacheru
Judge

Delivered online in the presence of

Elijah Meyoki -Court Assistant

Ms. Kiogora holding brief for Ms Kudate for Plaintiffs

Mr. Shikandafor 1st Defendant

N/A for 2nd Defendant

N/A for 3rd Defendant.

L. Gacheru
Judge

