



REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT OF KENYA AT
THIKDA

CIVIL APPEAL NO. E068 OF 2024

ELIZABETH WANJIRU GATHENYA.....
APPELLANT

VERSUS

PHILOMENA WANJIRU MUIRURI.....1ST
RESPONDENT

NYAKINYUA INVESTMENT LIMITED.....2ND
RESPONDENT

DOMINIC KIBET TOO.....3RD
RESPONDENT

THE CHIEF LAND REGISTRAR.....4TH
RESPONDENT

HON. ATTORNEY GENERAL.....5TH
RESPONDENT

***(Being an Appeal from the Judgment, Decree and Orders of
the Ruiru Chief Magistrates Court Delivered by Hon.
Joseph Were (CM) on 5th July 2022 in Ruiru MCELC No. E035
OF 2021)***

IN

REPUBLIC OF KENYA
IN THE SENIOR PRINCIPAL MAGISTRATE'S COURT AT RUIRU
MCEL&C NO. E035 OF 2021

PHILOMENA WANJIRU MUIRURI.....
PLAINTIFF

VERSUS

NYAKINYUA INVESTMENT LIMITED.....1ST
DEFENDANT

ELIZABETH WANJIRU GATHENYA.....2ND
DEFENDANT

DOMINIC KIBET TOO.....3RD
DEFENDANT

THE CHIEF LAND REGISTRAR.....4TH
DEFENDANT

HON. ATTORNEY GENERAL.....5TH
DEFENDANT

JUDGMENT

1. In his Judgement dated 05/07/2024 in **RUIRU CMELC NO. E035 of 2021**, Hon. Joseph Were found that the Plaintiff was the lawful registered owner of the land and parcel registration **LR RUIRU/MUGUTHA BLOCK 1/3611**. In so finding he dismissed the Counter-claim of the 1st Defendant and that the registration of the 2nd Defendant Elizabeth Wanjiru Gathenya as owner of the suit property was unlawful, null and void. He also directed the 4th Defendant to amend the Green Card and Title Register and expunge the name of the 2nd Defendant from the ownership of RUIRU/MUGUTHA BLOCK 1/3611 within 14 days.
2. He also issued a permanent injunction against the 2nd Defendant and her agents, servant assignees, heirs or any

body acting on her behalf from alienating, disposing off, occupying, cultivating, constructing and or developing Land Parcel No. RUIRU/MUGUTHA BLOCK 1/3611. He awarded costs of the suit to the Plaintiff.

3. Aggrieved by this decision, the Appellant filed a Memorandum of Appeal dated 7/07/2024 seeking that the said Judgement and Decree of the Court be set aside, this Appeal be allowed, and costs on grounds that:

- 1) THAT the learned Trial Magistrate erred in law and fact in holding that the 1st Respondent had proved on a balance of probability that she is the owner of the suit parcel LR No. RUIRU/MUGUTHA BLOCK 1/3611 (hereinafter the suit property), yet there was not an iota of evidence of the 1st Respondent having purchased the same.
- 2) THAT the learned Trial Magistrate erred in law and fact in holding that the 1st Respondent had proved on a balance of probabilities while his evidence was laced with contradictions and the alleged fraud was not proved.
- 3) THAT the learned Trial Magistrate erred in law and fact by finding and holding that the 1st Respondent had proved her case on a balance of probabilities when the suit was premised on fraud which calls for a standard of prove higher than balance of probabilities.

- 4) THAT the learned Trial Magistrate erred in law and fact in holding that the documents held by the Appellant were unlawful, null and void, without subjecting the same to any authentication process.
- 5) THAT the trial magistrate erred in law and in fact in relying entirely on the discredited evidence of the 1st and 2nd Respondent thereby arriving at an erroneous Judgment exhibiting serious bias against the Appellants.
- 6) THAT the trial magistrate erred in law and in fact in disregarding in entirety the evidence of the Appellant thereby arriving at an erroneous decision not supported by available evidence
- 7) THAT the trial magistrate erred in law and in fact in shifting the evidential burden of proof to the Appellant when no prima facie case had been out by the 1st Respondent in the first place to warrant a rebuttal thereby arriving at a wrong decision.
- 8) THAT the Learned Magistrate erred in law and in fact by considering tendered evidence selectively to the prejudice of the Appellant and exhibited actual bias against the Appellant resulting in an erroneous Judgment
- 9) THAT the learned Trial Magistrate's orders have occasioned grave injustice to the Appellant by dispossessing the Appellant of her parcel of land

- 10) THAT the trial magistrate erred in law and in fact by finding in favour of the 1st Respondent against the weight of the evidence tendered thereby arriving at an erroneous decision.
- 11) THAT in view of the circumstances set out herein above, the Learned Magistrate totally misdirected himself in delivering Judgment in favour of the 1st Respondent by failing to consider and appreciate the evidence on record as tendered fell short of proving the allegations in the plaint.
- 12) THAT the trial magistrate erred in law and in fact by failing to uphold the sanctity of the title document held by the Appellant in respect of LR RUIRU/MUGUTHA BLOCK 1/T11186 despite the fact that the same was not impeached and the standards required in nullification of a title thereby occasioning a miscarriage of justice.
- 13) THAT the learned Magistrate totally misdirected himself in delivering Judgment in favour of the 1st Respondent by relying on supposed register of the 2nd Respondent that was never produced in any event did not validate the 1st Respondent ownership to the suit property thus failing to consider and appreciate the totality of evidence on record.
- 14) REASONS WHEREFORE the Appellant prays that this Honorable Court do allow the Appeal and grant the following orders:

1. THAT the Judgment, Order and Decree of the Learned Trial Magistrate be set aside.
2. THAT Judgment made by the Learned Trial Magistrate be set aside and substituted with an order that the 1st Respondent's (Plaintiff in the Subordinate Court) suit in the Subordinate Court be dismissed with costs to the Appellant (2nd Defendant in the Subordinate Court)
3. THAT the Respondent to bear the costs of this Appeal.
4. THAT this Honorable Court be pleased to grant such other and further orders as it may deem just and in the interest of justice.

4. This Appeal was canvassed by way of written submissions.

A brief History of the Case

5. According to the Plaintiff, he filed a Plaint dated 15/03/2021 initially against the 1st to 4th Defendants and later by Amended Plaint filed on 20/04/2021 the 5th Defendant was joined to the proceedings. All the Defendants entered appearance and filed their Defense to the claim save for the 3rd Defendant, who despite substituted service neither entered appearance nor filed a Defense to the claim. Interlocutory Judgment thus entered for the Plaintiff against the 3rd Defendant on 18th June 2021.
6. The Plaintiff's claim in the lower Court is that she purchased the suit land from one Grace Nyakio Wanyoike. After

undertaking the requisite procedures, she went to the 1st Defendant's office and later entered into a Sale Agreement with the said Grace to purchase the suit property for a sum of Kesh 5 million.

7. The old certificate was then cancelled and a new certificate was issued in her name. Additionally, a ballot number 3611 and paid the transfer fee and Kesh 50,000 for processing of the new title which she collected personally from the 1st Defendant.
8. The Plaintiff averred that the 2nd Defendant was irregularly and fraudulently issued with a title deed on the 16/09/2020 bearing same number as that of the Plaintiff being RUIRU/MUGUTHA BLOCK 1/3611. The Plaintiff itemized the particulars of fraud against the 1st, 2nd and 3rd Defendants which centered on colluding to facilitate a fraud. She went on to itemize particulars of fraud against the 4th Defendant which touched on fraudulent registration by facilitating fraudulent process of a second title over the suit property.
9. Additionally, the Plaintiff averred that the 4th Defendant failed to make inquiry before taking steps toward subdivision.
10. During the hearing, the Chairperson of the 1st Defendant testified that the 2nd Defendant is not a member of the 1st Defendant and that the Plaintiff is the one who is their member. Further that it is the 1st Defendant, having received the fees both for the transfer and processing of the

Title cancelled the certificate earlier issued and they issued a new certificate to the purchaser who in this case is the Plaintiff. Additionally, the 1st Defendant also processed the title deed for the Plaintiff.

11. It was the testimony of the 1st Defendant that the documents issued to the 2nd Defendants were unknown to the 1st Defendant. That infact the Plaintiff's counter-foil was issued on 25/06/2016 whereas the 2nd Defendant's was issued on 19/07/2016.
12. The 2nd Defendant filed a Defense and Counter-claim praying for Judgment against the Plaintiff and dismissal of the suit and upholding of her Counter claim. She testified at the hearing that she is the registered owner of land parcel number RUIRU/MUGUTHA BLOCK 1/T1186. She testified that she noticed that there was a restriction registered on her title without any notice to her. That despite notifying the 4th Defendant of this development, the 4th Defendant was non-committal and has not removed the said restriction and also has not provided an explanation of placing the restriction.
13. The 3rd Defendant as already stated did not enter appearance.
14. The 4th and 5th Defendants filed a joint Statement of Defense dated 2/01/2022 denying all the allegations contained in the Plaint and Robert Mbuba, the Land Registrar, Ruiru testified on behalf of the 4th and 5th Defendants at the trial.

15. It was his testimony that the 1st Defendant allocates property as per their register and that his action of registering the 2nd Defendant was based on the documents that were presented to him by the 1st Defendant and that in case of any discrepancy, they rely on the register of the 1st Defendant.
16. He told the Court that based on the documents that were presented to them, the parcel of the suit property was divided into 3 plots allocated to Davide Ngige, Ruiru/Mugutha Block 1/T11185, Elizabeth Gathenya Wanjiru, Ruiru/Mugutha Block 1/T11186 and Dominic Kibet Too, Ruiru/Mugutha Block 1/T 11187. That the Green Card had a restriction in favor of the Plaintiff.
17. The Court found in favor of the 1st Defendant casting doubt on how the 2nd Defendant got registration documents that he presented to the 4th Defendant since the 1st Defendant denied that the 2nd Defendant is their member.
18. The Court found the evidence of the Land Registrar Robert Mbuba to be most intriguing and observed that they testified to have received documents from the 2nd Defendant and proceeded to process the Title Deed despite a Title Deed having been already issued to the Plaintiff. The Court observed that that the Registrar testified that where there is a dispute, the matter is referred to the 1st Defendant for guidance and resolution. Yet in this case he did not refer this

matter to the 1st Defendant and so the Court could not understand why.

19. The Court observed that it is this act of the Land Registrar that it attributed to outright abuse of oversight or clear professional negligence which is the cause of the dispute in Court. According to the Honorable Magistrate, he observed that if the 2nd Defendant was a bona fide member of the 1st Defendant, then referring her to the 1st Defendant would have resolved any issue, including any double allocation of the same parcel of land.

20. The Learned Magistrate therefore issued the following orders:

a) That the Plaintiff is the lawful registered owner of the land parcel registration RUIRU/MUGUTHA BLOCK 1/3611

b) The Counter-claim by the 1st Defendant is hereby dismissed forthwith with no order as to costs

c) That the registration of the 2nd Defendant, Elizabeth Wanjiru Gathenya as the owner of the said parcel of land RUIRU/MUGUTHA BLOCK 1/3611 is unlawful, null and void

d) That the 4th Defendant, the Ruiru Land Registrar to forthwith amend the Green Card and Title Register to cancel and expunge the name of the 2nd Defendant from the ownership of the land parcel RUIRU/MUGUTHA BLOCK 1/3611 and in any

case not later than 14 days from the date of this order

e) A permanent injunction is hereby issued against the 2nd and 3rd Defendants acting by themselves, their agents, servants, assignees, heirs or anybody acting on their behalf from alienating, disposing off, occupying, cultivating, constructing and or developing the suit property RUIRU/MUGUTHA BLOCK 1/3611.

f) The Plaintiff's and 1st Defendants costs of the suit to be borne by the 2nd and 3rd Defendants, jointly and severally

21. It is this Judgment that is the subject of this Appeal.

22. Parties were directed when they appeared in Court on 21/05/2025 the final chance to comply and file and exchange written submissions. After this final chance the parties filed and exchanged submissions and a date for Judgment was also reserved. The Appellant filed their submissions dated 20/06/2025 and the 1st Respondent filed their submissions dated 6/10/2025. By the time of writing these submissions the 2nd to 5th Respondents had not filed any submissions.

Appellant's Submissions

23. In the matter of the appeal against the Judgment of the Honorable Joseph Were, the Learned Magistrate, the Appellant, Elizabeth Wanjiru Gathenya, submits that the trial Court's decision to nullify her title to the suit property,

RUIRU/MUGUTHA BLOCK 1/3611, was founded upon significant legal and factual errors. The Appellant contends that the 1st Respondent failed to discharge the requisite burden of proof to sustain allegations of fraud, and that the learned trial magistrate's evaluation of the evidence was both selective and biased.

24. The Appellant's submissions are structured around the following key thematic issues:

25. The Standard of Review and the Duty of the First Appellate Court and the Appellant invites this Court to exercise its mandate as a first appellate Court under Section 78 of the Civil Procedure Act. Citing the locus classicus **Selle v. Associated Motor Boat Co. [1968] EA 123**, the Appellant reminds the Court of its duty to exhaustively re-examine and re-assess the evidence on record to reach an independent conclusion. It is submitted that while the Court should respect the trial Court's view of witness demeanor, it is not bound by findings of fact that are demonstrably inconsistent with the probabilities of the case or where the trial Court failed to account for material circumstances.

26. Failure to Meet the Heightened Standard of Proof for Fraud.

27. The second issue she submitted on is that the central pillar of the appeal is the contention that the 1st Respondent failed to prove fraud to the required legal standard. The Appellant argues that fraud is a grave accusation that must be

specifically pleaded and proved to a standard higher than a mere balance of probabilities.

- 28.Thirdly she submitted on issue of deficient findings stating that the trial magistrate erred by concluding that the case was proved on a balance of probabilities, which the Appellant argues is an inadequate threshold for allegations of fraud.
- 29.Another point focused on in the submission is the lack of particularity, where the Appellant relying on the case of **Vijay Morjaria v. Nansingh Madhusingh Darbar & another [2000] eKLR**, asserts that fraud cannot be inferred from gaps in the evidence or the mere absence of records at the Land Registry. It must be distinctly alleged and as distinctly proved.
- 30.The Appellant highlights that the 1st Respondent's claims regarding the payment of title processing fees were unsupported by the 1st Respondent's official registers, creating a fundamental lacuna in the 1st Respondent's narrative.
- 31.The Appellant challenges the trial Court's finding that one Grace Wanyoike held a valid title prior to the sale to the 1st Respondent. The Appellant maintains that this holding was factually erroneous and not supported by the pleadings or the evidence presented. Furthermore, the Appellant asserts that the 1st Respondent's reliance on a certificate of ownership rather than an originating title document from the

4th Respondent, the Land Registrar should have placed a heavier burden on the 1st Respondent to prove the legitimacy of their root of title.

32. The Appellant posits that the Trial Magistrate exhibited actual bias by selectively considering evidence that favored the 1st Respondent while ignoring glaring contradictions between the testimonies of the 1st and 2nd Respondents. The Appellant submits that the Judgment failed to harmonize these material inconsistencies, suggesting that the trial Court arrived at an anticipated outcome rather than one rooted in a holistic analysis of the evidence.

33. So, the Appellant concludes their submission by stating that in light of the fundamental gaps in the 1st Respondent's case and the trial Court's misapplication of the law regarding the standard of proof in fraud cases, the Appellant urges this Court to find that the appeal is merited. The Appellant seeks the setting aside of the Judgment and decree of the trial Court, thereby restoring her lawful status as the registered owner of the suit property.

1st Respondent's Submissions

34. In response to the Appellant's challenge, the 1st Respondent submits that the trial Court correctly found her to be the lawful owner of the suit property, **RUIRU/MUGUTHA BLOCK 1/3611**. The 1st Respondent's arguments focus on the legitimacy of her acquisition process, the Appellant's failure to prove a valid root of title, and the settled legal principles

regarding the sanctity of title when fraud or illegality is alleged.

35. The summary of the 1st Respondent's submissions is captured in four points that she has raised follows:

36. The 1st Respondent contends that she strictly adhered to the internal procedures of the 2nd Respondent Nyakinyua Investment Limited, a land-buying company. She demonstrates a clear chain of title: purchasing the interest from an original member known as Grace Nyakio Wanyoike, appearing before the Board for verification, paying the requisite transfer and title processing fees, and subsequently receiving a valid Certificate of Title from the Land Registrar.

37. The 1st Respondent argues that the Appellant failed to prove how she acquired the property and that the 1st Respondent highlights several fatal flaws in the Appellant's case such as lack of membership. The Chairperson of the 2nd Respondent (DW1) testified that the Appellant was never a member of the company and that the documents she held did not originate from their office.

38. The 1st Respondent further submits and argues that evidence was led to show that a clearance letter relied upon by the Appellant actually belonged to a different individual according to official counterfoils, and the signatures thereon were disowned by the issuing authority.

39. The 1st Respondent notes that the Appellant did not testify personally, and her witness, DW4 Joshua Mwangi Njoroge a

family friend could not explain the origin of her title documents.

40. The 1st Respondent in her submissions invokes Sections 107, 108, and 109 of the Evidence Act, arguing that since the Appellant asserted ownership, she bore the burden of proving the facts supporting that claim. Furthermore, the 1st Respondent argues that the Appellant's claim fails the statutory requirements of Section 3(3) of the Law of Contract Act, as no written sale agreement was produced, nor was there any evidence of consideration paid.

41. The 1st Respondent cites **Njuguna v. Chebet [ELC No. 249 of 2012]** and **Charles Murigi Miriti v. Thanange Tea Growers Sacco Ltd [2014] eKLR** to emphasize that a contract for the sale of land is void without a written agreement and proof of consideration which include, offer, acceptance, and consideration.

42. The 1st Respondent argues that while the Appellant relies on the registration of her title, under Section 26 of the Land Registration Act, a certificate of title is only conclusive evidence of ownership unless it was acquired through fraud, misrepresentation, or an illegal process.

43. The 1st Respondent relies on the following landmark authorities to argue that a title document is not sacred; **Munyu Maina v. Hiram Githina Maina [(2013) eKLR]** held that when a root of title is challenged, the registered owner must go beyond the instrument and prove the legality

of the acquisition; **Dina Management Limited v. County Government of Mombasa & 5 others [2023] KESC 30 (KLR) (Petition 8 of 2021)**; The Supreme Court affirmed that a registered proprietor only acquires a valid title if the original title and the process of acquisition from inception were legal.

44. Thus the 1st Respondent maintains that the trial magistrate (Hon. Joseph Were) acted within his discretion and did not misdirect himself. Applying the principle in **Mbogo v. Shah [1968] EA 93**, the 1st Respondent urges the Appellate Court not to interfere with the trial Court's decision, as the Appellant has failed to show that the judgment was clearly wrong or based on a misapprehension of the law.

45. I have considered the memorandum of appeal, the record of appeal and the submissions filed by the Appellant and the 1st Respondent and I refer to them in the analysis that will finally end in the final orders.

Analysis and Determination

46. To provide a legally sound and comprehensive final analysis of this Appeal, I must evaluate the competing claims through the lens of established land law principles and the recent shift in Kenyan jurisprudence regarding the sanctity of title.

47. The following are the key issues for determination that emerge from the pleadings and submissions:

- i. Whether the Learned Trial Magistrate lowered the standard of proof in allegations of fraud and illegality*

- ii. *Whether a Title Deed, once issued, can be protected even if its originating documents are found to be non-existent or forged.*
- iii. *Whether a buyer of land without proof of payment, can claim to be a bona fide purchaser for value without notice*
- iv. *Whether a Registrar can issue a second title over land that is already alienated.*

48. On issue number one, the Appellant argues that the trial magistrate applied a lower standard of proof balance of probabilities to a case grounded in fraud. Section 26(1) of the Land Registration Act protects a title except where it is impeached on grounds of fraud or where it was acquired illegally, unprocedural, or through a corrupt scheme.

49. While **Vijay Morjaria v Nansingh Madhusingh Darbar [2000] eKLR** dictates that fraud must be proved to a standard higher than a balance of probabilities, recent decisions such as **Arthi Highway Developers Limited v West End Butchery Limited & 6 others [2015] eKLR** clarify that where a title is challenged as a legal nullity like due to double registration or lack of an originating root, the standard remains the civil standard.

50. From the facts on record the 1st Respondent did not merely allege fraud in the criminal sense but proved a procedural vacuum. When the 2nd Respondent, the Land Buying Company disowned the Appellant's documents, the

challenge shifted from fraud to illegality and lack of root, which the trial Court correctly evaluated.

51. The core of this appeal is whether a Title Deed, once issued, can be protected even if its originating documents are found to be non-existent or forged. In the landmark case of **Dina Management Limited v County Government of Mombasa & 5 Others [2023] KESC 30 (KLR)**, the Supreme Court of Kenya held that the sanctity of title is not absolute. The Court stated that for a proprietor to seek the protection of the law, they must prove that the process of acquisition from inception was legal.

52. In the often cited case of **Munyu Maina v Hiram Githina Maina [2013] eKLR**, the Court of Appeal held that where a title is challenged, a registered proprietor cannot simply dangle the instrument of title but must prove the legality of how they acquired it.

53. In the instant matter, the 1st Respondent proved a clear chain which is that there was **Ballot then a Clearance Certificate then a Company Transfer then Land Registry**. The Appellant's failure to explain her clearance letter, which the Company, 2nd Respondent testified was issued to a different person, represents a broken root of title that no amount of registration can cure.

54. The third issue is about compliance with Section 3(3) of the Law of Contract Act. The Appellant failed to produce a Sale Agreement or evidence of consideration of any form. She

never proved to the Court that she made any payment in whatever form. Section 3(3) of the Law of Contract Act Cap 23 is couched in mandatory terms, that is that no contract for the disposition of land is enforceable unless it is in writing, signed, and attested.

55. The Court in the case of **Muchiri v Michuki [2014] eKLR**, emphasized that these requirements are intended to prevent precisely the type of double allocation and mystery titles seen in this case. Furthermore, without proof of payment, the Appellant cannot claim to be a bona fide purchaser for value without notice, a protection provided under the English principle in **Pilcher v Rawlins (1872) LR 7 Ch App 259**

56. The trial magistrate noted the intriguing testimony of the Land Registrar, who processed the Appellant's title despite a pre-existing title and restriction in favor of the 1st Respondent.

57. Under the Torrens System, which Kenya also follows, the Registrar has a duty to ensure, the mirror and curtain principles. The Land Registrar the custodian of land records, has a duty in ensuring that the register accurately reflects all current, valid interests and that a purchaser need not investigate the historical, behind-the-scenes dealings of a title. If the registry's Green Card already shows a restriction or a prior owner, the issuance of a second title is an administrative illegality.

58. Although while the Curtain Principle suggests no need to look behind the title, the Kenyan Supreme Court in **Dina Management Limited v County Government of Mombasa & 5 Others** has recently emphasized that buyers should still verify the root of the title to ensure its validity
59. As held in **Republic v Registrar of Titles Ex parte Kapng'etuny [2004] eKLR**, the Registrar cannot validly issue a second title over land that is already alienated. The 1st Respondent's title was first in time *Qui prior est tempore potior est jure*, legal maxim meaning he who is earlier in time is stronger in right rendering the Appellant's subsequent registration a nullity.
60. Upon re-evaluation of the evidence, the trial magistrate's findings the 1st Respondent demonstrated a seamless transition from the 2nd Respondent, Nyakinyua Investment Ltd to the Land Registry. In contrast, the 2nd Respondent's Chairperson, DW1 categorically disowned the Appellant's documents as forgeries. Following the Supreme Court's decision in **Dina Management Limited v County Government of Mombasa [2023]**, a title born of an illegal process regardless of whether the holder was a party to the fraud cannot be protected. The Appellant's failure to produce a Sale Agreement as mandated by Section 3(3) of the Law of Contract Act further rendered her claim to the suit property a legal nullity.

Final Orders:-

61. Having considered the Memorandum of Appeal, the Record of Appeal and the rival submissions, this Court makes the following orders:

a) The Appeal dated 7/07/2024 is hereby dismissed in its entirety for lack of merit.

b) The Judgment and Decree of the Trial Magistrate, Hon. Joseph Were, delivered on 5/07/2024, finding the 1st Respondent to be the lawful registered owner of RUIRU/MUGUTHA BLOCK 1/3611, is hereby affirmed.

c) The registration of the Appellant, Elizabeth Wanjiru Gathenya, over the suit property (including any subsequent subdivisions such as RUIRU/MUGUTHA BLOCK 1/T11186) is declared unlawful, null and void.

d) The 4th Respondent, Ruiru Land Registrar is hereby directed to forthwith and in any event not later than 30 days from the date of this order amend the Green Card and Title Register to cancel and expunge the name of the Appellant and restore the 1st Respondent as the sole proprietor.

e) A permanent injunction is hereby issued restraining the Appellant, her agents, servants, or any person acting on her behalf from entering, alienating, or interfering with the 1st

Respondent's quiet possession of the suit property.

f) The costs of this Appeal and the costs in the Subordinate Court are awarded to the 1st Respondent, to be borne by the Appellant.

Orders accordingly.

**DATED, SIGNED AND DELIVERED AT THIKA VIA VIDEOLINK
ON THIS 19TH DAY OF MARCH 2026.**

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**MOGENI J
JUDGE**

In the presence of:

Mr. Mungai holding brief for Moturi for the Appellant

Mr. Kimani Githongo for the 1st Respondent

Mr. Ng'ani for the 2nd Respondent

3rd, 4th and 5th Respondents - Absent

Mr. Melita - Court Assistant

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**MOGENI J
JUDGE**