

REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT NAIVASHA

ELC CASE NO. 112 OF 2024

(FORMERLY NAKURU ELC 356 OF 2015)

PATRICK KARANU KARIUKI.....PLAINTIFF

VERSUS

**JOHN NDEITHI GATHERU.....1ST
DEFENDANT**

**THE LAND REGISTRAR, NAIVASHA.....2ND
DEFENDANT**

**THE DIRECTOR OF SURVEY.....3RD
DEFENDANT**

**THE HON. ATTORNEY GENERAL.....4TH
DEFENDANT**

RULING

1. Pursuant to the filing of the suit herein wherein the Plaintiff had sought for the following prayers;

- i. That the Honourable court do declare that land parcel Naivasha/Mwichringiri Block 4/4088 in Map Sheet No. 3 belongs to the Plaintiff.
- ii. That permanent injunction be issued against the 1st, 2nd and 3rd Defendants to restrain them permanently from claiming or interfering or doing any other acts as would affect or interfere with Land Parcel Naivasha/Mwichringiri Block 4/4088 in Map Sheet No. 3.
- iii. That the Honourable Court be pleased to issue temporary orders of injunction restraining the 1st, 2nd and 3rd Defendants/Respondents herein either by themselves, their servants, agents and or by any other persons acting on their behalf from entering, alienating, interfering,

meddling, encroaching, working, or doing such acts as would interfere with the Plaintiff/Applicant's use, occupation, possession or right of ownership to Land Parcel Naivasha/Mwichiringiri Block 4/4088 pending the hearing of instant Application interpartes or until the case herein is heard and determined or until further orders of the court.

- iv. General damages.
 - v. Any other relief that the Honourable Court may deem fit to grant.
 - vi. Costs of suit and interest thereof at Court rates;
2. The court's opinion had been that there was no dispute over ownership of land parcel Nos. Naivasha/Mwichiringiri Block 4/4088 and 4093 but rather the issue seemed to be a dispute on the ground positions of the said parcels of land. The court then gave directions for the parties herein to first have the Land Registrar, Naivasha and District Surveyor point out to them the ground positions of the two parcels of land and thereafter file a report to that effect.
 3. There had been compliance upon which the court further directed that only after taking the evidence of the Land Registrar and the surveyor, would it make a determination as to whether or not it would be necessary to take any further evidence, in view of the provision of Section 18 and 19 of the Land Registration Act 2012.
 4. Subsequently, on 4th October 2022, the matter proceeded for hearing wherein Minnie Wachuka, the Land Registrar Naivasha testified on the findings in their joint report of 12th October 2018 which had been filed on 16th October 2018 to the effect that on 2nd October 2018, in compliance with court order, the Land Registrar and the Surveyor visited two parcels of land being Naivasha/Mwichiringiri Block 4/4088 and 4093, where they had found that the same were not adjoining each other and neither did they share a common boundary. That the owner of land parcel No.

Naivasha/Mwichiringiri Block 4/4088 however was carrying out farming activities on land parcel No. Naivasha/Mwichiringiri Block 4/4093.

5. That together with the District Surveyor, they proceeded to locate the ground position of the two plots using their original maps from the Director of Survey Nairobi together with hand held GPS wherein they found that the ground position for land parcel No. Naivasha/Mwichiringiri Block 4/4088 and 4093 were approximately 3.7 Km apart and had adopted a straight-line measurement.
6. That the Plaintiff had in his possession a Map that was unknown and was contrary to the original map from the Director of Surveys. That accordingly, using the hand position GPS unit, they were able to get the exact co-ordinates of the 2 parcels of land which existed as separate and distinct parcels of land. She explained that whilst land parcel No. Naivasha/Mwichiringiri Block 4/4093 was on a plain ground, parcel No. Naivasha/Mwichiringiri Block 4/4088 was on a hill side.
7. She testified that from her records, land parcel No. Naivasha/Mwichiringiri Block 4/4088 that measures 1.303 Hectares and contained on Map Sheet 5 and was owned by Patrick Karanu Kariuki (the Plaintiff herein) wherein the Green Card had been opened on 13th July 1987. That the first owner, John Mungai Kinuthia had been issued with a title on 10th September 1997 wherein he later transferred the land to the current owner, the Plaintiff herein on 11th March 2011. That subsequently a title deed had been issued on 15th March 2011.
8. That with regard to land parcel No. Naivasha/Mwichiringiri Block 4/4093, the green card had been opened on 13th July 1987. That the land was on Map Sheet 3 and measured 1.350 Hectares. That the first owner was Mucheru Wahothi who had been issued with a title deed on 12th December 1996 which title had been re-issued on 22nd June 2011. That the land was subsequently transferred to John Ndeiti Gatheru (the 1st Defendant herein) on 8th May 2012 and a title deed issued on the same day. That since the

1st Defendant was the current owner of the said parcel of land, the Plaintiff's claim at paragraph 8 and 9 of the Plaintiff was untrue.

9. On cross examination by the Counsel for the Plaintiff, she confirmed that the court had ordered the Land Registrar to visit the two parcels of land. That both land parcel Nos. Naivasha/Mwachiringiri Block 4/4088 and 4093 had been given to the first owners by Mirera Suswa Farmers Co. Ltd. She explained that Mwachiringiri Block 4 was owned by Mirera Suswa Farmers Co. Ltd where members were from Kiambu district at the time. That the land buying company would submit a register of shareholders to the Land Registrars indicating the names of shareholders and their respective plots. That although they had the register for Mirera Suswa in the office, she did however not carry the same to court.
10. She refuted that the last plot in the register was No. 4092. She confirmed that the excerpt of the register had been signed by the then Manager of Mirera Suswa Farmers Co. Ltd, one John Wagena Kariuki who was known to her. That according to the register that was in their possession, the first shareholder, one Elizabeth Wanjiru Gitii had been allocated land parcel No. 4092. She clarified that the register that they had was the one that they used in the issuance of the title deeds. That whereas she did not have the said register with her in court, she knew that the last plot therein was not No. 4092.
11. She confirmed that the excerpt of the register herein marked as MF1 1 did not contain plot No. 4093 and proceeded to state that according to the Green Card, land parcel No. Naivasha/Mwachiringiri Block 4/4088 should be on map sheet No. 3. She contended that the Plaintiff had been on land parcel No. Naivasha/Mwachiringiri Block 4/4093 when they visited the suit lands which parcel of land was also on map sheet No. 3. She however stated that the surveyor was better placed to answer the question in respect of whether the map and positions of the parcels of land.

12. Her further evidence was that upon visiting both parcels of land, parcel No. Naivasha/Mwichiringiri Block 4/4088, they had found that on the ground, the same was on map sheet 5 whereas the Plaintiff was engaged in agricultural activities on parcel No. Naivasha/Mwichiringiri Block 4/4093. She maintained that according to the Green Card, whereas the Plaintiff had obtained the title deed to land parcel No. Naivasha/Mwichiringiri Block 4/4088 on 15th March 2011, Title had been issued to the owner of parcel No. Naivasha/Mwichiringiri Block 4/4093 on the 8th May 2012.
13. She confirmed that the first registered owner of land parcel No. Naivasha/Mwichiringiri Block 4/4088 had been issued with a title deed on 10th September, 1987 while the first registered owner of parcel No. Naivasha/Mwichiringiri Block 4/4093 had been issued with a title deed on 21st December, 1996.
14. She also confirmed that the 1st Defendant was the current owner of land parcel No. Naivasha/Mwichiringiri Block 4/4093 having been registered as such on 14th May 2012 and issued with a title deed on 8th May 2012. When she was probed further, she admitted that there was discrepancy since it appeared that he had been issued with a title before he had become a registered owner.
15. She confirmed that the District Land Surveyor had written a letter dated 4th July 2017 to the District Land Registrar, Naivasha seeking to know whether parcel No. 4093 was reflected in the register MFI 2. That District Land Registrar responded to the said request vide a letter dated 26th July, 2017 indicating that parcel No. 4093 did not appear in Mirera Suswa member register. She confirmed that the said letter had been signed by the Land Registrar, one Madam Karani. That in confirming that plot No. 4093 was not there, the said Land Registrar had attached a letter that had been written by John Wagama Kariuki dated 30th March 2016 MF1 3(a) confirming that the member register started from Plot Nos. 1-4092. That later on, they had found that plot No. 3006 had been double

numbered (duplicated) as appearing on sheet Nos. 3 and 6. That subsequently, through the District Surveyor, the plot had been numbered as Naivasha/Mwichiringiri Block 4/14311 on sheet 6.

16. She confirmed that according to the members register, member No. 4092 had been allocated plot No. 4092. She explained that the excerpt was from the members register and that members had numerous shares for which they could own several parcels of land. She however explained that they have had situations where it was possible for a member of a company to own a parcel of land whose number was not in the members register. She confirmed that page 2 of her report spoke to the issue of parcel of land No. 4093.
17. She explained that there were 49 parcels of whose numbers were under Mwichiringiri Block 4 and which might have arisen from duplication although the same did not reflect in the company. That the said duplication had also been explained in John Magema's letter. She confirmed that the said 49 parcels numbered from Nos. 4094-4142.
18. She explained that parcel No. 4093 was an original number meaning that it had been allocated to a member of Suswa, one Mucheru Wahothi who also owned parcel Nos. 2721-2723. She maintained that plot No. 4093 was the last original number thus No. 4094 would be a subdivision of parcels of Block 4.
19. That in Mwichiringiri block 4, the first subdivision was No. 4143 from where they had started their inquiry. That they found that the 49 parcels were found within Mwichiringiri and had probably been undisclosed to members for self-gain, public utility or had been as a result of duplication for members who did not get the plots. Her evidence was that plot Nos. 4094-4142 were non-existent. She clarified that in her report, they had assumed that plot No. 4093 may have been omitted from the members register since they had its green card. She confirmed that plot Nos. 4093 and 2721-2723 were not in the same series.

20. Commenting further on the gap being plot Nos. 4094-4142, she explained the Land Registry that gives the gaps but the Survey and the parcel numbers were shown by the directors of the land buying company. That the first subdivision No. 4143 was accepting the gap.
21. She refuted the suggestion put to her that an unscrupulous person would use the gap to create a green card stating that it was not possible. She was referred to page 2 of her report, register I page 154, wherein she responded that the first subdivision after the maps had been published was done on 20th June, 1989. That the same had been for the original number 143 which had been subdivided giving rise to new numbers being 4143-4157 as had been confirmed by the District Surveyor. That according to JP3b, the highest number in the year 1989 was 4093 which corresponded to the Green Card.
22. That whereas she did not know how plot No. 4093 had been created, they had confirmed its existence from the managers of the company as had been explained vide a letter Marked JP7a. She stated that whilst the said letter had confirmed that the parcels of land that had been given to Mucheru Wahothi were 2721-2722, 2732-2736 and 2749 and had confirmed the existence of No. 4088, it did not mention plot No. 4093.
23. That the only person who had mentioned plot No. 4093 was Peter Kaara Mwaura who was not a director of Mirera Suswa but a chief, at the time that the Mirera Suswa was being sub-divided and therefore he did not have any records with him since the same were in the custody of John Wangema.
24. That looking at the history, the company had burnt down in the year 1982 leading to loss of receipts and ballot papers which situation had created confusion hence they had relied on what the chief and the manager had informed them. That at the time, there had been a lot of fraud and problems on the said block of land.

25. She confirmed that the register that they had also ended at No. 4092. That whereas they had been using an original map, they had returned the same to Nairobi but they could get a copy for the court.
26. She maintained that they had visited the parcels of land with the District Surveyor in the presence of the Plaintiff and his witness one Edward Maina. That from her notes, she could not recall the Plaintiff inform them that upon purchasing, the land he had been shown its ground position. That instead, she could recall that in the year 2018 they had moved with the Plaintiff to the other parcel of land which contained a water tank where the Plaintiff had informed her that he had never been to the other parcel of land. She confirmed that the Plaintiff had a title deed, MFI 4, which she had also seen and there was no doubt that the land belonged to John Mungai Kinuthia.
27. On being cross-examined by the Counsel for the 1st Defendant, her response had been that from the report they presented, they were able to identify the distinct Parcels of Land. That the distance between parcel Nos.4088 and 4093 was 3.7 km apart adopting a straight-line measurement. That in relation to the map sheet, the two properties did not appear on the same map sheet. That plot No.4088 was found on Map Sheet 5. That further, the two parcels of land had two district Green Cards. That parcel No.4093 has a progressive history. That whereas she could tell the date in which the Green Card for No.4093 had been opened, yet she did not have the same.
28. She confirmed the Mirera Famers Co-operative Society was also known as Mirera farm and had been the original owner of Naivasha/Mwishiungui Block 4. That its directors had confirmed the existence of parcel No.4093. She explained that parcel No.4088 did not exist on sheet No.3 hence she did not know why the Plaintiff had sought as much. That the original parcel No.4088 was on Map Sheet 5 while Parcel No. 4093 was on Map Sheet 3.

29. She confirmed that they had visited both parcels of land. That although it had been a while, all she could remember was that parcel of land No. 4093 was near a tarmacked road while parcel No.4088 was way up on a hill side and that there was cultivation on parcel No. 4093 where they had found the Plaintiff not the Defendant. It was her evidence that the Plaintiff was on the wrong parcel of land since the registered owner of parcel No.4092 is John Ndeithi Gatheru, the 1st Defendant herein.
30. By consent, she produced the joint report dated 12th October 2018 as Exh.1 and the Green Cards to land parcel Nos.4088 and 4093 as Exh.5 and 6 respectively. She also produced a letter dated 26th July 2017 as Exh. 3(a) stating that the same had emanated from their office and that the signature contained therein was Madam Karani's signature which she was familiar with.
31. Victor Kiprono Kirui, a County Land Surveyor, Naivasha also confirmed that the joint report had been prepared by a former surveyor and Miss Wachuka the Land Registrar. That he had supplied the two sets of maps to all parties, the provisional maps from Ruaraka Survey Office and the blue prints for the current Registry Index Maps (RIM) from Nakuru Survey Office. He explained that the two parcels of land being No. Naivasha/Mwichiringiri Block 4/4093 (Mirera) and 4088 Mirera appeared on two separate sheets being sheet 3 and 5 respectively. He confirmed that the provincial map and the current map were the same meaning that no amendments had been done to date.
32. He confirmed that the two parcels of land were separate hence the reason why one was appearing on sheet 3 and another on sheet 5. He refuted a claim that they had created land for the benefit of the 1st Defendant since the two parcels were original numbers where no amendments had been made on the maps. He confirmed that parcel No. 4093 existed on the original map although it was not in the position the Plaintiff claimed it to be. He confirmed further that he had seen the joint

report marked as JP2 where the surveyor had shown two sets of maps; the one at the Registry and the one that had been provided by the Plaintiff.

33. That on sheet of the report, the position of parcel No. 4093 had been shown to be No. 4088 by the Plaintiff and that they were both appearing on the same sheet 3. That on the said sheet, the Plaintiff had purported to show an amalgamation of two parcels being numbers 4051 and 4050 to be parcel No.13533. That however, the map that the Plaintiff had and the one in their registry were two different maps wherein the correct map was the one currently in circulation.
34. That whereas in the joint report, land parcel No.4088 appears on sheet 5, the Plaintiff had another map showing the position of parcel No. 4088 to be in the position of No. 4092. He produced sheet Nos. 3 and 5 as Exh. 7 and 8. He thus confirmed that the report had addressed the ground position of the two parcels of land as well as their co-ordinates. That accordingly, he had no comment on the Plaintiff's allegation that parcel No.4088 on sheet 3 was his land. That since there had been no amendments done on the maps there was no fraud committed.
35. When he was cross-examined by the Counsel for the Plaintiff, he confirmed that he was not one of those who had prepared the report although it had been prepared by a surveyor in their office jointly with the Land Registrar. He explained that land parcel Nos.4088 and 4093 had emanated from a larger farm belonging to Mirera Suswa company. He confirmed that whereas the Land Registrar had stated that there was a gap between land parcels Nos 4094 and 4142, which the gap could be utilized to create a number to give a green card, the same was impossible unless the land was available. That they had used the first points of the original maps, as they had been published, to make the report.
36. He confirmed that they had provided two sets of maps, the provisional map and the sheets in circulation currently, being sheet 3 and 5. He explained that the original prints were used to produce the current maps and that they were the same. He confirmed that the size of the land could

be changed by a cartographer stating that amendments could be done on the RIM by making an application to the Land Registrar to correct the map. That whereas changes could be made through sub-division or amalgamation, a mutation had to be drawn to show the changes that were being effected.

37. When he was referred to a letter dated 4th July 2017 herein marked as MFI.2, he confirmed that the same had been written to the Land Registrar Naivasha in reference to case No. ELC No.356/2015 requesting the Land Registrar to notify the office whether land No.4093 was registered to the company. On being referred to a letter dated 26th July 2017, he confirmed that the same had been addressed to the District Surveyor Nakuru by the Land Registrar who had stated that land parcel No.4093 did not appear on the Mirera Suswa Registry. That whereas the said Registrar had attached a copy of the last date of the Register, he could not authenticate the copy of members register since he had not perused the copy of the register in relation to the matter herein.
38. He however confirmed that the last number in the register was '092' although the other number was not visible. That he could not confirm the signature of Mr. Mwangi although he had interacted with his records for 3 years. That he had no objection to producing the letter dated 4th July 2017 as Exh.9.
39. He explained that the map with transparent sheet was the original map which was used to produce maps and that the same was drawn by the cartographer. He explained that changes were done on the transparent sheet and referenced on the side of the map as indexed. He admitted that the sheets that they had produced were not the transparent sheets and that they could not produce the transparent sheet since the same was used to produce the maps for the public. He explained that when a land is subdivided, several sheets could be produced if the land was big. That however, if the land was small, only one sheet could be produced. That before registration, the map sheets are produced with the number given

by the surveyor. That the sheet number is normally reflected in the title deed.

40. When he was referred to a copy of title deed to parcel No.4088, he confirmed that the RIM as shown was sheet 3. He admitted that he did not check the title deed for land parcel No.4093 to confirm the sheet number. He testified that whereas in this case, the map sheet for land parcel No. 4088 showed something different from what was in the title, the map sheet number was given to the Land Registrar when they were preparing the title. He confirmed that the Plaintiff's title had been typed as being on map sheet 3 and confirmed that he had not gone on the ground.
41. On being cross-examined by Counsel for the 1st Defendant, he confirmed that he knew Mr. S.M. Mwangi who was a District Surveyor in their office but was currently retired. He testified that he had worked as a surveyor for over 20 years and was therefore a qualified surveyor thus he agreed with the report 100% even though he did not go to the ground. That there was a GPRS of two distinct parcels of land appearing in two separate sheets wherein parcel No. 4093 appears on sheet No.3 while parcel No. 4088 appears on sheet No.5.
42. He refuted a claim that there was no possibility of a mix up since the correct maps were the ones in circulation. That changes were made on the maps on daily basis or when a mutation had been submitted to them for amendments. That based on the amendments and from the current map from the survey, the same was the true map in circulation. That whilst he was supplied with a map by the Plaintiff, the same was erroneous and did not match what was in the Registry. He contended that they did not have two different maps and that they guaranteed the map from the Registry.
43. His evidence was that the map in possession of the Plaintiff had not been supplied by their office hence they could not rely on the same. He also confirmed that there were two parcels of land and that it could be true that the Plaintiff had trespassed on the 1st Defendant's land. That

nonetheless, according to the report, he could not comment as to who was on the ground. He confirmed that the locations of the two parcels of land was different. That whilst parcel No.4093 was closer to the tarmac, parcel No.4088 was far away from the highway.

44. In re-Examination, he confirmed that they had a transparent map and that there was no difference between the transparent sheet and the one that had been produced. That the transparent sheet was used to produce copies of maps and that was why they had the blue print. He confirmed that the custodian of maps is the Director of Survey. That the plaintiff was not a custodian of maps.

Determination.

45. The suit began with the Plaintiff seeking a declaration of ownership and a permanent injunction regarding parcel No. Naivasha/Mwichiringiri Block 4/4088. However, the court determined that the real issue was not ownership seemingly as both parties held titles to different parcels, but rather the physical ground positions of the land. The court ordered the Land Registrar and District Surveyor to visit the site and file a joint report which directions were complied with and both sites were visited on the 2nd October 2018.
46. The findings of Land Registrar according to the report were as follows:
- i. **Physical Separation:** Parcels 4088 and 4093 are not adjoining; they are approximately 3.7 km apart.
 - ii. **Misplaced Occupation:** The Plaintiff (owner of 4088) was found to be farming on parcel 4093, which belongs to the 1st Defendant.
 - iii. **Topography:** Parcel 4093 is on level ground near a tarmac road, while the Plaintiff's actual land (4088) is located on a hillside.
 - iv. **Map Discrepancies:** The Plaintiff was in possession of a map that did not match the official records at the

Director of Surveys wherein the Plaintiff's title deed had incorrectly listed his land (4088) as being on Map Sheet 3, while the official Registry Index Maps (RIM) placed it on Map Sheet 5.

47. The summary of the key evidence and testimonies of both the land Registrar and the District land surveyor as herein above presented in regard the land dispute over parcel Naivasha/Mwichiringiri Block 4/4088, involving the Plaintiff (Patrick Karanu Kariuki) and the 1st Defendant (John Ndeithi Gatheru) was that whereas there had been significant cross-examination regarding the "missing" parcel 4093 in the original company register where Mirera Suswa Farmers Co. Ltd the original proprietor's register ended at plot 4092, the Registrar explained that Naivasha/Mwichiringiri Block 4/4093 was likely an "original number" omitted from the register, but confirmed by a Green Card and the company manager. She noted that "gaps" in numbering (4094-4142) existed due to various reasons like duplication or undisclosed allocations, but parcel 4093 was validly registered to the 1st Defendant.
48. The County Land Surveyor, one Victor Kiprono Kirui's finding had also corroborated the Registrar's testimony and the joint report by confirming that whereas parcel No. 4093 was on No. Sheet 3, parcel No. 4088 on the other hand was contained on Sheet No.5.
49. He stated that the map held by the Plaintiff was not an official Map as it did not originate from the Survey Office. He admitted that while the Plaintiff's title deed stated "Sheet 3," the physical co-ordinates and the official transparent master maps place the land on "Sheet 5." In conclusion he confirmed that based on the official maps, the Plaintiff has been occupying the 1st Defendant's land parcel No. 4093.
50. Based on the above summary, I find the issue for determination being;.
- i. Whether the description in the title deed was a clerical error and whether or not the Registry Index Map (RIM) takes precedence over such error.

51. It thus came out clearly that the Plaintiff has failed to prove that the land he currently occupies is Naivasha/Mwichiringiri Block 4/4088. Both the Land Registrar and the County Surveyor testified that Parcel 4088 and Parcel 4093 are distinct entities located 3.7 km apart. While the Plaintiff relies on a clerical entry in his title deed (Map Sheet 3), the Registry Index Map (RIM)—which is the master reference under Section 18 of the Land Registration Act—places Parcel 4088 on Map Sheet 5.
52. It is a settled principle of land law that where a discrepancy exists between a title deed and the survey map, the fixed boundaries on the RIM prevail. The Plaintiff cannot "move" his land to a different location simply because of a typing error on his certificate.
53. The Plaintiff's attempt to impeach the 1st Defendant's title based on the "Company Register" ending at No. 4092 also failed because the Land Registrar confirmed that a Green Card for Parcel 4093 was opened as far back as 13th July 1987, and went on to explain that while the company register was incomplete (ending at 4092), the Land Registry recognized 4093 as an original parcel.
54. The Land Registrar testified that during the site visit, she found the Plaintiff cultivating the Defendant's parcel of land No. 4093 which was near the the tarmac, and not his own land which was pointed out to be on the hill side and which was 3.7 Km away from the Defendant's land.
55. Section 79 of the Land Registration Act provides as follows;

“The Registrar may rectify the register or any instrument presented for registration in the following cases—

(a) in formal matters and in the case of errors, mistakes or omissions not materially affecting the interests of any proprietor;

(b) in any case and at any time with the consent of all affected parties;

(c) if upon resurvey, a dimension or area shown in the register is found to be incorrect, in such case the Registrar shall first give notice in writing to all persons with an interest in the rectification of the parcel;

(d) for purposes of updating the register; or

(e) for purposes of correcting the name, address or other particulars of the proprietor upon the written application by the proprietor in a prescribed form.

56. This section allows the Registrar to rectify errors in the register. However, it does not allow an owner to "claim" a different piece of land belonging to someone else just because their paperwork has a typo.

57. In the light of the findings herein above, the distance apart of the suit properties and the fact that my predecessors might not have been privy to the information/report that the court now has, and further keeping in mind the provisions of Article 50 of the Constitution on fair hearing, it is my opinion that to bring the matter to an amicable end that I should hear the evidence lined up by both parties unless they so hold otherwise.

Dated and delivered via Microsoft Teams at Naivasha this 29th day of January 2026.



M.C. OUNDO

ENVIRONMENT & LAND COURT- JUDGE