



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT

AT KITALE

LAND CASE NO. 29 OF 2013

JANE NJERI IKIGU.....PLAINTIFF

VERSUS

TUWAN FARM LTD.....1ST DEFENDANT

FRANCIS KEBENEI KIMATUI.....2ND DEFENDANT

JUDGMENT

1. The plaintiff commenced this claim vide a plaint dated **13/3/2013** which was filed on the **14/3/2013**. The plaintiff seeks the following orders against the defendant jointly and severally:-

(a) An order that the registration of the 2nd defendant as the owner of the land comprised in title no Title No. Kitale Municipality Block 2 /Tuwan/635 and 636 be cancelled, and the register rectified, so that the titles for the two plots gets issued to the plaintiff.

(b) An order that the 1st defendant do show the plaintiff as the owner/allottee of plot Nos. 633 and 634 in Tuwan Farm and further that the plaintiff's name be forwarded to the District Land Registrar Trans Nzoia as the owner of the said plots, to facilitate the issuance of the titles.

(c) Temporary and permanent injunction.

(d) Costs.

(e) Interest.

(f) Any other relief that this court may deem fit to grant.

2. The plaintiff's case is that she held shares in the 1st defendant's company. The 1st defendant company issued her with share certificate which showed that she was the registered proprietor of plots numbers 631, 632, 633, 634, 635, and 636. She was also in occupation of those plots. The 2nd defendant filed two cases in 2002 and in 2009 respectively in the magistrate's court claiming some of the plaintiff's said plots but it later withdrew them. Meanwhile in 2007 the plaintiff was cleared by the 1st defendant to pay survey fees for all her plots and she paid. Thereafter the 1st defendant prepared a partial area list which was forwarded to the district land registrar Trans-Nzoia showing the identity of the allottee plot number and size. The plaintiff however only obtained titles to plots Nos. 631 and 632 only. She found that the area list that was forwarded by the 1st defendant read the name of the 2nd defendant as the allottee of plots number 635 and 636 and that titles thereof had been issued in the name of the 2nd defendant. The plaintiff contends that the registration of the 2nd defendant as owner of plots 635 and 636 was fraudulently connived at by the 1st and 2nd defendant and the titles in the 2nd defendant's name should be cancelled and be re-issued in the plaintiff's name.

3. The 2nd defendant was the first to file a defence in this matter on **24/5/2013**. He denied the plaintiff's claim. He averred that the withdrawn suits were only for eviction orders against the plaintiff whom he regarded as a trespasser on the land he claimed to be his. He asserts that he owns plots numbers 631,632,635 and 636, having purchased a parcel of 100 by 200 feet which was subsequently subdivided into those sub plots and reiterates that the plaintiff is a trespasser thereon. He also disclosed one more piece of litigation, **Kitale SPMCC 100 of 1997** between the plaintiff and himself but does not reveal its fate.

4. The 1st defendant filed its defence on 7/6/2013, also denying the plaintiff's claim, including the particulars of fraud. Its defence is that certificate number 1127 held by the plaintiff is not its property but that of Tuwan Urban Project; that the plaintiff had purchased only a plot measuring 50 by 11100 feet which could not yield 6 plots and that she is therefore not entitled to 6 plots; that her parcel was only the equivalent of two plots; that the suits the plaintiff has disclosed were not determined on their merits.

The Plaintiff's Evidence

5. **PW1**, the plaintiff testified on the **19/1/2015**. Her evidence is that in **1981** she bought a plot from one Charles Kilel for Kshs. **2000/=**. She paid that sum on **3/6/1981**; the plot had 5 rooms on one side and 2 rooms on the other side all occupied by the said Kilel; that Kilel sold the plot as it was to the plaintiff. The plot was not measured. However in the plaintiff's view what was sold to her was a plot of 50 feet by 100 feet but the buildings on the plot occupied an area larger than 50 by 100 feet. Charles Kilel then left the property and the plaintiff took possession thereof. She further stated that her name was substituted for that of the seller in the company records, and particularly, her name was reflected on the area list which shows that plot numbers **631 - 636** belong to her. When she later heard the 2nd defendant claim that he had purchased a plot of 100 by 200 feet, she measured her plot and found that measurements of 50 by 100 feet from different directions would necessarily leave some structures out outside the plot if that was the correct measurement. Concerning the previous litigation the plaintiff testified that the 2nd defendant sought her eviction in those proceedings and produced copies of documents in **Kitale CMCC 347 of 2009** and **Kitale HCCC No. 77 of 2002** in evidence. She averred that she is still in possession of the plots claimed by the 2nd defendant. The letter authorizing the plaintiff to pay survey fees for six plots was produced as **PEXh 10** and the receipt for survey fees as **PEXh 11**. She avers that the director of Tuwan Farm authorized her to pay the survey fees. However only two plots, **631** and **632**, were registered in her name. The name of the 2nd defendant was not reflected in the earlier versions of the area list prepared for the farm. Those earlier lists reflected the plaintiff as owner of plots numbers **635** and **636**. However, later versions reflected the 2nd defendant as the proprietor of those two plots. She averred that she wants the 2nd defendant's titles to those plots cancelled.

6. **PW2, Beatrice Monic Mukuba**, testified on **1/7/2015**. She testified that she is a former chief of Tuwan Location; that she took over from chief Jackson Cheminingwa who handed to her documents regarding Tuwan Farm; that one of the documents passed on to her was a typewritten area list that was very old; that she was also given an area list that was updated in **2004**; that according to the updated area list the plaintiff's plots range from no **631** to **636**; that the 2nd defendant's plot is reflected as plot **1637** which is far from the location of the plaintiff's plots; according to the witness, titles are being processes based on the list held by the directors as well as the list held by her office; the record that she held showed that the plaintiff owns plots Nos. 635 and 636 and the 2nd defendant has never taken physical possession of those plots. According to her the survey of the land which resulted in the titles was done in 1990's and she became the chief in 2009. On cross examination by Mr. Kaosa, she stated that most plots measure 7 by 21 metres in size. Upon cross-examination by Mr. Nyolei she stated that she did not know if there was a black book where all members names were recorded, held by Tuwan Farm Ltd. On re-examination by Mr. Kiarie she stated that she had never seen any other person on the suit land save the plaintiff.

7. **PW3 Moses Mwangi** testified on **1/7/2015**. His evidence is that Kilel informed him that he had a plot to sell; that he and Kilel visited the plot; he saw the structures on it, in particular the five roomed house and another house; that he was offered the sale of the plot for Kshs. 10,000/= that he paid Kshs. 6000/= but when he found another larger parcel elsewhere he called in the plaintiff to take over the transaction; that the plaintiff was shown the plot boundaries; that she then paid the Kshs. 10,000/= and the seller refunded him his Kshs. 6000/=; that according to him the plot was larger in size than 50 feet by 100 feet. On re-examination he stated that the plot he had been offered was about one acre in size and the houses he saw thereon could not fit on a 50 by 100 plot.

8. With that evidence on the record the plaintiff closed her case.

The Defendant's Evidence

9. **DW1, Francis Kebenei Kimatui**, the 2nd defendant testified on **11/2/19** and adopted his written statement. His evidence is that he purchased a plot measuring 100 by 200 feet from Charles Kilel vide an agreement (**DEXh 1**); that Tuwan Company gave him a share certificate (**DEXh 2**); that the plot he purchased was subdivided into 4 portions, that is: plots **Nos. 631, 632, 635 and 636**; that he was given two of them; that the plaintiff's land is 50 by 100 feet and that the it was divided into two plots, that is: plot Nos **633** and **634**; that the plaintiff now wishes to take his plots that is plots Nos. 633 and 634 (it should be noted that later on in his written statement it is stated that the plots that the plaintiff wishes to take are plots Nos.635 and 636) and every time the 2nd defendant erects a fence the plaintiff brings it down; that the plaintiff should demolish her house built on his plot and move to her plot. Upon cross examination by Mr. Kiarie **DW1** maintained that the date of the agreement was sometime in **1980**; that when the agreement was executed no survey had been conducted; that at the beginning there were no plot numbers but were given later. He admitted that the agreement does not speak of subdivision of the land; that he took possession of the land on the date of the agreement; that there was a 5 roomed house and two smaller houses; that the surveyors ordered people to move their boundaries; that the seller, Mr. Kilel used to live in the big house of five rooms; that DW1 has never lived in the smaller houses; that Mr. Kilel left the big house in **1981**; that the plaintiff now occupies the big house; that at the time of the execution of the plaintiff's agreement with Mr. Kilel, the 2nd defendant had already bought the suit land and was physically in possession thereof but not living in the big house; that he erected a fence and later sued the plaintiff; he however maintains that though he sued her he was not outside the plot; that he still has another plot in Rukuma which is still part of Tuwan Farm; that Mr. Kilel had over 3 acres of land and sold land to many people; that the plaintiff bought land after the 2nd defendant had bought his from the same seller; that however he only bought the land and not the houses thereon. He admitted that his agreement does not reflect that there were houses on the land he bought; that his name was in the area list of 2004 and he had a survey fee receipt but it got lost.

10. **DW2, Charles Kilel**, gave sworn evidence on **11/2/19** and adopted his written statement filed on **19/1/2015**. His evidence is that he held 3 acres in Tuwan Farm; that he sold the land to various persons including the 2nd defendant whom he sold a plot measuring 100 feet by 200 feet on **11/3/1980** and the plaintiff whom he sold a plot measuring 50 feet by 100 feet on **3/6/1981** and that is the land which he wishes each part to get; that at the time of the sale he showed each of the purchasers the portion each respectively bought; that the portion sold to the plaintiff had some developments which were reflected in the sale agreement.

11. Upon cross examination by Mr. Kaosa counsel for the 1st defendant, **DW2** admitted that by the time he sold the land, survey had not been carried out to convert the land into small plots; that the plaintiff's land had a big house and others beside it and was within a 50 by 100 feet plot which could not in his view upon subdivision bear 6 plots.

12. Upon cross examination by Mr. Kiarie for the plaintiff, he admitted to selling land to about 8 people; that almost all of them got a 50 by 100 feet plot; that the plaintiff was the last person to buy a plot from him; that no surveyor was involved in the sale to the plaintiff but the chief was; that they never visited the site with any surveyor after the sale; that he sold the land together with all the three houses thereon; that he stayed in the big house for a while seeking an alternative residence before giving the plaintiff possession thereof; that the 2nd defendant had nothing to do with the houses on the land; that before he left, the 2nd defendant had however entered into possession of his land and fenced; that the plaintiff was to take possession from **3/6/1981**; that by the time survey was conducted on the suit land **DW2** was away; that he does not know of any litigation between the plaintiff and the 2nd defendant; that after he sold the plaintiff land, no land remained. At this point the 2nd defendant closed his case.

13. **DW3 Kennedy Onsongo** gave sworn evidence on **18/2/2019** and adopted his written statement filed on **7/6/2013**. His evidence is that he is one of the directors of Tuwan Farm; that the plaintiff and the 2nd defendant purchased land from one person, Mr. Kilel, who was an original member who held 3 acres; that the 2nd defendant bought his plot before the plaintiff; that subdivision began from **1992**; that subdivision was funded by the world bank but was conducted through the municipal council; that it was done by Kamwere, a Surveyor; that all documents were to be verified by the company; that when the plaintiff brought a document reflecting 6 plots (plot **631-636**) they asked her for a written agreement; that soon thereafter the 2nd defendant came along claiming 4 of those plots; that the 2nd defendant also had a share certificate bearing plots Nos. **631, 632, 635 and 636**; that they had listed the plaintiff and that upon the appearance of the 2nd defendant they paused to investigate the matter; that both the plaintiff and the 2nd defendant produced their respective agreements; that the company officials then scrutinized the register and found that Kilel sold to both of them land, as per the measurements given, that is plaintiff 50 by 100 feet and 1st defendant 100 by 200 feet; that they summoned Kilel who confirmed the respective sales; that they went to the site with Kilel to be shown how he had sold the land and settled the two parties; that they found that the plaintiff was given land on the western side and the 2nd defendant on the eastern side; that on the ground they found that the east side could hold plots Nos. **631, 632, 633, 634, 635 and 636**, with 631 in the west and 636 in the east of the range of plots; that the plaintiff resides on plots 631 and 632 on which there are structures, some semi-permanent houses, while the 2nd defendant resides on plot number 635 and 636. There are two plots in the middle. They were in the process of issuing the two plots to the 2nd defendant when this suit paused all that. His further evidence is that there was what he called an "overlap" and some plots (**631-633**) had to be moved after the subdivision. Upon cross examination by Mr. Nyolei the witness maintained that the plaintiff was entitled to plots Nos. 631 and 632 only; upon cross examination by Mr. Kiarie he admitted that he was appointed director only in the year **2011**; that from **1976** the company had been struck out of the companies register and was reinstated on **8/2/2011**; that a committee ran the company affairs and the chief was not amongst them; that by **1980-1981** he was not living in Tuwan; that the black book was opened in the 1990s; that Kamwere began survey in **1992** using a list given by the then company officials running the company affairs; that while the 2nd defendant had not lived on the suit land, the plaintiff had taken possession of part of the plot; that though he was aware of the litigation between the two parties he was never availed any order allowing the 2nd defendant to take possession; that if one measures 50 by 100 feet from the west or from the east respectively, the structures mentioned in the plaintiff's agreement with Kilel would not fit within that size of a plot; that the company official's conclusion that the plaintiff owned only 2 plots was based only on the dimensions given in the agreement between her and Kilel; that if the land was sold to the plaintiff as per the description it would have to include all the 6 plots and that she had paid for 6 plots. He admitted that titles were issued on the basis of the list that the company gave; that he was not party to the preparation of the black book and he does not know who made the entry reading "4 plots"; that by **1993**, Kamwere the surveyor had not brought back the survey map; that no titles have been issued in respect of plots numbers **633 and 634**.

14. With that evidence on the record the 1st defendant closed its case.

15. The 2nd defendant filed his submissions on **29/4/2019**, the plaintiff on **23/4/2019** and the 1st defendant on **26/4/2019**. I have considered the pleadings, the evidence of the parties and the filed submissions.

DETERMINATION

Issues for Determination

16. The following are the issues arising for determination in this suit:

(a) ***Whether the registration of plots numbers 635 and 636 in the name of the 2nd defendant was fraudulent.***

(b) ***What orders should issue.***

(a) **Whether the registration of plots numbers 635 and 636 in the name of the 2nd defendant was fraudulent.**

17. The answer to this question lies in the answers to the questions as to:

a. **Whether the land sold to the plaintiff was restricted to 50 feet by 100 feet or it was to the extent that was allegedly pointed out which appear to signify that the land sold was of a greater size.**

b. **Whether plots 631 -636 were comprised in that land.**

18. The plaintiff claims she owns 6 plots. They are sequentially numbered and located contiguous to each other in a series. She has obtained

title to only two of them that is 631 and 632. Two are not yet titled. They are 633 and 634. Two have been issued with title in the 2nd defendant's name. They are 635 and 636.

19. The evidence of all the witnesses in this case points to the fact that the houses that stood on the plaintiff's land were spread over an area greater than the 50 feet by 100 feet referred to in the agreement **PExh 1**. Indeed the very crucial evidence of **DW3** confirmed this. Her justification for occupation of land bigger than 50 by 100 feet is that the same was shown to her and the houses included in the sale are distributed in it over an area greater than 50 by 100 feet. There is evidence from **DW2** the seller that no surveyor was involved either before or after the sale to the plaintiff, to ascertain the extent of the land sold. The agreement between **DW2** and the plaintiff did not describe the portion sold to the plaintiff as "part of" **DW2's** land.

20. The plaintiff's case is that despite the inclusion of dimensions of 50 feet by 100 feet in the agreement, the portion she purchased was not surveyed. **DW1** admitted survey was conducted much later after the sale. **DW2** was not able to know the date the land was surveyed as he had already left Tuwan Farm. The plaintiff's evidence and indeed that of **DW3** testified to the fact that the land was not surveyed by the time the plaintiff bought the land.

21. However, the land was identifiable on the ground and it had some houses built on it. It was handed over to her directly by the former owner who also showed her the boundaries. According to the evidence on record, she has been in possession ever since while the 2nd defendant has not been in possession thereof, hence the 2nd defendant's two suits seeking her eviction.

22. **DW2** also asserted that the plaintiff was the last in a series of purchasers to buy land from him. If so, when then can the 2nd defendant be said to have, if ever, been dispossessed of the suit land by the plaintiff? In my view, he was not so dispossessed because he has never been in possession. If he had, there was no justification available for his delay in bringing the actions for eviction after a long delay in 2002 (**Kitale HCCC 77 of 2002**) and 2009 (**Kitale CMCC 347 of 2009**). All this points to the fact that the plaintiff purchased the remainder of the land owned by **DW1**.

23. Mr. Nyolei submitted that the plaintiff and the 2nd defendant have both admitted the size of land they are said to have bought and that by virtue of the provisions of **Section 61** of the **Evidence Act**, facts admitted in civil proceedings need not be proved. The provisions of that section read as follows:

"No fact need be proved in any civil proceeding which the parties thereto or their agents agree to admit at the hearing, or which before the hearing they agree, by writing under their hands, to admit, or which by any rule of pleading in force at the time they are deemed to have admitted by their pleadings:

Provided that the court may in its discretion require the facts admitted to be proved otherwise than by such admissions."

24. In my view, Mr. Nyolei's submission on admissions is not correct in respect of the plaintiff for an admission as for it to be deemed as one it must be as plain as a pikestaff in order. It has already been indicated that besides stipulating the size of the land to be 50 by 100 feet, the plaintiff's agreement with Kilel also contained provisions which showed that the land sold to her was greater in size than 50 by 100 feet. Besides, counsel for the plaintiff has already submitted on the import of **Section 100** of the **Evidence Act** in the context of these proceedings.

25. **Section 100** of the Act provides as follows:

"When language used in a document is plain, and it applies accurately to existing facts, evidence may not be given to show that it was not meant to apply to such facts."

26. Wary of the possible applicability of **Section 100** of the **Evidence Act**, counsel for the plaintiff relied on the case of **Njuguna Wamuti - vs- Simeon Koimburi 1977 KLR 15** for the proposition that the plaintiff was not precluded from calling evidence to demonstrate that the plot could not have been 50 by 100 feet in size owing to other facts deducible from the same agreement that stipulated that size.

27. The point made here by counsel for the plaintiff was that the contents of the agreement not being so plain and unambiguous, and they being incapable of being logically applied to the facts on the ground regarding the suit land's physical dimensions, the plaintiff was entitled to call evidence to explain them. That agreement's terms were clarified by the evidence of the distribution of the buildings on the land in a manner in which all the buildings included in the agreement could not fit on a 50 by 100 feet plot, hence showing the land sold was of a bigger size. I therefore agree with her submission that since in this case the description of the land as measuring 50 feet by 100 feet reliance did not fit or apply accurately to the existing facts, reliance could be placed on the oral evidence of the plaintiff to demonstrate that the plot was sold as it was on the ground. In conclusion, I agree with the plaintiff's counsel's submission that the land was sold "as it was":

28. The 2nd defendant's averment that he bought the land from **DW2** before the plaintiff bought hers is not well substantiated. First, if the plaintiff was the last buyer, and was put into possession of all the land there was no room for the 2nd defendant. The evidence that by the time **DW2** left the 2nd defendant had fenced off his land can not be true. In any event there is no elaboration of the extent of the land allegedly fenced off by the 2nd defendant.

29. Having established the answer to that issue the next question that must be answered now is whether plots **631 - 636** were comprised in that land that the plaintiff bought and is in occupation of.

30. **DW3** also conceded that the only reason why the two plots, plots 635 and 636 were registered in the 2nd defendant's name was because the plaintiff's agreement with Kilel bore the dimensions of 50 by 100 feet while that of the 2nd defendant and the same seller bore the

dimensions of 100 by 200 feet; therefore, according to **DW3** and the company, the plaintiff's 50 by 100 feet plot could only bear two plots.

31. I have already found that the plaintiff's land was sold to her on an "as is" basis. If the plaintiff immediately occupied the land she was sold, and if there is no doubt that it earlier on belonged to **DW2**, and **DW1** has never been in possession thereof, it is clear that the range of plots numbered **631-636** could be carved out of that land and are subdivisions thereof.

32. This court has also found that there is a link that has been established between the land the plaintiff occupies and the agreement and the survey fees receipt. Since the 2nd defendant never produced any survey fee receipt or proved possession, his claim to ownership of the suit land is greatly in doubt.

33. I have also considered the fact that that the only reason given by **DW3** for the company's decision to have the 2nd defendant registered as owner of plots Nos. 635 and 636 is that the plaintiff's agreement stated that her plot measured 50 feet by 100 feet which in their view could not translate into six plots. He also admitted that if a portion of 50 feet by 100 feet was carved out of the land in the east, it could not contain all the houses standing on the land sold to the plaintiff; the same case applied if a plot was carved out of the suit land from the westerly direction. Contrary for **DW3's** point of view, this court has found that the issue ceased to be how many plots could be carved out of a 50 by 100 plot to how many could be carved out of the land actually sold to the plaintiff.

34. I do not find any elaborate, above-board and justifiable procedure vide which the plaintiff's name was removed from the area list forwarded to the Land Registrar by the 1st defendant for titling purposes.

35. The decision to substitute the plaintiff's name with that of the defendant was in my view arbitrary, unjust and not based on sound evidence. The plaintiff's name should not have been removed from the area list unprocedurally. In addition, **DW3** admitted that the 1st defendant knew of the litigation filed by the 2nd defendant against the plaintiff which never yielded any positive result for the 2nd defendant herein as the plaintiff was still in occupation of the suit premises.

36. The most appropriate course of action open to the 2nd defendant would have been to pursue his litigation to the end, obtain a court order that would settle the ownership dispute with finality and effect not just the eviction of the plaintiff herein but also a registration of the plots in his name.

37. The submission by the 2nd defendant's counsel that the evidence of **DW2** in these proceedings settled the issue of ownership rings hollow in the light of the express stipulations in the plaintiff's agreement which showed she bought the land on an "as is" basis.

38. I am convinced that the evidence on the record has therefore established that there was fraud on the part of the 1st and 2nd defendants in causing plots numbers 635 and 636 to be registered in the name of the 2nd defendant.

(b) What orders should issue?

39. Citing the provisions of **Section 26** of the **Land Registration Act** and the decision of **Alice Chemutai Too Versus Nickson Kipkurui Korir The Hon Attorney General And Consolidated Bank Kericho ELC Land Case No 51 of 2014 (OS)** for the proposition that where a title has been procured through fraud or misrepresentation to which a person is proved to have been a party or where it has been acquired illegally or unprocedurally or through a corrupt scheme, it can be impeached,

The plaintiff's counsel submits that both defendants were involved in the fraudulent process of acquisition of title to the suit plots and that the titles so acquired ought to be cancelled.

40. **Section 26** of the **Land Registration Act** provides as follows:

26. (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 proprietor of the land is the absolute and indefeasible owner, subject to the encumbrances, easements, restrictions and conditions contained or endorsed in the certificate, and the title of that proprietor shall not be subject to challenge, except-

(a) on the ground of fraud or misrepresentation to which the person is proved to be a party; or

(b) where the certificate of title has been acquired illegally, unprocedurally or through a corrupt scheme.

(2) A certified copy of any registered instrument, signed by the Registrar and sealed with the Seal of the Registrar, shall be received in evidence in the same manner as the original.

41. I must agree with counsel for the plaintiff that the only course of action the court can take in the circumstances of this case is to cancel the titles issued to the 2nd defendant as he was a party to the process acquisition thereof.

42. In the final analysis I find that the plaintiff has established her claim against the defendants on a balance of probabilities and I enter judgment against the defendants jointly and severally and issue the following orders:

(a) A declaration that the registration of the 2nd defendant as the proprietor of Title No. Kitale Municipality Block 2/Tuwan/635 and 636 is fraudulent.

(b) An order that the registration of the 2nd defendant as the owner of the land comprised in title no Title No. Kitale Municipality Block 2/Tuwan/635 and 636 is hereby cancelled, and that the land register shall be rectified, so that the land comprised therein is registered in the name of the plaintiff and titles thereto issued in her name.

(c) An order that the 1st defendant shall amend its records to reflect the plaintiff as the owner/allottee of plot Nos. 633 and 634 in Tuwan Farm and further subsequently forward her name to the District Land Registrar Trans-Nzoia naming her as the owner of the said plots, to facilitate the issuance of the titles and the District Land Registrar Trans-Nzoia shall register her as proprietor and issue her with titles to the two plots.

(d) An order of permanent injunction restraining the defendants from in any way interfering with the plaintiff's ownership and quiet possession land known as Title No. Kitale Municipality Block 2/Tuwan/635 and 636 as well as plots nos. 633 and 634 in Tuwan Farm.

(e) The defendants shall bear the costs of this suit.

It is so ordered.

Dated, signed and delivered at Kitale on this 18th day of July, 2019.

MWANGI NJOROGI

JUDGE

18/7/2019

Coram:

Before - Hon. Mwangi Njoroge, Judge

Court Assistant - Picoty

Ms. Mufutu holding brief for Kiarie for Plaintiff

Mr. Wanyonyi holding brief for Kaosa for 1st Defendant

N/A for 2nd defendant

COURT

Judgment read in open court.

MWANGI NJOROGI

JUDGE

18/7/2019