

**REPUBLIC OF KENYA**  
**IN THE ENVIRONMENT AND LAND COURT AT MERU**  
**ELC NO. E014 OF 2025**

**TITUS KURAUKA MUKIAMA.....PLAINTIFF**

**VERSUS**

**COUNTY GOVERNMENT OF MERU.....1<sup>ST</sup> DEFENDANT**

**HON. JULIUS MIRITI, MEMBER OF COUNTY**

**ASSEMBLY MIKINDURI WARD..... 2<sup>ND</sup> DEFENDANT**

**JUDGMENT**

1. The Plaintiff approached the court *vide* plaint dated 12<sup>th</sup> June 2025; and wherein same sought various reliefs. The Plaint was subsequently amended resting with the amended Plaint dated 24<sup>th</sup> July 2025; and wherein the Plaintiff has sought the following reliefs:-

- i. A declaration be and is hereby issued that the actions of the 2<sup>nd</sup> defendant directing the plaintiff to cause his wall and/or fence to be moved by 5 feet on his property known as TIGANIA/ANTUAMBURI/3657 to pave way for the expansion of the neighbouring road without just and prompt compensation violates the Plaintiff's right to ownership of property hence is unlawful, null and void.*
  
- ii. A permanent injunction be and is hereby issued restraining the defendants whether by themselves, agents, employees or any person under their authority from in any manner whatsoever entering, threatening to enter, excavate, trespass, take possession of any part of or all that property known as TIGANIA/ ANTUAMBURI/3657.*

**iii. Costs of the suit.**

2. The Plaintiff contends that he is the registered owner and proprietor of LR No.TIGANIA/ ANTUAMBURI/ 3657 [*herein referred to as the suit property*]. Furthermore, the plaintiff posits that the suit property adjoins a public road of access. Additionally, it has been contended that on or about 7<sup>th</sup> June 2025, the 2<sup>nd</sup> defendant made a public announcement indicating that the 1<sup>st</sup> defendant was preparing to expand the public access road and thus the various persons owning adjoining parcels of land, including the plaintiff should move/ relocate their fences by 5 feet to facilitate the intended expansion of the road.
3. The plaintiff further contended that the threatened expansion was geared towards violating his property rights in terms of Article 40(3) of the constitution. Moreover, it was contended that the relocation of the fence was calculated to arbitrarily deprive the plaintiff of a portion of the suit property albeit without just and prompt compensation.
4. The 1<sup>st</sup> defendant duly entered appearance and thereafter filed a statement of defence. The 1<sup>st</sup> defendant contended that though same is bestowed with the constitutional and statutory mandate to undertake grading, graveling and maraming of public access roads within its jurisdiction, same did not interfere with the plaintiff's right to and in respect of the suit property. Moreover, it was contended that the plaintiff's suit does not disclose any reasonable cause of action or at all.
5. The 2<sup>nd</sup> defendant also entered appearance and filed a statement of defence and wherein same contended that he is a member of the county

assembly for Mikinduri Ward- County government of Meru. In addition, the 2<sup>nd</sup> defendant posited that by virtue of being a member of the county assembly, same is not chargeable with the mandate of undertaking any development[s] let alone expanding any public road of access. On the contrary, the 2<sup>nd</sup> defendant stated that the expansion of public access road within the county falls under the mandate/ docket of the 1<sup>st</sup> defendant. In this regard, the 2<sup>nd</sup> defendant averred that the plaintiff is *non-suited* as against him.

6. The Plaintiff's case is premised on the evidence of one witness, namely; Professor Titus Mokiama. Same testified as PW1.
7. It was the testimony of the witness [PW1] that same is a Professor. Furthermore, the witness averred that he is the registered owner and proprietor of the suit property. Moreover, it was the testimony of the witness that same is conversant with the facts of the case.
8. Additionally, the witness testified that same has since recorded a witness statement dated 7<sup>th</sup> November 2025 and which witness statement the witness sought to adopt and rely on as his evidence in chief. The witness statement under reference was duly adopted and constituted as evidence in chief on behalf of the witness.
9. It was the further testimony of the witness that same has also filed a list and bundle of documents dated 7<sup>th</sup> November 2025, containing one document, namely; copy of the certificate of title in respect of the suit property. Thereafter, the witness sought to tender and produce the named

document. Suffice it to state that the document was duly admitted as exhibit PEX1.

10. Other than the forgoing, the witness referenced the amended plaint dated 24<sup>th</sup> July 2025; and sought the reliefs highlighted thereunder. In particular, the witness sought a declaration that the actions complained of have violated his property rights in respect of the suit property; and an order of permanent injunction to restrain the 2<sup>nd</sup> defendant from in any way entering upon the suit property; or any portion thereof.

11. On cross-examination by learned counsel for the 1<sup>st</sup> defendant, the witness testified that same is the registered owner of the suit property. Besides, the witness averred that same had erected a perimeter wall fence fronting the public road of access. Moreover, the witness testified that it is the said perimeter wall which was threatened with demolition and therefore same proceeded to and removed the perimeter wall before the wall could be demolished.

12. It was the further testimony of the witness that the information pertaining to the public announcement [pronouncement] was made in the church. Besides, the witness testified that he came to know of the announcement courtesy of his farm hand [caretaker] who resides at his home and takes care of the suit property.

13. While still under cross examination, the witness testified that he proceeded to and removed the perimeter wall in a bid to forestall/ avert the intended demolition by the 1<sup>st</sup> defendant. However, the witness

conceded that he has not brought any evidence before the court to show the perimeter wall that was removed. In addition, the witness also admitted that same does not have any evidence to show that the 1<sup>st</sup> defendant ever instructed the 2<sup>nd</sup> defendant to make any public announcement or at all.

14. On cross examination by learned counsel for the 2<sup>nd</sup> defendant, the witness testified that even though he is the registered owner of the suit property, same has however not produced a copy of an official search showing that the suit property belongs to him. Furthermore, the witness admitted that same has also not produced any evidence to show that the 2<sup>nd</sup> defendant ever uttered the words complained of.

15. It was the further testimony of the witness that the perimeter wall was removed by himself. The witness also testified that thereafter, he erected a bubbled wire fence. To this end, the witness posited that same incurred expenses in respect of the removal of the perimeter wall fence and the erection of the barbed wire fence. However, the witness conceded that same has neither tendered nor produced any receipt[s] to demonstrate the expenses[ if any] incurred.

16. With the foregoing testimony, the plaintiff's case was closed.

17. Though the 1<sup>st</sup> defendant duly entered appearance and filed a statement of defence, same did not call/ tender any evidence. For good measure, the 1<sup>st</sup> defendant's case was closed without any evidence being tendered.

18. The 2<sup>nd</sup> defendant's case is premised on the evidence of one witness, *namely*; Julius Miriti. Same testified as DW1.
19. It was the testimony of the witness that same is the Honorable member of the county assembly – Meru county. The witness clarified that same represents Mikinduri ward. Furthermore, the witness averred that same is the 2<sup>nd</sup> defendant in respect of the instant matter.
20. It was the testimony of the witness that by virtue of being the 2<sup>nd</sup> defendant, same is therefore familiar with the facts of this matter. Moreover, the witness adverted to the witness statement dated 7<sup>th</sup> November 2025 and which witness statement the witness sought to adopt and rely on as his evidence in chief. Suffice it to state that the witness statement was duly adopted and constituted as the evidence in chief of the witness.
21. The witness further referenced the list and bundle of document dated 7<sup>th</sup> November 2025 containing two documents and which documents the witness sought to tender and produce before the court. There being no objection to the production of the documents, same were duly produced and admitted as exhibits before the court.
22. On cross examination by learned counsel for the 1<sup>st</sup> defendant, the witness testified that same was never instructed by the 1<sup>st</sup> defendant [County government of Meru] to make any announcement. In addition, the witness averred that same is not aware of any demolitions that were undertaken by the county government of Meru on the plaintiff's land.

23. On cross examination by learned counsel for the plaintiff, the witness testified that construction of public access road forms part of county development planning. Moreover, the witness admitted that the photographs which same has produced before the court relate to the public access road in question.

24. While still under cross examination, the witness testified that the county government of Meru had an intention to upgrade the road under reference. In particular, the witness posited that same got to know of the intention to upgrade the road after the County Government of Meru undertook the supplementary budgeting.

25. On re-examination, the witness testified that upgrading of the public access road falls within the docket of the Executive arm of the County Government. The witness clarified that the County Assembly is separate and distinct from the county executive.

26. With the foregoing testimony, the 2<sup>nd</sup> defendant's case was closed.

27. Upon the close of the hearing, the advocates for the parties sought time to file and exchange written submission. To this end, the court ventured forward and issued directions pertaining to the filing of the written submissions. In addition, the court also circumscribed the timeline[s] for the filing and exchange of the submissions.

28. The plaintiff filed written submissions dated 28<sup>th</sup> November 2025; and wherein the plaintiff has highlighted/ canvassed one single issue, namely; whether the plaintiff has proved his case on a balance of probabilities.

29. The 1<sup>st</sup> defendant filed a written submission dated 13<sup>th</sup> January 2026; and wherein same has canvassed three [3] key issues. The issues canvassed by/ on behalf of the 1<sup>st</sup> defendant are namely; whether the plaintiff's rights have been infringed; whether permanent injunction should issue; whether the plaintiff has proved his case on a balance of probabilities.
30. The 2<sup>nd</sup> defendant filed written submissions dated 16<sup>th</sup> December 2025 and in respect of which same has highlighted two [2] issues, namely; whether the 2<sup>nd</sup> defendant directed or threatened the plaintiff to move his fence on the suit property and whether such conduct breached the plaintiff's property rights; and whether the plaintiff is entitled to an order of permanent injunction as against the 2<sup>nd</sup> defendant or otherwise.
31. Having reviewed the pleadings filed by/ on behalf of the parties; the evidence tendered [both oral and documentary] and upon consideration of the written submissions on record, I come to the conclusion that the determination of the subject dispute turns on three key issues, namely; whether the suit against the 2<sup>nd</sup> defendant discloses a reasonable cause of action or at all; whether the plaintiff has proven his claims as against the defendants and in particular, the 1<sup>st</sup> defendant or otherwise; and what reliefs [if any] ought to be granted.
32. Regarding the first issue, it is important to highlight that the plaintiff's claim touches on and concerns allegations that the 2<sup>nd</sup> defendant made public announcement which was intended to cause various persons whose parcels of land adjoining the public access road to move their fences by 5 feet to facilitate expansion of the public access road. In addition, it was contended that the threatened expansion of the public access road was

intended to arbitrarily deprive the plaintiff of a portion of the suit property *albeit* without just and prompt compensation.

33.The crux, or gravamen of the plaintiff’s case touches on and concerns the purported expansion of the public access road and [ sic] the threatened encroachment onto a portion of the plaintiff’s land measuring 5 feet. The expansion of the public road of access [ if at all] is a devolved function which vests in the county government in terms of the 2<sup>nd</sup> schedule part 4 [2] of the constitution.

34.Additionally, it is important to point out that a member of the county assembly is charged and chargeable with the mandate of inter alia exercising oversight [oversight responsibility] over the county executive and also to undertake legislation at the county assembly. [see Article 185 of the constitution 2010].

35.It is instructive to observe that a member of the county assembly, the 2<sup>nd</sup> defendant not excepted, is not bestowed with any authority and or mandate to undertake any county development program[s] including expansion of public road of access or upgrading same. For good measure, county development programs are undertaken by the county government and in particular, the Executive arm. **[See section 9(2) of the county government act 2012]**

36.In so far as the complaint before hand touches on and concerns the threatened expansion of the public road of access and the alleged excision [annexation] of the plaintiff’s land measuring 5 feet, such a claim cannot

be raised and canvassed against a member of the county assembly. Instructively, a member of the county assembly is not chargeable with expansion of public access road or undertaking development program within the county ward.

37. To the extent that the 2<sup>nd</sup> defendant has been sued on the basis of a threatened upgrading of the public road and [sic] imminent excision of a portion of the plaintiff's land, it is apparent that the plaintiff's suit is mislaid and misconceived. Moreover, the plaintiff herein has not demonstrated how the member of the county assembly is chargeable with expansion/ upgrading a public access road to warrant his inclusion to the subject suit.

38. Furthermore, it is common ground that the actions complained of by the plaintiff [if at all] are actions that are statutorily vested in the county government and not the county assembly. In this regard, it is my finding and holding that the suit as against the 2<sup>nd</sup> defendant does not disclose any reasonable cause of action known to law or at all.

39. Additionally, I hold the opinion that in so far as county development programs fall within the docket of the executive arm of the county government and not the county assembly, the 2<sup>nd</sup> defendant herein has been mis joined in the suit.

40. Quiet clearly, the 2<sup>nd</sup> defendant cannot be impleaded in matters that fall within the docket of the county executive. In any event, there is no gainsaying that a member of the county assembly is not an employee; servant; and or agent of the Executive arm of the County Government.

41. Before concluding on this issue, it is imperative to highlight what constitute[s] a cause of action. Suffice it to state that a cause of action relates to a set of facts which if taken alone or jointly [ contextually] would demonstrate a basis to warrant a suit against the adverse party.

42. In the case of *Kigwor Company Limited v Samedy Trading Company Limited [2021] KECA 810 (KLR)* the Court of Appeal expounded on the import and tenor of a cause of action the court stated as hereunder:-

***36. In the Court of Appeal case of Attorney General & another v Andrew Maina Githinji & Another [2016] eKLR Justice Waki held that:-***

***“A cause of action is an act on the part of the defendant, which gives the plaintiff his cause of complaint.”***

***That definition was given by Pearson J. in the case of Drummond Jackson vs. Britain Medical Association (1970) 2 WLR 688 at pg 616. In an earlier case, Read vs. Brown (1889), 22 QBD 128, Lord Esher, M.R. had defined it as:-***

***“Every fact which it would be necessary for the plaintiff to prove, if traversed, in order to support his right to the judgment of the court.”***

***Lord Diplock, for his part in Letang vs. Cooper [1964] 2 All ER 929 at 934 rendered the following definition:-***

***“A cause of action is simply a factual situation the existence of which entitles one person to obtain from the court a remedy against another person.”***

**When did the cause of action in this case arise? Put another way, when did the respondents become entitled to complain or obtain a remedy ...”**

43. Turning to the second issue, *namely*; whether the plaintiff has established and proved his claim as against the defendants and in particular, the 1<sup>st</sup> defendant or otherwise. To start with, the plaintiff contended that the 2<sup>nd</sup> defendant made a public announcement to the effect that the defendants intended to expand the public access road bordering the plaintiff’s property and that the plaintiff [among others] was enjoined to relocate/ move his fence inside by 5 feet.

44. Additionally, it was contended that the 5 feet portion following the relocation of the fence would pave way for the road expansion. Simply put, the plaintiff contends that the defendants and in particular, the 1<sup>st</sup> defendant has violated the plaintiff’s property right in respect of the suit property and in particular, by arbitrarily depriving the plaintiff of [sic] the 5 feet portion.

45. It is the plaintiff who contended that the 2<sup>nd</sup> defendant made a public announcement on 7<sup>th</sup> June 2025 while attending a church service at Tigania East constituency. It is the said public pronouncement that allegedly precipitated the filing of the instant suit by the plaintiff. Moreover, it is the said public announcement that has caused [sic] the joiner of the 2<sup>nd</sup> defendant.

46. Having made the foregoing assertions, it was incumbent upon the plaintiff to tender and adduce before the court plausible, cogent and

credible evidence to demonstrate that the alleged public pronouncement was indeed made.

47. Suffice it to state that proof of the public pronouncement [if at all] would have required the plaintiff to call his caretaker [ nameless] who is said to have relayed the information to the plaintiff. Moreover, proof of the public pronouncement could also have been authenticated by calling a witness or such person[ if any] who was in attendance at the church service wherein the public pronouncement is said to have been made.

48. Be that as it may, it is important to underscore that the plaintiff's case is anchored on the evidence of only one witness, namely; the plaintiff himself. For good measure, the plaintiff conceded that he was not in attendance at the church service where the alleged public pronouncement was made.

49. To my mind, the plaintiff's assertion that the 2<sup>nd</sup> defendant made a public pronouncement on behalf of the 1<sup>st</sup> defendant as pertains to the intended upgrading of the public road of access; and the relocation of the plaintiff's fence by 5 feet, are premised on conjure; and *hearsay*. Such evidence are not only inadmissible, but also devoid of probative value. **[See section 63(2)(b) of the Evidence act, Chapter, 80 Laws of Kenya].**

50. Secondly, the plaintiff contended that same was enjoined to move his fence by 5 feet and that as a result of the impugned actions, his [Plaintiff's] property rights to the said portion were violated or threatened with violation. In fact, the plaintiff has contended that the impugned

action amounted to arbitrary loss of a portion of the suit property without just and prompt compensation.

51. I beg to state that during his testimony, the plaintiff herein only tendered one document, namely; a copy of the certificate of title. The plaintiff did not produce any surveyor's report to confirm that a portion measuring 5 feet of the suit property has been encroached upon or threatened with encroachment.

52. Other than the foregoing, there is the complaint by the plaintiff that because of the threatened actions, same was compelled to relocate or move his fence inside by 5 feet. Nevertheless, no evidence was tendered to show that the plaintiff herein actually relocated his fence by 5 feet. In any event, it was equally incumbent upon the plaintiff to demonstrate that the relocation of the fence [if at all] deprived the plaintiff of [sic] 5 feet of his land.

53. The other complaint that was also canvassed by the plaintiff was to the effect that in the course of relocating his fence, he [Plaintiff] was obliged to demolish a perimeter wall fence and replace same with a barbed wire fence. Moreover, the plaintiff posited that same incurred expenses in doing so.

54. Despite the foregoing averments, it is common ground that the plaintiff did not produce any photographic evidence to show the perimeter wall fence that was allegedly pulled down to facilitate relocation of the fence; or the barbed wire fence[ if any] was erected. Additionally, it is not lost

on me that the plaintiff also did not produce any document or receipt to vindicate the expenses[ if any] that was incurred.

55.I must say, that it is the plaintiff who made the foregoing assertions and was therefore enjoined to prove same. Simply put, the burden of proof rested on the shoulders of the plaintiff by dint of the Provisions of Section 108 and 109 of the Evidence Act, Chapter 80, Laws of Kenya. Pertinently, the Plaintiff was obliged to discharge both the evidential burden as well as the legal burden of proof.

56.In the case of *James Muniu Mucheru v National Bank of Kenya Limited [2019] eKLR*, the Court of Appeal discussed the burden and standard of proof as pertains to civil matter.

57. The court stated thus:-

*17. On matters evidence, Madan, JA (as he then was) in CMC Aviation Ltd v. Crusair Ltd (No1) [1987] KLR 103 stated: ?"Proof is the foundation of evidence. As stated in the definition of "evidence' insection 3 of the Evidence Act, evidence denotes the means by which an alleged matter of fact, the truth of which is submitted for investigation, is proved or disproved. Averments are matters the truth of which is submitted for investigation. Until their truth has been established or otherwise they remain unproven...."*

*18. The Evidence Act is clear enough upon whom the burden of proof lies. Section 107 provides as follows:*

*"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 facts, it is said that the burden of proof lies on that person."*

*Section 109 of the same Act further provides:*

*"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 law that the proof of that fact lie on any particular person."*

*19. In Karugi & Another v Kabiya & 3 Others [1987] KLR 347, this Court held that the burden on a plaintiff to prove his case remains the same throughout the case even though that burden may become easier to discharge where the matter is not validly defended and that the burden of proof is in no way lessened because the case is heard by way of formal proof.*

58. The obligation of a claimant, the plaintiff herein not *excepted*, to discharge the burden of proof was also illuminated by the Supreme Court in the case of *Gwer & 5 others v Kenya Medical Research Institute & 3 others* (Petition 12 of 2019) [2020] KESC 66 (KLR) (Civ) (10 January 2020) (Judgment) where the court observed as hereunder:-

*49. Section 108 of the Evidence Act provides that, "the burden of proof in a suit or procedure lies on that person who would fail if no evidence at all were given on either side;" and section 109 of the Act declares that, "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."*

***50. This Court in Raila Odinga & others v Independent Electoral & Boundaries Commission & others, Petition No 5 of 2013, restated the basic rule on the shifting of the evidential burden, in these terms:...***

***a petitioner should be under obligation to discharge the initial burden of proof before the Respondents are invited to bear the evidential burden....”***

***51. In the foregoing context, it is clear to us that the petitioners, in the instant case, bore the overriding obligation to lay substantial material before the Court, in discharge of the evidential burden establishing their treatment at the hands of 1<sup>st</sup> respondent as unconstitutional. Only with this threshold transcended, would the burden fall to 1<sup>st</sup> respondent to prove the contrary. In the light of the turn of events at both of the Superior Courts below, it is clear to us that, by no means, did the burden of proof shift to 1<sup>st</sup> respondent.***

59. It is the plaintiff who made the various assertions in the body of the amended plaint. In this regard, it was incumbent upon same to prove the assertions. However, the plaintiff failed to adduce evidence to establish the assertions. To this end, the assertions remain at the level of mere allegations.

60. Suffice it to point out that no suit or civil proceedings can be won on the basis of allegations simpliciter.

61. Next is the issue of reliefs [if any] that ought to be granted. The plaintiff herein has sought two main reliefs, namely; a declaration that the actions of the 2<sup>nd</sup> defendant directing the plaintiff to cause his wall / fence to be moved by 5 feet to pave way for the expansion of the road constitute a violation of the plaintiff's property rights. I beg to state that if indeed

there was any such action, then the Plaintiff would be entitled to a declaration.

62. Nevertheless, I have since pointed out that no evidence was tendered to demonstrate that the 2<sup>nd</sup> defendant made any public pronouncement or undertook any action, whose net effect was to interfere with a portion measuring 5 feet out of the suit property, or at all.

63. In so far as the allegations of public pronouncement were not proven and coupled with the fact that no evidence has been adduced to demonstrate excision of a portion measuring 5 feet out of the suit property, the declaration sought cannot issue.

64. The other relief that has been sought by the plaintiff concerns an order of permanent injunction to restrain the defendants from inter alia entering; threatening to enter or otherwise trespassing onto the suit property or any portion thereof.

65. It suffices to underscore that an order of permanent injunction ought and should issue to protect the property rights of the title holder. However, before such an order can be granted, the title holder in this case the plaintiff, must place evidence before the court to show the threatened or actual trespass.

66. What constitute trespass was highlighted in the case of ***Doshi v Chemutut & 7 others (Civil Appeal E020 of 2023) [2025] KECA 776 (KLR) (9 May 2025) (Judgment)*** where the Court of Appeal stated as hereunder:-

***39. Trespass, as stated by this Court in the case of Charles Ogejo Ochieng v Geoffrey Okumu [1995] KECA 169 (KLR), is an injury to a possessory right, and therefore the proper plaintiff in an action of trespass to land is the person who has title to it, or a person who is deemed to have been in possession at the time of the trespass. As for the ingredients of trespass, the Court in William Kamunge Gakui v Eustace Gitonga Gakui (Civil Appeal 16 of 2013) [2014] KECA 39 (KLR) stated that trespass is a violation of the right to possession, and that a plaintiff must prove that he has the right to immediate and exclusive possession of the land. Justice Chemutut did not name Mr. Doshi as a defendant in the suit.***

67. Has the plaintiff proved trespass; or violations of his Property rights to warrant the issuance of permanent injunction? I am afraid that no evidence has been placed before me to warrant the grant of such an order. For good measure, the prayer for permanent injunction has been made in *vacuum*.

68. Nevertheless, I must clarify that the dispute before hand does not concern whether or not the plaintiff is the registered owner of the suit property. Notably, the fact that the plaintiff is the owner of the suit property is not in contest. What is in contest is whether the defendants; or any of them have violated the plaintiff's property rights either by excising a portion measuring 5 feet or expanding a road thereto.

69.Regarding costs, I beg to state that cost follow the events. [See section 27 of the Civil Procedure Act, Chapter 21, Law of Kenya]. In respect of the instant matter, the plaintiff had sought to prove interference with [sic] a portion measuring 5 feet of the suit property. However, the plaintiff has failed to discharge the burden of proof. In this respect, the plaintiff's case fails.

70.Consequently, and in the premises, the plaintiff is therefore obliged to pay costs. [ See the holding of the Court of Appeal in the case of *Farah Awad Gullet v CMC Motors Group Limited*. [2018] eKLR.

#### **FINAL DISPOSITION.**

71.Flowing from the analysis, it must have become apparent that the plaintiff's case is bereft of merit[s]. Consequently, and in this regard, the suit courts dismissal.

72.In the upshoot, and for the reason[s] alluded to; the final orders that commend themselves to the court are as hereunder.

- i. The Plaintiff's suit be and is hereby dismissed*
- ii. Cost of the suit are awarded to the Defendants.*
- iii. The Cost in terms of clause (ii) shall be agreed upon and in default be taxed in the conventional manner.*

73.It is so ordered.

**DATED, SIGNED AND DELIVERED AT MERU THIS 22<sup>ND</sup> DAY OF  
JANUARY 2026**

**OGUTTU MBOYA, FCI Arb; CPM [MTI-EA].**

**JUDGE**

**In the presence of:**

Court Assistant Hussein

Mr. Justus Mutunga for the Plaintiff

Miss. Kiyuki for the 1<sup>st</sup> Defendant

Mr. Wambua holding brief for Ms. Kithinji 2<sup>nd</sup> Defendant