



**Maiyo (Legal Representative of the Estate of Chirchir, - Deceased) v
Headteacher, Yatianne Primary School & 2 others (Environment and Land
Case 74 of 2022) [2025] KEELC 5795 (KLR) (28 July 2025) (Judgment)**

Neutral citation: [2025] KEELC 5795 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT ITEN
ENVIRONMENT AND LAND CASE 74 OF 2022**

**L WAITHAKA, J
JULY 28, 2025**

BETWEEN

**MUSA KIPKEMOI MAIYO (LEGAL REPRESENTATIVE OF THE ESTATE OF
CHIRCHIR, - DECEASED) PLAINTIFF**

AND

THE HEADTEACHER, YATIANNE PRIMARY SCHOOL 1ST DEFENDANT

BOARD OF MANAGEMENT YATIANNE PRIMARY SCHOOL . 2ND DEFENDANT

THE ATTORNEY GENERAL 3RD DEFENDANT

JUDGMENT

1. By a plaint dated 3rd February, 2017 the plaintiff instituted this suit seeking judgment against the defendants for; a declaration that he (the plaintiff) is the legal owner of the parcel of land known as LR No. Mosop/Chororget/581 (hereinafter referred to as the suit property) except the portion donated to Yatiane Nursery School in 1969; a declaration that the 1st and 2nd defendants actions complained of are illegal, null and void; a permanent injunction restraining the defendants, their agents and/or servants from entering, alienating, invading, constructing, cultivating, leasing, trespassing on, selling, claiming, occupying, developing and/or dealing in any manner with the suit property, except the portion measuring 0.4 acres or thereabout situated on the upper part of the suit property and separated by a road which was donated to the defendants in 1969; a mandatory order of injunction compelling the plaintiff, the 1st and 2nd defendants to appear before the relevant Land Control Board and execute the necessary documents of conveyance in order to transfer 0.4 acres or thereabout out of the suit property to Yatiane Nursery School and the remainder to the Estate of Chirchir Chesire and in default, the Deputy Registrar of the Court to execute; costs of the suit and interest.



2. The suit is premised on the grounds that the suit property belongs to the Estate of Chirchir Chesire, deceased, whose Estate the plaintiff represents; that on or around the month of August 2016, the 1st and the 2nd defendants without any colour of right, moved and curved out the lower part of the suit property and fenced it off thus amalgamating the curved part with land belonging to Yatiane Primary School and leaving out a small portion bordering the river.
3. It is the plaintiff's further pleaded case that in 1969, the deceased donated a portion of his land comprised in the suit property, measuring 0.4 acres or thereabout to the local community for purposes of construction and establishing a nursery school; that the donated portion of the suit property is on the upper side of the suit property and that the remaining portion of the suit property measuring 2.5 acres or thereabout, is on the lower side and borders Yatiane Primary School and a river.
4. The defendants (1st, 2nd and 3rd) filed a joint statement of defence and counterclaim, dated 26th May, 2017 in which they aver that in early 1998, a group of individuals within Chepkorio location, who included the late Chirchir Chesire, mutually agreed to donate land for expansion of Yatiane Primary School and were fully compensated with alternative land by the Government; that in 1970, the plaintiff's father offered to sell the suit property at Kshs. 500 per acre or swap for alternative land; that in 1977, the plaintiff's deceased father was paid Kshs. 500/- for one acre as earlier agreed; that the defendants took possession of ¼ acre out of the portion sold/bought and that on or around 1998, the plaintiff's deceased father sold one acre out of his remaining land to the defendants and was fully compensated with 5 acres at Kaptagat, which compensation his family acknowledged.
5. The defendants contend that the plaintiff has no capacity and reasonable ground for challenging the mutual agreements made by his father more than 40 years ago and in respect of which he was not a party.
6. Terming the plaintiff's plea contained in paragraph 14 of the plaint misleading, the defendants aver that they have been on the suit property since 1980 with the knowledge of the plaintiff's family and with no objection raised by them.
7. The defendants assert that the suit property was donated/sold to them thereby making them the bonafide beneficiaries thereof.
8. By way of counterclaim, the defendants seek judgement against the plaintiff for: -
 - a. The plaintiff's suit to be dismissed with costs to them;
 - b. Their counterclaim be allowed and orders issued in their favour as sought in paragraphs 4 and 5 of the counterclaim;
 - c. An order for cancellation of the plaintiff's title to the suit property. In the alternative, an order that two acres be curved out of the suit property and registered in the name of the 1st and the 2nd defendants;
 - d. Rectification of the register to reflect what is stated in (c) above;
 - e. An order of permanent injunction restraining the plaintiff from laying any claim and/or interfering in any manner with the suit property; costs of the suit; any other relief which the Court may deem fit and just to grant.



Evidence

Plaintiff's case

9. When the case came up for hearing, the plaintiff who testified as P.W.1, resiled from his pleaded case that his grandfather had donated a ¼ acre of the suit property by stating as follows, on cross examination: -

“The minutes shown to me are for a meeting held on 26th December 1976. Among the members who were present in the meeting was my grandfather as member number 8 (David Chirchir). In minute 4 of the minutes, my grandfather stated he was willing to sell the land at 500/-. In a meeting held on 27th October 1977 under the heading “plot”, the Committee agreed to buy the plot at Kshs.500/-. On the same date, 27.12.1997, it appears my grandfather was paid 500/- but gave ¼ acre but this was only for the Nursery School. He signed for the money and it was witnessed by his son (not known).

In my witness statement (paragraph 8) I have stated that my grandfather donated 0.4 acres in 1969. I don't have any document supporting the above.....

In the letter dated 30th April 2016 contained (in the defendants' list of documents dated 30.5.2017) to the Headteacher Yatiane Primary School, the family of Chirchir through my uncle Joseph Chirchir was praying for time to vacate the suit property and access road to their remaining one acre.... The primary school is built on a portion of land next to the suit property but it has fenced 2 acres of their land leaving them 0.5 acres of the suit property (suit property is currently 2.5 acres).”

On re-examination the plaintiff stated: -

“The translation of the minutes dated 26.12.1976 are not correct. Those minutes according to the original minutes are a continuation of the minutes of 26.12.1970.

In the minutes of 27-12-1977 the parents and committee of Yatiane/Chemanul Nursery School paid my grandfather Kshs.500 for the Nursery School plot.”

10. PW2, Joseph Chemiyot Chirchir, relied on his statement recorded and signed on 5th April, 2017 after it was adopted as his evidence in chief.

On cross examination, he stated as follows: -

“The plaintiff is my nephew. The original owner, Chirchir Chesire (deceased) was my father. Yatiane is a nursery and primary school. The primary school is built on a neighbouring plot to 581. The nursery school is built on plot No. 581. The plaintiff does not live on plot number 581. The plaintiff's brother called Nehemiah lives on plot 581. The nursery school was built in 1969. The primary school started in 1980's. My father sold 0.5 acres to the nursery school. In the minutes dated 26.12.1976, in minute 4, my grandfather is saying that he is willing to sell 1 acre at 500/- after the surveyor takes measurements. In the minute dated 27.10.1977 in minute 1, the committee members of the school agreed to buy the plot at Ksh. 500. On the same date, Chirchir Arap Chesire was paid 500/- but only gave ¼ acre. To build the nursery school, the community including Mr. Chesire donated land. I do not know whether the persons who donated land to the school were compensated with land in Kaptagat. The land in Kaptagat was acquired from Settlement Fund Trustees (SFT) but I do not know whether he bought it or was given. Yatiane primary school and nursery are build



on approximately 2.8 acres of parcel 581. The plaintiff's brother lives on 1 acre of parcel 581. I am the author of the letter dated 30.5. 2017. In aforesaid letter, I was asking the school to allow us access our one acre in plot 581. In the same letter, I was also stating that I needed time to vacate the portion for the school.

The nursery school bought ¼ acre at 500/-. I do not know whether the primary school's land was donated by the community including my father.”

In re-examination, P.W.2 stated as follows: -

“My father sold land to the nursery school and was paid 500/- for ¼ acre. The primary school was built in 1981. It is not part of plot No. 581. The land where the primary school is built belongs to Kimotoko Kipsanga. In 2016, the school gave us notice to vacate parcel number 581 and move to the lower portion measuring 1 acre.”

11. Samson Kigen Koima, relied on his witness statement recorded and signed on 5th April, 2017 after it was adopted as his evidence in chief. He informed the court that Chesire Chirchir, deceased, is his father-in-law; that he was a teacher and later head teacher at Yatiane Primary School from 1974 to 2008; that the Primary School is built on land donated by Kimotoko Kipsanga and the Nursery School is built on the late Chesire's land; that the Primary School was built before the Nursery School and that the land for the Primary School was donated by the community in the 1980's before he joined the school.
12. He could not tell whether the persons who donated the land were compensated; whether Chesire had land in Kaptagat or whether he had other properties. He told the court that the deceased never discussed with him about his properties. He got information about parcel 581 from the school when he was a teacher and headteacher there.
13. On whether he is biased against the defendants, he stated he is not.
14. Upon being referred to the minutes dated 7th April 2016, in particular minute 2/4/016 which states that Mr Chirchir owes the school 1 acre, he stated that he knows the people listed in the minutes as members of the School Committee except Mzee Chepkurui who was a village elder. He stated that he was not aware of the minutes yet he left the school in 2000.
15. Upon being referred to minutes of the meeting held on 5th April 2016, particularly minute 4/4/2016, which states that some members of the community including Chesire agreed to donate land and would be compensated with land in Kaptagat, he stated that he does not know if there are members of Chesire's family living in Kaptagat.
16. He stated that where the school field stands today was donated by Mr. Chesire and that the land which remained is occupied by Chesire's family.
17. In reexamination, he stated that when handing over was done to him as head teacher of Yatiane Primary School, he was informed that only the Nursery School land had been donated by the late Chesire. During his tenure as headteacher, the Primary School was only using the land donated by Kimotoko Kipsanga and the Nursery. They were not using the late Chesire's land.

Defendants case

18. D.W.1 Margaret Kibet, the head teacher Yatieni Primary School relied on her witness statement recorded and signed on 26th May 2017 after it was adopted as her evidence in chief. She produced the documents contained in the defendants' list of documents filed on 26th May 2017 as Dextb 1-8.



She informed the court that she translated the minutes and filed a certificate of translation, dated 24th February 2025. She produced the certificate of translation as Dexbt 9. She also produced the documents contained in the defendants' further list of documents filed on 24th March 2025 as Dexbt 10 to 12. These are minutes of a meeting held on 24th June 1988, list of contributors and excerpts of minute book for the school respectively.

19. She informed the Court that she had been the head teacher of both Yatiani Nursery and Primary School from 2016. Currently, the schools have a board of management for the Nursery, Primary and Junior Secondary. The court heard that before 2022, the school board was one for all three.
20. She informed the court that the Nursery School is located in plot number 581; that the school and the community raised funds to buy one acre from Chirchir Chesire (Dexbt 1 and 11); that Mr. Chirchir received Kshs. 500 in the presence of one of his sons (Dexbt 2).
21. Instead of giving the school one acre, he (Chirchir) gave the school a quarter acre which is where the Nursery School is built. He still owes the School $\frac{3}{4}$ acre. She stated that she does not know why Mr. Chesire did not give the entire 1 acre.
22. She further informed the Court that in 1981, the Primary School wanted to expand. A meeting was held and Mr. Chesire among others, agreed to donate 1 acre to the School. He was compensated with 5 acres in Kaptagat. 2 other people donated land, for example Kimotoko Kipsanga donated 1 acre which fact is captured in Dexbt 5 minute 4. The court heard that currently the Primary School is built on 1 acre.
23. The court was informed that in 2016, the school recovered one acre from Chesire Chirchir and fenced it off. Nehemiah Chirchir, a grandson of Chesire Chirchir has been residing on the land and this is the land the plaintiff is claiming in this case. That the late Chesire willingly gave out the 1 acre and moved his family to Kaptagat where he resided until his demise.
24. Regarding Dexbt 4, D.W.1 stated that a son of Chirchir Chesire wrote to the school requesting to be given an access road through the school compound and time to vacate the land fenced by the school following a notice issued to him through the chief. He complied with the notice, felled down trees, removed a house he had erected and moved out of the 1 acre fenced by the school.
25. Upon being referred to Dexbt 12 minute 6/82, she stated that in the minute, Mr Chesire donated 1 acre in exchange of 5 acres in Kaptagat. In minute 350/1995, the school was discussing the one acre donated by Mr. Chesire. In minute 415/96, the area chief was tasked to write to Mr. Chesire to come and visit the school. She could not tell whether Mr. Chesire visited the school or not
26. In minute 514/98 the chairman of the school committee confirmed that the school was given 3 plots by the Government of Kenya in the names of Chesire, Chepkurui and Kimotoko.
27. She informed the court that the plaintiff does not reside on plot number 581; that the school wants a total of 2 acres from plot number 581 leaving the Chesire family with 1.5 acres as the total land was 3.5 acres.
28. In cross examination, D.W.1 stated that the negotiations between the school and Mr. Chesire for purchase of his land started in 1971; that Mr. Chesire was paid 500/- in 1977 and according to Dexbt 2, Mr. Chesire only gave $\frac{1}{4}$ acre instead of one acre.
29. D.W.1 acknowledged that when Mr. Chesire was alive, no demand was made by the school for surrender of the 1 acre. D.W,1 could not tell why there was no demand. She could also not tell whether any relatives of Mr. Chesire are buried on land parcel 581.



30. Based on Dexbt 7, Minute 1/4/016 and Dexbt 12, Minute 357/95, D.W.1 stated that Mr. Chesire was invited to visit the school but he did not turn up. She admitted/acknowledged that no action was taken after Mr. Chesire failed to visit the school.
31. Based on Minute 514/98, D.W.1 stated that it was agreed that a case be filed against Mr. Chirchir but no case was filed.
32. In reexamination, she stated that she joined the school in 2016. She could not tell whether there was any dispute before then between the school and Mr. Chesire. She stated that she was not aware of any document signed by Mr. Chesire when he received the 5 acres in Kaptagat. She stated that the school fenced off only 1 acre for the Primary School, not 2 acres.
33. DW2, Joseph Kibet Tanui, relied on his witness statement recorded and signed on 26th May 2017 after it was adopted as his evidence in chief. He informed the court that he had been the Chairman of Yatiane Primary School since 2017; that the school has Nursery, Primary and Junior Secondary wings; that the school started in 1977 as ECD; that the Primary School started in 1981; that the school is located in parcel 581 (Nursery and Primary); that in total, the school stands on 1.4 acres; that there is a road separating the Nursery and Primary School; that the Nursery School is built on approximately 0.4 acres while the Primary School currently occupies 1 acre; that the land where the Nursery School is built was bought from Mr. Chesire; that the school bought one acre for 500/- but Chesire only surrendered $\frac{1}{4}$ acre and that the transaction was witnessed by Mr. Chesire's son and board members of the school (Dexbt 2).
34. D.W.2 further informed the court that $\frac{3}{4}$ acre still remains to be surrendered to the school; that the Primary School was started in 1981; that after sometime, the school needed to expand and the people who had land around the school were approached to donate land and be compensated; that Mr. Chesire donated 1 acre to the Primary School on top of the one acre the school had bought earlier; that Mr. Chesire was compensated with 5 acres in Kaptagat where he moved to with one of his sons; that 2 other people also donated their land, Kimotoko Kipsanga and Arap Kirui; that the Primary School is built on the one acre donated by Kimotoko Kipsanga.
35. D.W.2 informed the court that in 2016, the school took over the one acre donated by Mr. Chirchir and fenced it off; that $\frac{3}{4}$ acre still remains in the hands of Chesire family; that during his lifetime, Mr. Chesire never came to the school to claim the land; that the dispute started with the Chesire family after the school fenced off the land; that before fencing the land, a meeting was held between the school, the District County Commissioner and the Chesire family about surrender of the one acre; that Joseph Chirchir, P.W.2, who was residing on the land, wrote a letter dated 30th April 2016 requesting for more time to move from the upper part of parcel 581 to the lower part and that he be given an access road through the school.
36. D.W.2 further informed the court that the plaintiff is a grandson of the late Chesire; that in a meeting held on 13th April 2016 (Dexbt 6), in minute 2/4/016, the school has been trying to recover the 1 acre from the Chesire family.
37. D.W.2 could not tell whether there was a written agreement between the persons who donated their land and the school/Government of Kenya for exchange of their land with the land they were compensated with.
38. In cross examination, D.W.2 stated that he had been Chairman of the School Board since 2017; that the school has been having only one board of management (BOM); that the Primary School is built on land donated by Motogo Sanga; that the land donated by Chesire is a different plot; that he does



not agree that Dexbt 2 (the Kalenjin minutes), do not state that Mr. Chesire gave ¼ acre but was to give more.

39. D.W.2 further stated that he is not aware of a document where Mr. Chesire signed stating that he donated 1 acre in exchange of 5 acres in Kaptagat. He was also not aware that the school called Mr. Chesire in his lifetime to demand for the 1 acre. He stated that he could not tell whether Mr. Chesire and his wife are buried in parcel number 581.
40. In re-examination, D.W.2 stated that the Primary and Nursery schools are built on parcel 581 and on land donated by Kimotoko Kipsanga.
41. At close of hearing, parties filed submissions, which I have read and considered.

Submissions

Plaintiff's submissions

42. In his submissions, the plaintiff gave an overview of the parties pleaded cases and evidence adduced in support thereof and submitted that the evidence tendered by the defence affirms that 0.4 acres was donated for the school construction. In that regard, the plaintiff referred to minutes contained in the defendants list of documents of 1970, 1977 and 1978.
43. He denied the defendants' allegation/ contention that his grandfather was compensated with land in Kiptagat. He also denied the defendants' claim that a further one acre was given to the School terming the promise to give or donate the land a mere proposal. Terming the minutes dated 27th December 1977 unauthentic and lacking clarity, the plaintiff urges the court to allow his case and dismiss the defendants' defence and counterclaim.

Defendants Submissions

44. In their submissions, the defendants gave an overview of the parties pleaded case, the evidence adduced in respect thereof and framed three issues for the court's determination. These are: -
 - i. Whether the plaintiff has proved his case on balance of probabilities,
 - ii. Whether defendants are entitled to the orders sought,
 - iii. Whether there existed land purchase and land exchange agreements between Chirchir Chesire (deceased) and Yatiane Primary School.
45. On whether the plaintiff has proved his case on a balance of probabilities, the defendants submitted that the plaintiff did not tender any evidence to support that the defendant school is not entitled to 2 acres of the suit property; that no document has been produced by the plaintiff to indicate which side of the land was allegedly encroached upon by the school and that evidentiary standards in land disputes particularly encroachment, must be evidentiary and not speculative. In that regard, reference is made to the case of Julius Kaleli Musyoka v Peter Ndigwa (2014) eKLR.
46. The defendants further submitted that the suit property did not exist in 1969 as subdivision was done in 2007 which reflects dishonesty; that no evidence has been adduced to prove that the deceased only donated 0.4 acres to the school; that the alleged trespass into the suit property by the defendants has not been specified thereby violating the requirements of Order 2 rule 6 of the Civil Procedure Rules, 2010.
47. It is the defendants' case, that the plaintiff's brother acknowledged that the school is in possession of the suit property and sought time to vacate and relocate from the suit property undermining the credibility



- of the plaintiff's claim against the defendants; that the credibility of the testimony by Samson Koima (PW2) who was a former headteacher of the defendant School is questionable because he is a close relative of the plaintiff given the fact that the dispute relates to family land.
48. Based on the decision in the case of *Republic v Kipngeno arap Ngeny (2001) eKlr* and *Kibutha v Caroline Nduku (2018) Eklr*, the defendants submitted that witnesses must be impartial without potential personal interest like was the case with P.W.3.
 49. It is further submitted that the minutes produced by the defendants prove their claim. The plaintiffs on the other hand, have given contradicting testimonies on the sale of the land. Reliance was placed on the case of *Stephen Muli Mutisya v Republic (2021) eKLR* to emphasize on credible testimonies and contradictory allegations. They submitted that the plaintiff's case is unreliable based on the testimony of P.W.3 being the plaintiff's own brother.
 50. They submitted that a transaction for purchase of land existed between the plaintiff and the defendants as supported by the exchange of the agreements. In that regard, reference is made to Dexbt 1, 2, 3, 8 and 9 to demonstrate how parents came together to fundraise Kshs.500/- to purchase the 1 acre. It is the defendants' case that D.W.1 and D.W.2 produced minutes showing that donation of the land was made and compensation for land at Kiptagat was to follow. In that regard, reference is made to Dexbt 5, 6 and 7.
 51. It is the defendants' case that the original owner of the suit property created a constructive trust in their favour, which is an overriding interest under section 28 of the [Land Registration Act](#). In support, reference is made to the case of *Willy Kimutai Kitilit v Micheal Kibet (2018) eKLR* where the issue of constructive trust in land is discussed. It is submitted that a transaction involving a constructive trust cannot merely be invalidated for lack of a written agreement therefore, the provisions of Section 3(3) of the [Law of Contract Act](#) is inapplicable to the circumstances of this case. In that regard, reference is made to the case of *Anderson Omondi Owandho (suing as legal representative of the Estate of Thomas Owando Rajwai (Deceased) v Augustinos Ondiel (2017) eKLR*.
 52. The defendants further submitted that the plaintiff cannot legally challenge agreements and transactions entered voluntarily by the deceased with the defendants over four decades ago. In that regard, the defendants relied on the case of *Mbothu v Waitimu & others (1986) KLR 171* where it was held that "where there is a long standing occupation and acquiescence, the court should not disturb possession in absence of clear evidence of fraud or illegality."
 53. On whether the defendants are entitled to the orders sought, it is submitted that the defendants have demonstrated that the plaintiffs are holding 2 acres of land comprised in the suit property in trust for the defendant School and that the plaintiffs have acted in bad faith as they were compensated with land in Kiptagat which they acknowledged receiving.
 54. Based on the provisions of Section 25(2) of [Land Registration Act, 2012](#) and the decision in *Katende v Haridar & Compaby Limited (2008) 2 EA 173*, it is submitted that the defendants' interest in the suit property remained an overriding interest on the land as contemplated under Section 30 of the Registered [Land Act](#) (now repealed).
 55. It is further submitted that the defendants' counterclaim is meritorious as it is supported by documentary evidence; that no formal objection was raised for over four decades after the land was transferred into their use with the full knowledge and acquiescence of the plaintiff's family; that the evidence in Dexbt 1 and 2, establishes that the defendant School has evolved to a Junior Secondary School with permanent structures that serve the public interest. They relied on the case of *Republic v Land Registrar, Mombasa & 5 others Ex-parte Kenya Anti-Corruption Commission (2014) e KLR*,



where the court declined to cancel land allocated to a public institution emphasizing the need to preserve land acquired for public benefit where there is no evidence of fraud or illegality.

Analysis and determination

56. From the pleadings, evidence and submissions by the respective parties, I find the key issue for the court's determination to be whether either of the parties has proved their pleaded cases on a balance of probabilities.
57. In that regard, the plaintiff's pleaded case is that his grandfather donated a quarter of an acre of land out of the suit property for construction of Yatiane Nursery School. The totality of the evidence adduced in this case, shows that the plaintiff's grandfather agreed to sell land comprised in the suit property to Yatiane Primary School. The agreement, which was confirmed by the minutes produced by the defendants was that the plaintiff's grandfather agreed to sell to the School land comprised in the suit property. The agreed purchase price was Kshs. 500/- per acre. Pursuant to that agreement, the plaintiff's grandfather received Kshs.500/- but only gave the School ¼ acre of land. That's where the Nursery School is situated.
58. Arising from the foregoing, I find and hold that the plaintiff's case that his grandfather donated ¼ acre of land comprised in the suit property to the School for construction of the Nursery School is not supported by the totality of the evidence adduced in this case.
59. The evidence adduced in this case further shows that when the community decided to start a Primary School, they approached members of the community to donate land for construction with promise that they would be compensated with Government Land elsewhere. The defendants pleaded that towards that end, the plaintiff's grandfather, Mr. Chesire Chirchir, gave one acre of land from the suit property and was compensated with 5 acres of land at Kaptagat. The evidence adduced in that regard by the defendant, comprised in school minutes, shows that the school was indeed allocated land by the Settlement Trustee Fund in the name of the persons who donated land for construction of the School.
60. Although there are no documents executed between the plaintiff's grandfather and the school regarding the latter transaction, from the totality of the evidence adduced in this case, I entertain no doubt that the plaintiff's grandfather gave 1 acre for construction of the Primary School and was compensated with land elsewhere.
61. Arising from the foregoing, I agree with the defendant's submissions that the plaintiff's grandfather holds 2 acres of land comprised in the suit property in trust of the 1st defendant.
62. I also agree with the defendants that lack of compliance with the provisions of Section 3(3) of the Law of Contract Act, in the circumstances of this case would not vitiate the dealings entered into between the plaintiff's grandfather and the defendants.
63. The upshot of the foregoing is that I find the plaintiff's suit to be lacking in merits and I dismiss it with costs to the defendants. On the other hand, I do find the defendants' Counterclaim to be merited and I allow it as prayed.
64. Orders accordingly.

DATED, SIGNED AND DELIVERED VIRTUALLY AT ITEN THIS 28TH DAY OF JULY, 2025

L. N. WAITHAKA

JUDGE

Judgment delivered virtually in the presence of:-



Mr. Musa Maiyo Plaintiff
Ms. Odeyo for the Defendants
Court Assistant; Christine

