



Njuki v Boneya (Civil Case E005 of 2025) [2026] SCC 21 (KLR) (4 February 2026) (Judgment)

Neutral citation: [2026] SCC 21 (KLR)

**REPUBLIC OF KENYA
IN THE SMALL CLAIMS COURT AT LAMU
CIVIL CASE E005 OF 2025
FM MULAMA, RM
FEBRUARY 4, 2026**

BETWEEN

FRANCIS MUNENE NJUKI CLAIMANT

AND

ABDI DELA BONEYA RESPONDENT

JUDGMENT

Brief Facts.

1. This is a claim founded on destruction of cashew nuts and cowpeas allegedly by cattle number over 200 owned by the respondent. It is stated that the respondent allowed his cattle to stray into the farm of the claimant and caused the destruction complained off.
2. The claimant has attached a report dated 2/12/2025 that has assessed the damage at Kshs.108,244/=.
3. The respondent denies the claim by simply stating that the cows were not in his farm and that there is no evidence that the cows were the ones which strayed into his shamba.
4. Parties at the hearing hereof consented to proceeding by way of documents only which documents I have keen read and perused.

Issue(s) For Determination.

- a. Whether the Respondent is liable to pay Kshs.108,244/=.
- b. Who bears costs of the claim.



Analysis And Determination.

Whether the Respondent is liable to pay Kshs.108,244/=.

5. In support of the claim, the claimant has heavily relied in my view on the crop damage assessment report dated 2/12/2025 only. The respondent denies the claim on the basis that the cattle were not in the farm but on the road.
6. There are no photos of the damaged crops or of the cattle into the farm of the claimant. Furthermore, the claimant has not demonstrated ownership of the said crops and/or better still the farm upon which they were planted.
7. Ownership of the parcel of land and/or the crops goes into the root of this claim and the claimant was duty bound to demonstrate ownership. It is not enough to merely state that the crops belonged to him. He has to demonstrate with evidence which is not the case herein.
8. In essence locus standi has to be established by the claimant. It is not enough to produce an assessment report without proof of ownership of those cashew nuts, cowpeas and/or the land upon which the cottons are growing on. The point that locus standi is a substantive issue that goes to the jurisdiction of this Court was ably discussed by the Supreme Court in *Matemu v Trusted Society of Human Rights Alliance & 5 Others* that a party approaching the Court must demonstrate sufficient interest grounded in evidence and not mere assertion. The Court warned against entertaining claims founded on assumptions, conjecture, or abstract grievances. This is what the claimant is asking the court to do in this matter.
9. In addition, I have perused the crop damage assessment report dated 2/12/2025 and I take the view that this is not a properly prepared assessment report on the sole reason that it is prepared on a plain paper without any letter head. The alleged agricultural extension officer is a public servant and offers the service not in her personal capacity but on behalf of an office to which she is employed to as I expect a properly prepared report in a proper letter head of the relevant ministry.
10. I say this having taken judicial notice of the fact that such reports have been placed before me in other matters and they are always under the relevant ministry's letter head and not under personal document and/or design as it has been demonstrated in the assessment report.
11. Be that as it may the report in my view omitted crucial information to back up the information contained therein. It does not for instance state where the assessment took place or identify the land assessed. It does not indicate the acreage under cultivation or the portion allegedly destroyed. Instead, it merely lists a number of plants without disclosing the methodology used to arrive at those figures.
12. No evidence was led to show that an actual count was conducted, and no sampling or measurement method was explained and finally the report applies a compensation rate of Kshs. 1,800/= and 5/= respectively per plant without attaching the schedule relied upon, indicating its source, or stating whether the rate is current or applicable. Without such crucial disclosure of the basis of the rates used, the assessment remains arbitrary and incapable of verification. Such a report cannot form a sound basis for an award of damages.
13. In the end I do find and hold that on the foregoing reasons, the claimant has not discharged the burden placed on him by the law. The case has not been proved to a balance of probabilities.



Who bears costs of the claim?

14. As it is now evident, the respondent has strenuously defended the claim and having been successful in the matter and that costs follow events he is awarded costs assessed at Kshs.5,000/=.

Conclusion And Disposition.

15. The upshot of the foregoing I make the following final orders;

- a. The claim contained in the statement of claim dated 30/12/2025 is wholly without merit and is consequently dismissed.
- b. The costs of the claim are awarded to the respondent and are hereby assessed at Kshs.5,000/=.
- c. Let the file be closed forthwith.

16. Those shall be the orders of this court.

**DATED, SIGNED AND DELIVERED VIRTUALLY AT LAMU SMALL CLAIMS COURT THIS
4th DAY OF FEBRUARY 2026**

F.M. MULAMA

ADJUDICATOR/RM

In the presence of:

Court Assistant:- Daniel Damise.

N/A for the Claimant.

N/A for the respondent.

