

- c) **AN ORDER DIRECTING THE 3RD DEFENDANT HEREIN TO RECTIFY THE LAND REGISTER IN RESPECT OF LAND PARCEL KNOWN AS ELDORET MUNICIPALITY BLOCK 13/239 BY DELETING ENTRIES NO. 4 & 5 WHICH TRANSFERRED THE SAID PARCEL OF LAND TO THE DEFENDANTS HEREIN AND REINSTATE ENTRY THAT CONFIRMED LEGAL OWNERSHIP OF THE SUIT PROPERTY TO THE PLAINTIFF NO.3 THEREOF.**
- d) **A PERMANENT INJUNCTION RESTRAINING THE 1ST DEFENDANT, ITS AGENTS OR ANY ONE ACTING ON BEHALF FROM ENTERING INTO, FENCING, BUILDING, ALIENATING, TRANSFERRING TO THE PLAINTIFF OWNERSHIP OF THE PROPERTY KNOWN AS ELDORET MUNICIPALITY BLOCK 13/239.**
- e) **COSTS OF THE SUIT.**
- f) **ANY OTHER RELIEF THAT THIS HONOURABLE COURT DEEMS FIT TO GRANT TO MEET THE END OF JUSTICE.**
2. The facts in support of the above prayers as contained in the Plaintiff are pleaded as follows; -
- (i) The Plaintiff herein is the lawful owner of the property known as **ELDORET MUNICIPALITY BLOCK 13/239** (hereinafter referred to as **“the suit property”**) based on a Certificate of Lease issued on the 03.11.2022.
- (ii) The Plaintiff has been and is still in occupation and use of the suit property.
- (iii) On or about 05.09.2024, the Plaintiff herein did undertake an Official Search on the suit property and did discover

that the same was recorded in the name of the 2nd Defendant.

- (iv) According to the Plaintiff, the registration of the 2nd Defendant as the owner of the suit property had been done illegally and unprocedurally any third party.
- (v) Based on this illegal and unlawful entry, the Plaintiff did report the same at Eldoret Police Station on the same date and was issued with OB.
- (vi) The Plaintiff states that the Director of Criminal Investigations (DCI) did commence investigations regarding the manner and procedure in which the 2nd Defendant was registered as the owner of the suit property and at the end of the investigations, the 2nd Defendant was arrested.
- (vii) During the investigations by the Director of Criminal Investigations, it was discovered that the 1st Defendant had illegally and unlawfully procured the registration of the suit property on 08.02.2023 and thereafter transferred the same to the 2nd Defendant on 11.03.2023.
- (viii) Further to that, the 3rd Defendant who is the custodian of the Register to the suit property did confirm that the entries made on 08.02.2023 and 11.03.2023 in favour of the 1st and 2nd Defendants respectively could not be verified as there were no supporting documents to warrant the said entries.
- (ix) In essence, the Plaintiff did plead that the 1st and 2nd Defendants registration as owners of the suit property was tainted in illegalities, irregularities and fraud hence could not bestow any lawful and legitimate ownership.

- (x) The Plaintiff did proceed to plead the particulars of the illegalities, irregularities and fraud as follows; -
- a) *The plaintiff did not consent and/or authorize the transfer of the land to the 1st Defendant and/or 2nd Defendant.*
 - b) *The plaintiff did not sell of the suit property to the 1st Defendant and/or 2nd Defendant.*
 - c) *The plaintiff did not apply for consent of the land control board and issued with the consent prior to the transfer of the suit property to the 1st Defendant and subsequently to the 2nd Defendant.*
 - d) *The plaintiff did not receive any consideration from the 1st defendant nor 2nd Defendant the suit property.*
 - e) *The plaintiff did not sign any transfer forms and/or documents to transfer the suit property to the defendants; and*
 - f) *No stamp duty was paid by the defendants for the transfer of the suit property to their names.*
3. The present suit was duly served on the 1st and 2nd Defendant through substituted service by way of an advertisement in a daily newspaper of wide coverage upon leave being granted on the 22.07.2025 and an Affidavit of service dated 30.10.2025 filed before the Court.
4. The 3rd Defendant on the other hand was served physically with the pleadings by the Plaintiff.
5. The 1st and 2nd Defendant did not enter appearance and/or file any Defence against the present suit.

6. The 3rd Defendant did file a Memorandum of Appearance dated 05.02.2025 and a Statement of Defence dated 24.02.2025.
7. In the 3rd Defendant's Statement of Defence dated 24.02.2025, the present suit was opposed on the following grounds; -
 - (i) The 3rd Defendant did admit that the suit property was registered in the Plaintiff's name on 03.11.2022.
 - (ii) The 3rd Defendant did deny the allegation that the Plaintiff was in occupation and use of the suit property.
 - (iii) The 3rd Defendant did plead that it was not aware of the Plaintiff's actions of undertaking a search on the suit property or the reporting of the matter before the Eldoret Police Station.
 - (iv) The 3rd Defendant did further deny the allegation that the Register of the suit property was under lock and key or that the entries in favour of the 1st and 2nd Defendants had been made fraudulently by their office.
 - (v) Consequently, the 3rd Defendants did specifically deny the Particulars of Fraud pleaded by the Plaintiff in the Plaint.
 - (vi) The 3rd Defendant did clarify that if indeed the 1st and 2nd Defendants had been recorded as the owners of the suit property, then such registration was in line with the statutory mandate provided by law.
 - (vii) In conclusion, the 3rd Defendant did plead that the present suit did not disclose any reasonable cause of action

against them and therefore should be dismissed with costs.

8. The 3rd Defendant's Statement of Defence dated 24.02.2025 was duly served on the Plaintiff but there was no Reply to Defence filed by the Plaintiff in response thereof.

PLAINTIFF'S TESTIMONY & DOCUMENTARY EVIDENCE

9. The Plaintiff herein was the only witness to testify on behalf of the Plaintiff's case and was marked as PW 1.
10. The Plaintiff did introduce herself as a resident of Kakamega County.
11. The Plaintiff did confirm to the Court that she had prepared and filed a witness statement dated 22.01.2025 of which she did adopt as her evidence in chief.
12. In support of her evidence in Chief, the Plaintiff did produce the following documents as exhibits; -

PW1 EXHIBIT 1 - A Copy of the Plaintiff's Identification Card No. 1984083;

PW1 EXHIBIT 2 - A Copy of a Lease Agreement dated 08.09.2022 in favour of the Plaintiff over the suit property;

PW1 EXHIBIT 3 - A Copy of a Certificate of Lease dated 03.11.2022 in the name of the Plaintiff over the suit property;

PW1 EXHIBIT 4 - A Copy of the Search dated 05.09.2024 over the suit property in the name of the 2nd Defendant;

PW1 EXHIBIT 5 - A Copy of an extract of the OB from Eldoret Police Station No. 112.5.9.24

PW1 EXHIBIT 6 - A Copy of a Letter from the DCI to the Chief Land Registrar dated 12.09.2024 in regards to forged documentation of the suit property.

PW1 Exhibit 7-A Copy of a letter dated 03.10.2024 from the County Land Registrar to the Sub-County DCI Officer in relation to the inquiry of the forged document over the suit property

13. In conclusion, the Plaintiff did seek the Court to grant the prayers sought in the present suit.
14. On cross-examination by the 3rd Defendant, the Plaintiff did reiterate that the suit property had been lawfully registered in her name on 03.11.2022.
15. On being referred to PW 1 EXHIBIT 4, the Plaintiff did state that on the 11.06.2023, the suit property was registered in the name of the 2nd Defendant.

16. The Plaintiff did clarify that the dispute is majorly between the 1st and 2nd Defendants and herself over the suit property and not the 3rd Defendant.
17. On re-examination, the Plaintiff did insist that the Complaint made to the Police was only against the 1st and 2nd Defendants.
18. The Plaintiff did aver that she had not testified in any other proceedings over the suit property.
19. At the end of this re-examination, the Plaintiff herein was discharged from the witness box and the Plaintiff's case closed.

1ST AND 2ND DEFENDANTS TESTIMONIES & DOCUMENTARY EVIDENCE

20. The 1st and 2nd Defendants having failed to enter appearance or file any Defence, the Court declared the suit as against them undefended.

THE THIRD DEFENDANT'S TESTIMONIES & DOCUMENTARY EVIDENCE

21. On the part of the 3rd Defendant, the Counsel did inform the Court that they did not intend to call any witness to testify on its behalf.
22. Consequently, the 3rd Defendant did close its case thereof.
23. Upon completion of the hearing, the Court did direct the parties to file their final submissions.
24. The Plaintiff duly did file her submissions on the 02.02.2026 but no other party did any submissions in response.

25. The Court has perused the pleadings, considered the testimonies of the parties and documentary evidence adduced before it and identifies the following issues for determination: -

ISSUE NO.1 - WHO IS THE CURRENT REGISTERED OWNER OF THE SUIT PROPERTY?

ISSUE NO.2- WAS THE REGISTRATION OF THE CURRENT OWNER LAWFUL?

ISSUE NO.3- IS THE PLAINTIFF ENTITLED TO THE RELIEFS SOUGHT IN THE PLAINT?

ISSUE NO.4- WHO BEARS THE COSTS OF THIS SUIT?

26. Having identified the above-mentioned issues for determination, the same will now be discussed as herein-below.

ISSUE NO.1 - WHO IS THE CURRENT REGISTERED OWNER OF THE SUIT PROPERTY?

27. The first issue for determination is who is the current registered owner of the suit property.

28. According to the Plaintiff, the suit property is currently registered in the name of the 2nd Defendant.

29. The Plaintiff did produce an Official Search of the suit property dated 05.09.2024 as PW 1 EXHIBIT 4.

30. Based on the Official Search dated 05.09.2024, the 2nd Defendant herein was recorded as the owner of the suit property on the 11.06.2023.
31. Section 26 of the Land Registration Act, No.3 of 2012 provided that the person recorded in the Certificate of Title shall be deemed to be the owner or proprietor of the property thereon.
32. Consequently, this Court is of the considered view and finding that the registered owner of the suit property herein is the 2nd Defendant.

ISSUE NO.2- WAS THE REGISTRATION OF THE CURRENT OWNER LAWFUL?

33. The second issue for determination is whether the registration of the current owner of the suit property was lawful and legal.
34. According to the Plaintiff, the registration of the 2nd Defendant as the owner of the suit property was irregular, illegal and fraudulent.
35. The Plaintiff did further give the particulars of the irregularity, illegality and fraudulent actions undertaken by the 1st and 2nd Defendant to procure the registration of the suit property in their names.
36. As earlier stated, the 1st and 2nd Defendants did not file any documents in response to the allegations by the Plaintiff including the particulars of illegality, irregularity and fraudulent dealings that resulted to their registrations as the owners of the suit property.

37. Be as it may, Section 26(1) of the Land Registration Act, No. 3 of 2012 provides as follows; -

“ (1) The Certificate of title issued by the Registrar upon registration, or to a purchaser of land upon a transfer or transmission by the proprietor shall be taken by all Courts as prima facie evidence that the person named as the proprietor of the land is the absolute and indefeasible owner, subject to the encumbrances, easements, restrictions and conditions contained in the certificate, and the title of that proprietor shall not be challenge, except;-

a) On the grounds of fraud or misrepresentation to which the person is proved to be a party; or

b) Where the Certificate of title has been acquired through illegal, unprocedurally or through a corrupt scheme.

38. The Plaintiff in her pleadings, testimonies as well as the documents presented in Court states that the 1st and 2nd Defendants registration of the suit property was founded in fraud, illegality and/or unprocedural manner.

39. The Plaintiff did produce various documents from the Directorate of Criminal Investigations which demonstrate the illegal and unprocedural manner through which the 1st and 2nd Defendants used to procure their registration as owners of the suit property.

40. None of these documents produced by the Plaintiff as exhibits before this Court were disputed by either the 1st and 2nd Defendants and/or the 3rd Defendant.
41. Clearly therefore, the testimony by the Plaintiff and the exhibits produced therein clearly demonstrate the illegal and unprocedural manner in which the 1st and 2nd Defendants herein did procure their registration as owners of the suit property herein, a fact which had not been disputed by any of the Defendants herein.
42. In conclusion thereof, this Court hereby is of the considered view and finding that the 1st Defendant's registration recorded on 08.02.2023 and the 2nd Defendant's registration recorded on the 11.06.2023 were procured through fraud, illegality and unprocedural manner and therefore null and void.

ISSUE NO.3- IS THE PLAINTIFF ENTITLED TO THE RELIEFS SOUGHT IN THE PLAINT?

43. Based on the determination of Issue No. 2 hereinabove to the effect that the 1st and 2nd Defendants registrations recorded on the 08.02.2023 and 11.06.2023 respectively were fraudulent, unprocedural and irregular, then the prayers sought in the present suit are merited and should be granted.

ISSUE NO.4- WHO BEARS THE COSTS OF THIS SUIT?

44. On the issue of costs, Section 27 of the Civil Procedure Act is instructive that costs follow the events.
45. Since this suit was only necessitated by the actions of the 1st and 2nd Defendant in procuring registration of the suit property irregularly and illegally, they shall bear the costs of this suit.

CONCLUSION

46. In conclusion thereof, this Court do hereby make the following orders in determination of the present suit; -

A. THE PLAINT DATED 22.01.2025 IS MERITED.

B. A DECLARATION BE AND IS HEREBY MADE TO THE EFFECT THAT THE TRANSFER AND REGISTRATION OF 1ST AND 2ND DEFENDANTS ON THE 08.02.2023 & 11.06.2023 RESPECTIVELY ON THE LAND KNOWN AS ELDORET MUNICIPALITY BLOCK 13/239 TO THE DFENDANTS WAS UNLAWFUL, ILLEGAL, IRREGULAR, UNPROCEDURAL, NULL AND VOID.

C. AN ORDER OF REVOCATION AND/OR CANCELLATION BE AND IS HEREBY ISSUED AGAINST THE REGISTRATION OF THE 1ST AND 2ND DEFENDANTS ON THE 08.02.2023 AND 11.06.2023 RESPECTIVELY INCLUDING THE CERTIFICATE OF LEASE ISSUED TO THE 2ND DEFENDANT ON THE 11.06.2023 IN RESPECT TO THE PROPERTY KNOWN AS ELDORET MUNICIPALITY BLOCK 13/239.

D. AN ORDER BE AND IS HEREBY ISSUED TO THE 3RD DEFENDANT HEREIN TO RECTIFY & DELETE THE NAMES OF THE 1ST AND 2ND DEFENDANTS AS OWNERS OF THE PROPERTY KNOWN AS ELDORET MUNICIPALITY BLOCK 13/239 MADE ON THE 08.02.2023 AND 11.06.2023 WITHIN 21 DAYS FROM THE DATE OF THIS JUDGEMENT AND RETAIN THE REGISTRATION OF THE PLAINTIFF AS THE LAWFUL AND LEGITIMATE REGISTERED OWNER OF PROPERTY KNOWN AS ELDORET MUNICIPALITY BLOCK 13/239.

E. A PERMANENT INJUNCTION BE AND IS HEREBY ISSUED AGAINST THE 1ST AND 2ND DEFENDANTS

FROM INTERFERING, ENTERING, TRESPASSING, SELLING, TRANSFERING AND/OR IN WHATSOEVER MANNER DEALING WITH THE OWNERSHIP AND/OR POSSESSION OF THE PROPERTY KNOWN AS ELDORET MUNICIPALITY BLOCK 13/239 HENCEFORTH.

F. THE 1ST AND 2ND DEFENDANTS ARE HEREBY CONDEMNED TO PAY THE COSTS OF THIS SUIT TO THE PLAINTIFF HEREIN JOINTLY AND SEVERALLY.

DATED, SIGNED and DELIVERED at ELDORET on this 15TH DAY OF APRIL, 2026.

**EMMANUEL.M. WASHE
JUDGE**

IN THE PRESENCE OF:

Court Assistant: Brian

Advocate for Plaintiff: Mr. Rotich holding brief for Mr. Aresso.

Advocate for Defendants: Ms. Odeyo for The 3rd Defendant.