



REPUBLIC OF KENYA



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**Kimurata v Nkeiyua & 5 others (Environment & Land Petition
E001 of 2021) [2024] KEELC 318 (KLR) (24 January 2024) (Judgment)**

Neutral citation: [2024] KEELC 318 (KLR)

REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT KILGORIS

ENVIRONMENT & LAND PETITION E001 OF 2021

EM WASHE, J

JANUARY 24, 2024

IN THE ENFORCEMENT & INTERPRETATION OF THE CONSTITUTION

AND

**IN THE MATTER OF ARTICLES 3,20,22,23,27,28,40,47
& 159 OF THE CONSTITUTION OF KENYA 2010**

AND

**IN THE MATTER OF THE CONTRAVENTION OF
FUNDAMENTAL RIGHTS AND FREEDOMS UNDER ARTICLE
27,28 40 AND 47 OF THE CONSTITUTION OF KENYA, 2010**

AND

**IN THE MATTER OF THE CONTRAVENTION OF RIGHT TO
PROTECTION OF AN INDIVIDUAL'S RIGHT TO PROPERTY**

AND

**FREEDOM FROM DISCRIMINATION, HUMAN DIGNITY
AND RIGHT TO FAIR ADMINISTRATIVE ACTION**

AND

IN THE MATTER OF TRANSMARA/MEGUERA/44

BETWEEN

CHRISTOPHERLEKODI KIMURATA PETITIONER

AND

WILLIAM LESHON NKEIYUA 1ST RESPONDENT

SOLOMON LEMAYIAN NKEIYUA 2ND RESPONDENT



**SENIOR PRINCIPAL MAGISTRATE, KILGORIS LAW COURT 3RD
RESPONDENT**

CHIEF LAND REGISTRAR, KILGORIS 4TH RESPONDENT

INSPECTOR GENERAL OF POLICE 5TH RESPONDENT

REGISTRAR OF SURVEY 6TH RESPONDENT

JUDGMENT

1. The Petitioner herein has approached this Honourable Court by way of a Petition dated 22.09.2021 (hereinafter referred to as “the present Petition”) against the 1st to 6th Respondents seeking for the following Orders; -
 - a. An order of certiorari to remove into this Honourable Court and quash the decision and proceedings in Kilgoris Magistrate’s Court Kilgoris PMC ELC Case No.14 of 2021 between William Leshon Nkeyua & another-Versus-paul Saningo Christopher & 2 others.
 - b. An order of certiorari to remove into this Honourable Court and quash all records and official documents held by the 4th and 6th Respondents creating and superimposing LR.No.Transmara/Meguara/150 on LR.No.Transmara/Meguara/44.
 - c. An order of mandamus be issued compelling the 5th Respondent to complete its investigations in Shartuka Police Post (O.B NO.06/01/05/2021 and Kilgoris Police Station OB NO.26/01/05/2021.
 - d. A permanent injunction restraining the Respondents whether by themselves, employees, servants and/or agents or otherwise and/or under their mandate and/or instructions from evicting, alienating, advertising for sale, offering for sale, selling, taking possession of, leasing, transferring, charging or otherwise in any manner whatsoever interfering with the LR.No.Transmara/Meguara/44 measuring approximately 11.8 Hectares whether in execution of orders arising from Kilgoris PMC ELC Case No.14 of 2018 between Wilson Lemashon Nkeyiwa & Another-versus-paul Saningo Christopher & 2 Others or at all.
 - e. A declaration that the Petitioner’s rights under Articles 27, 40 and 47 of *the Constitution* have been infringed and threatened with violation by the Respondent.
 - f. Costs of this Petition.
2. The present Petition has premised on various facts which can be summarised as follows; -
 - a. The Petitioner herein is the registered owner of the property known as LR.No.Transmara/Meguara/44 measuring approximately 11.8 Hectares.
 - b. The Petitioner’s title known as LR.No.Transmara/Meguara/44 is still intact and has never been sub-divided.
 - c. On the other hand, the 1st and 2nd Respondents are the registered owners of a property known as LR.No.Transmara/Meguara/150 which measures approximately 7.0 Hectares.



- d. On or about 2018, the 1st and 2nd Respondent instituted proceedings known as Kilgoris PMC ELC Case No. 14 of 2018 between William Leshon Nkeyua & Another -versus-paul Saningo Christopher & 2 Others.
 - e. The cause of action by 1st and 2nd Respondents who were the Plaintiffs in the proceedings known as Kilgoris PMC ELC Case No.14 of 2018 between William Lesho Nkeyua & Another-versus- Paul Saningo Christopher & 2 others related to trespass by the Defendants and a relief of vacate possession and/or eviction.
 - f. The Defendants in the proceedings known as Kilgoris PMC ELC Case No.14 of 2018 between William Lesho Nkeyua & Another-versus- Paul Saningo Christopher & 2 others were the sons of the Petitioner in the present Petitioner who claimed to be in occupation of their father's property known as LR.No.Transmara/Meguara/44.
 - g. After the full hearing of the proceedings known as Kilgoris PMC ELC Case No.14 of 2018 between William Lesho Nkeyua & Another-versus- Paul Saningo Christopher & 2 others, the Trial Court which has been sued as 3rd Respondent in this Petition decided that the Defendants therein had actually trespassed onto the 1st and 2nd Respondents property known as LR.No.Transmara/Meguara/150 and thereafter an order of eviction was issued against them.
 - h. The Petitioner now is aggrieved by the declaration of the 3rd Respondent in the proceedings known as Kilgoris PMC ELC Case No.14 of 2018 between William Lesho Nkeyua & Another-versus- Paul Saningo Christopher & 2 others in the sense that its implementation through eviction of his sons who are the Defendants will dispose him of a portion of land within LR.No.Transmara/Meguara/44 and as such, his Constitutional Rights under Article 27,40 and 47 of the Kenyan Constitution, 2010 will be violated and/or infringed.
 - i. Further to that, the Petitioner is seeking to declare the decision of the Trial Court in the proceedings known as Kilgoris PMC ELC Case No.14 of 2018 between William Lesho Nkeyua & Another-versus- Paul Saningo Christopher & 2 others to be unconstitutional on the basis that he was not a party to the said proceedings yet the determination affected his property known as LR.No.Transmara/Meguara/44.
 - j. In essence therefore, the Petitioner was condemned unheard and without being given a fair hearing as enshrined under Article 50 of the Kenyan Constitution, 2010.
3. The 1st and 2nd Respondents in the present Petition opposed the substantive Petition by filing a Response to the Petition and a Cross-Petition against the Petitioner on the following grounds; -
- a. First and foremost, the 1st and 2nd Respondents stated that the decision pronounced by the Trial Court in the proceedings known as Kilgoris PMC ELC Case No.14 of 2018 between William Lesho Nkeyua & Another-versus- Paul Saningo Christopher & 2 others was legal and lawful.
 - b. The Petitioner's property known as LR.No.Transmara/Meguara/44 actually occupies only 4.8 Hectares on the ground based and not the indicated 11.8 Hectares indicated in the Title thereof.
 - c. The 1st and 2nd Respondent stated that they have a lawful title to the property known as LR.No.Transmara/Meguara/150 which measures 7 Hectares both on the title and the actual land on the ground.



- d. The 1st and 2nd Respondents disputed the Petitioner's allegation that his property known as LR.No.Transmara/Meguara/44 measured 11.8 Hectares on the ground as provided in the Title Deed.
 - e. The 1st and 2nd Respondents relied on the determination of the Kilgoris Land Dispute Tribuna Claim No. 150 of 2007 where the ground acreage of the Petitioner's land was declared 4.80 Hectares while the 1st and 2nd Respondents ground acreage was 7.0 Hectares.
 - f. Further to that, the 1st and 2nd Respondent referred to the Adjudication Records of both LR.No.Transmara/Meguara/44 and LR.No.Transmara/Meguara/150 which indicated the acreage to be 4.80 Hectares and 7 Hectares respectively.
 - g. In other words, the 1st and 2nd Respondents pleaded that the Petitioner's title LR.No.Transmara/Meguara/44 which describes the acreage of the said property to be 11.8 Hectares was issued fraudulently and irregularly without the support of any legitimate documents.
 - h. Consequently therefore, the Petitioner's title known as LR.No.Transmara/Meguara/44 which was reissued on the 19.11.1996 indicating an acreage of 11.8 Hectares was unlawful, illegal and fraudulent for indicating more acreage as is provided in the Adjudication Records.
4. In the end, the 1st and 2nd Respondents sought the following orders against the Petitioner in their Cross-Petition dated 08.03.2022; -
- a. A declaration that all that parcel of land known as LR.No.Transmara/Meguara/150 belongs to the 1st and 2nd Cross-Petitioner.
 - b. A declaration that the Petitioner's occupation of LR.No.Transmara/Meguara/150 is in violation of the Cross-Petitioner's right to own property under Article 40 of the Kenyan Constitution, 2010.
 - c. An order of eviction against the Petitioner, his family, assignees, agents or anyone claiming under his title, evicting them from LR.No.Transmara/Meguara/150.
 - d. An order of compensation for the violation of the cross-petitioners' right and fundamental freedoms under Article 40 of the Kenya Constitution.
 - e. Costs of the suit.
5. The Honourable Court in an effort to understand the background of the issues at hand between the parties allowed the Petition to be canvassed by way of oral evidence in Court.
6. The Petitioner therefore took the stand and testified as PW 1 on the 21.07.2022.
7. PW 1 adopted his statement dated 22.09.2022 as his evidence in chief and produced the following documents in support of the present Petition; -
- PW1 Exhibit 1- Copy of an official search of the property known as LR.No.Transmara/Meguara/44 dated 14.04.2021.
- PW 1 Exhibit 2- Copy of the Title Deed to the property known as LR.No.Transmara/Meguara/44 re-issued on the 19.11.1996.



PW 1 Exhibit 3- A copy of the Judgement of the Trial Court known as Kilgoris PMC ELC Case No.14 of 2018 between William Lesho Nkeyua & Another-versus- Paul Saningo Christopher & 2 others.

PW 1 Exhibit 4- A copy of the Court's Decree dated 17.05.2021 of the Trial Court proceedings known as Kilgoris PMC ELC Case No.14 of 2018 between William Lesho Nkeyua & Another-versus- Paul Saningo Christopher & 2 others.

PW 1 Exhibit 5- A copy of the Court Order dated 31.08.2021 in the proceedings known as Kilgoris PMC ELC Case NO.14 OF 2018 between William Lesho Nkeyua & Another-versus- Paul Saningo Christopher & 2 others.

PW 1 Exhibit 6- A copy of a Ground Report by the Sub-County Land Registrar undertaken on the 20.03.2013 filed in the KISII HIGH COURT Case NO.7 OF 2012.

PW1 Exhibit 7- A copy of a letter dated 23.06.2021 to the OCS Kilgoris Police Station.

PW 1 Exhibit 8- A Copy of a letter dated 04.05.2021 to the 1st and 2nd Respondents.

PW 1 Exhibit 9- Copy of a letter dated 13.09.2021 from the Executive Officer Kilgoris Law Court in the proceedings Kilgoris PMC ELC Case NO.14 OF 2018 between William Lesho Nkeyua & Another-versus- Paul Saningo Christopher & 2 others to the OCS Kilgoris Police Station.

PW 1 Exhibit 10- Copy of letter dated 18.09.2021 by the OCs Kilgoris Police Station to the Executive Officer Kilgoris Law Court.

8. On cross-examination, PW 1 reiterated that he is the registered owner of the property known as LR.No.Transmara/Meguara/44 within which his two sons were in occupation.
9. PW 1 stated that he has never sub-divided the property known as LR.No.Transmara/Meguara/44.
10. PW 1 admitted that he had leased a portion of about 3 acres to the 1st and 2nd Respondents father for farming but not sold the same.
11. PW 1 indicated that the first title of the property known as LR.No.Transmara/Meguara/44 was issued in 1978 and thereafter the second one was issued in the year 1996.
12. On cross-examination by the 3rd to 6th Respondents, PW 1 stated that he obtained a re-issued title in the year 1996 because the previous one had been misplaced.
13. PW 1 however did not have a copy of the said previous title to confirm that it was for an acreage of 11.8 Hectares instead of 4.8 Hectares as alleged.
14. PW 1 insisted that the property known as LR.No.Transmara/Meguara/44 was 11.8 Hectares as indicated in the title presented before the Court.
15. In re-examination, PW 1 stated that he allowed the 1st and 2nd Respondent's father to cultivate on his property known as LR.No.Transmara/Meguara/44 because of their relationship as in-laws.
16. PW 1 denied being aware of any judgement and/or proceedings undertaken in a Tribunal that affected his property known as LR.No.Transmara/Meguara/44.
17. At the end of this re-examination, the Petitioner closed his Case .
18. The Defence hearing commenced with the testimony of the 2nd Respondent as DW1.
19. DW 1 informed the Honourable Court that he had sworn a witness statement dated 08.03.2022 which he adopted as his evidence in chief.



20. According to DW 1, the property known as LR.No.Transmara/Meguara/150 belonged to one Clement Bokongo and had a title issued on the 20/05/1979.
21. Thereafter, the property known as LR.No.Transmara/Meguara/150 was vested in the name of PaulineKemunto Omwenga who was the wife of the late Clement Bokongo on the 24/03/2003.
22. In the year 2006, the 1st and 2nd Respondents purchased the property known as LR.No.Transmara/Meguara/150 measuring approximately 7.0 Hectares and were issued with a title deed on the 21/10/2011.
23. DW1 produced a copy of an official search of the property LR.No.Transmara/Meguara/150 dated 28/02/2022 as well as a Certified Copy of the Green Card issued on the 29/09/2022.
24. DW 1 stated that according to the Adjudication Records issued on the 19/04/1976 of the Petitioner's property known as LR.No.Transmara/Meguara/44, the same provides the acreage to be 4.8 Hectares.
25. Further to that, DW 1 testified that the dispute on the acreage between the properties known as LR.No.Transmara/Meguara/44 and LR.No.Transmara/Meguara/150 was considered by the Land Tribunal and a determination was pronounced that the acreage of LR.No.Transmara/Meguara/44 was 4.8 Hectares while that of LR.No.Transmara/Meguara/150 was 7.0 Hectares.
26. This determination by the Land Tribunal was never appealed by the Petitioner up to date.
27. DW 1 then produced the following documents as Exhibits in opposition of the present Petition.
 - DW 1 Exhibit 1- Copy of the Land Dispute Tribunal over the Claim No.150 of 2007 and the determination issued on the 30.08.2007.
 - DW1 Exhibit 2- Copy of Land Certificate relating to LR.No.Transmara/Meguara/150 dated 29.05.1979.
 - DW1 Exhibit 3- Certificate of Confirmation of Grant of PaulineKemunto Omwenga dated 24.03.2003.
 - DW1 Exhibit 4- Copy of Agreement For Sale dated 15.05.2006.
 - DW 1Exhibit 5- Copy of official search of LR.No.Transmara/Meguara/150 dated 25.02.2022.
 - DW 1 Exhibit 6-A copy of the Adjudication Record of the property known as LR.No.Transmara/Meguara/150 issued on the 19.04.1976 and certified on the 29.09.2021.
 - DW 1 Exhibit 7- A copy of the map the Meguara Adjudication Section Diagram No. 8.
 - DW 1 Exhibit 8- A copy of the Green Card of LR.No.Transmara/Meguara/150 certified on the 29.09.2021.
28. The 2nd Respondent therefore concluded his testimony in chief by indicating that the Petitioner's children are living within the property known as LR.No.Transmara/Meguara/150 and should therefore be evicted as ordered by the Trial Court in the proceedings known as Kilgoris PMC ELC Case No.14 of 2018 between William Lesho Nkeyua & Another-versus- Paul Saningo Christopher & 2 others.
29. On cross-examination DW 1 confirmed that there was a restriction on the Green Card of the property known as LR.No.Transmara/Meguara/150 due to a dispute at the Land Dispute Tribunal which was recorded on the 16/11/2006.



30. DW 1 admitted that he had not been supplied with the documents which the Petitioner relied upon at the Land Dispute Tribunal.
31. However, DW 1 indicated that from the proceedings of the Land Dispute Tribunal, the Petitioner's property LR.No.Transmara/Meguara/44 had an acreage of 4.8 Hectares only.
32. DW 1 also denied that the property known as LR.No.Transmara/Meguara/150 had been created after a sale or sub-division of the property known as LR.No.Transmara/Meguara/44 owned by the Petitioner.
33. DW 1 stated that so far, he had not seen any Certificate of Title relating to LR.No.Transmara/Meguara/44 which indicated an acreage of 4.8 Hectares.
34. According to DW 1, the Certificate of title relating to LR.No.Transmara/Meguara/44 re-issued in the year 1996 gives the acreage to be 11.8 Hectares and the same has never been sub-divided thereof.
35. DW 1 informed that Honourable Court that he was not aware how the property known as LR.No.Transmara/Meguara/150 was created during the adjudication process.
36. However, according to the Adjudication Record of LR.No.Transmara/Meguara/44, the acreage was indicated to be 4.8 Hectares.
37. On re-examination, DW 1 stated that when they purchased the property known as LR.Transmara/Meguara/150, there was no dispute on the ground.
38. Further to that, DW 1 confirmed that during the Land Dispute Tribunal, it was found that the properties known as LR.No.Transmara/Meguara/150 and LR.No.Transmara/Meguara/44 were not aligned on the ground.
39. DW 1 reiterated that during the Land Dispute Tribunal, the property known as LR.No.Transmara/Meguara/44 was approximately 4.8 Hectares on the ground and also in line with the Sheet No. 8.
40. The second defence witness was the 1st Respondent Wilson Leshon Nkeiya.
41. DW 2 introduced himself as the co-owner of the property known as LR.No.Transmara/Meguara/150.
42. DW 2 confirmed that he had purchased the said property known as LR.No.Transmara/Meguara/150 from one Pauline Omwenga.
43. The said Pauline Omwenga has acquired ownership through succession after the demise of her husband Clement Omwenga.
44. DW 2 confirmed that after the purchase of LR.No.Transmara/Meguara/150, he took possession thereof.
45. According to DW 2, a dispute arose after the Petitioner's sons purported to enter the property known as LR.No.Transmara/Meguara/150 and constructed homes on it.
46. It is based on these actions by the Petitioner's children that a suit known as Kilgoris PMC ELC Case No.14 of 2018 between William Lesho Nkeyua & Another-versus- Paul Saningo Christopher & 2 others was filed.
47. At the conclusion of the proceedings known as Kilgoris PMC ELC Case No.14 of 2018 between William Lesho Nkeyua & Another-versus- Paul Saningo Christopher & 2 others, the property known as LR.No.Transmara/Meguara/150 was declared the property on the 1st and 2nd Respondents and the Defendants ordered to vacate the said property.



48. On cross-examination, DW 2 confirmed that the Petitioner in this suit was not a party in the proceedings known as Kilgoris PMC ELC Case NO.14 OF 2018 between William Lesho Nkeyua & Another-versus- Paul Saningo Christopher & 2 others.
49. According to DW 2, the Petitioner's claim is that the property known as LR.No.Transmara/Meguara/44 measures approximately 11.8 Hectares but on the ground, no such land exists.
50. If the Petitioner is to occupy the 11.8 Hectares provided in the title of LR.No.Transmara/Meguara/44 on the ground, then such an occupation would include the acreage provided for in the 1st and 2nd Respondent's property known as LR.No.Transmara/Meguara/150.
51. DW 2 stated that during the proceedings before the Land Dispute Tribunal, the Petitioner had produced a Title of LR.No.Transmara/Meguara/44 measuring approximately 4.8 Hectares.
52. DW 2 informed the Honourable Court that the Petitioner did not make any claim in the proceedings known as Kilgoris PMC ELC Case NO.14 OF 2018 between William Lesho Nkeyua & Another-versus- Paul Saningo Christopher & 2 others although he participated as a witness thereof.
53. In re-examination, DW 2 reconfirmed that the Petitioner was a witness in the proceedings known as Kilgoris PMC ELC Case NO.14 OF 2018 between William Lesho Nkeyua & Another-versus- Paul Saningo Christopher & 2 others.
54. However, the Petitioner was not sued in the proceedings known as Kilgoris PMC ELC Case No.14 of 2018 between William Lesho Nkeyua & Another-versus- Paul Saningo Christopher & 2 others because their claim was in relation of LR.No.Transmara/Meguara/150 and not LR.No.Transmara/Meguara/44.
55. DW 2 stated that in the proceedings undertaken before the Land Dispute Tribunal, it was determined that the Petitioner only occupied an acreage of 4.8 Hectares on the ground and not 11.8 Hectares as provided in the Certificate of Title relating to LR.No.Transmara/Meguara/44.
56. The 3rd defence witness was Job Mitu Kobado (DW 3) who is the Sub-County Deputy Land Registrar.
57. DW 3 adopted the witness statement of Stephen Githinji dated 12.04.2022 as his evidence in chief.
58. In support of the evidence in Chief, DW 3 produced the following documents in opposition of the present Petition herein.

DW 3- Exhibit 1- A copy of the Adjudication Record No. 70244 relating to LR.No.Transmara/Meguara/44.

DW 3- Exhibit 2- A copy of a Certified Green Card of the property known as LR.No.Transmara/Meguara/44.

DW 3 Exhibit 3- A copy of a Certified Green Card of the property known as LR.No.Transmara/Meguara/150.

DW 3 Exhibit 4- A copy of the Land Registrar's Report dated 11.03.2022 relating to the Ground occupation of LR.No.Transmara/Meguara/44 and LR.No.Transmara/Meguara/150.

DW 3 Exhibit 5- A copy of the a Ground Report dated 09/03/2022relating LR.Transmara/Meguara/44 and LR.No.Transmara/Meguara/150.



59. According to DW 3, the acreage on the Adjudication Record of LR.No.Transmara/Meguara/44 does not tally with the acreage on the Certificate of title issued to the Petitioner.
60. DW 3 stated that the Adjudication Record shows an acreage of 4.8 Hectares while the Certificate of Title shows an acreage of 11.8 Hectares.
61. DW 3 testified that the only way the acreage on the Adjudication Record can vary is if the Mutation is rectified and a new Mutation done after a Ground visit.
62. However, according to DW 3, the Lands Department did not have any Ground Report and/or amended mutation altering the acreage of LR.No.Transmara/Meguara/44 from 4.8 Hectares to 11.8 Hectares as reflected in the Certificate of title issued in the year 1996.
63. DW 3 indicated that in the Petitioner's application for re-issuance of the title to LR.No.Transmara/Meguara/44, there is no copy of the original title issued in 1979 attached therein.
64. Consequently therefore, the only document in the Lands Department is the Green Card and the Certificate of title for an acreage of 11.8 Hectares.
65. As regards the Adjudication Record of LR.No.Transmara/Meguara/44, DW 3 confirmed that there was an objection filed by Clement Omwenga which was determined in his favour.
66. As a result of the objection proceedings, the property known as LR.No.Transmara/Meguara/150 was created and registered in the name of Clement Omwenga.
67. During the ground visit in the year 2022, the two properties known as LR.No.Transmara/Meguara/44 and LR.No.Transmara/Meguara/150 are well demarcated on the ground hence distinct from one another.
68. The acreage occupied by LR.No.Transmara/Meguara/44 was approximately 4.8 Hectares while that of LR.No.Transmara/Meguara/150 was 6.38 Hectares.
69. DW 3 pointed out that indeed two of the Petitioner's sons have erected three semi temporary structures on the property known as LR.No.Transmara/Meguara/150 which is in occupation by the 1st and 2nd Respondent.
70. In essence therefore, the claim by the Petitioner is not a boundary dispute but a claim of land against the title known as LR.No.Transmara/Meguara/150.
71. On cross-examination, DW 3 confirmed that the Land Departments are the custodian of all land records in the Republic.
72. DW 3 clarified that the creation of Plot No. 44 and Plot No. 150 were all done before the Adjudication Record was finalised.
73. During the preparation of the Adjudication Records, the actual acreage of the Plots is done by the Director of Survey based on the records and information supplied by the Director of Adjudication.
74. Consequently therefore, the acreage provided in the Green Card usually reflects what is contained in the Adjudication Record.
75. In this particular Case , the acreage in the Adjudication Record of LR.No.Transmara/Meguara/44 does not reflect the acreage in the Green Card thereof.
76. DW 3 indicated that the objection proceedings did not provide the acreage given to the Petitioner herein known as Plot 44.



77. DW 3 informed the Honourable Court that the Land Department did not have any mutation containing an acreage of 11.8 Hectares for the property known as LR.No.Transmara/Meguara/44.
78. On the other hand, the Mutation in the Land Department shows that LR.No.Transmara/Meguara/150 was approximately 7.0 Hectares.
79. In the opinion of DW 3, the correct acreage that should have been used to open the Green Card is the one provided in the Adjudication Record amounting to 4.8 Hectares.
80. DW 3 further pointed out that apart from the difference in the acreage of the property known as LR.No.Transmara/Meguara/44, the said title had a disparity in the names of the registered persons as well.
81. In the Adjudication Record, the name registered on the Plot No. 44 is Christopher Kayioni while the Certificate of Title known as LR.No.Transmara/Meguara/44 has the name Christopher Lekodi Kimurata.
82. DW 3 testified that during the Ground Visit in the year 2022, the acreage occupied by the property known as LR.No.Transmara/Meguara/150 is similar to that indicated in the Certificate of title.
83. DW 3 stated that the Certificate of title relating to LR.No.Transmara/Meguara/44 was re-issued in the year 1996 although there are no records to support the application and/or documents used for issuance of the new title.
84. The procedure includes a declaration of the loss in the Kenya Gazette for a period of 60 days before a new title is re-issued.
85. On re-examination, DW 3 reiterated that the acreage of Plot.No 150 provided in the Adjudication Record is the same one that is contained in the Certificate of Title of LR.No.Transmara/Meguara/150.
86. At the end of DW 3 testimony, the Respondents closed their Case thereof.
87. The parties were then directed to file their submissions with the Petitioner filing his submissions on the 2.11.2023, the 1st and 2nd Respondents filed theirs on 17.11.2023 while the 3rd to 6th Respondents filed theirs on 27.10.2023.
88. The Honourable Court indeed perused the pleadings in the present Petition as well as the submissions herein in detail.
89. To begin with, it is important to inform the parties herein that his Honourable Court is not constituted and/or sitting on its appellate jurisdiction to the proceedings known as Kilgoris PMC ELC Case NO.14 OF 2018 between William Lesho Nkeyua & Another-versus- Paul Saningo Christopher & 2 others.
90. The proceeding before the Honourable Court has been instituted by way of Constitutional Petition and therefore its jurisdiction will only handle issues that are of a Constitutional nature and not as an appeal of the judgement and/or determination of the Trial Court in Kilgoris PMC ELC Case NO.14 OF 2018 between William Lesho Nkeyua & Another-versus- Paul Saningo Christopher & 2 others.
91. In essence therefore, the constitutional issues that have crystallised based on the pleadings by the parties, the oral proceedings in court and the submissions by the parties can be identified as follows; -

Issue No. 1- was the petitioner's right to fair hearing under article 50 of the Kenyan Constitution, 2010 infringed in the proceedings known as Kilgoris pmc elc case no.14 of 2018 between William Lesho Nkeyua & another-versus- Paul Saningo Christopher & 2 others?



Issue No. 2- was the petitioner's right to own property as enshrined under article 40 of The Kenyan Constitution,2010 infringed upon by the implementation of the judgement pronounced on the 24.09.2020 in the proceedings known as Kilgoris PMC ELC Case NO.14 OF 2018 between William Lesho Nkeyua & Another-versus- Paul Saningo Christopher & 2 others.

Issue No. 3- Is the petitioner entitled to the prayers sought in the present petition?

Issue No. 4 – Are the 1st and 2nd respondents entitled to the prayers sought in the cross-petition?

Issue No. 5- who bears the costs of this petition?

92. The Honourable Court having duly identified the above issues for determination, the same will not discuss the same are hereinbelow.

Issue No. 1- Was the petitioner's right to fair hearing under article 50 of the Kenyan Constitution, 2010 infringed in the proceedings known as Kilgoris PMC ELC Case NO.14 OF 2018 between William Lesho Nkeyua & Another-versus- Paul Saningo Christopher & 2 others?

93. The first issue for determination in the present Petition is whether or not the Petitioner's right to a fair hearing was infringed by the 3rd Respondent during the hearing and determination of the Trial Court proceedings known as Kilgoris PMC ELC Case NO.14 OF 2018 between William Lesho Nkeyua & Another-versus- Paul Saningo Christopher & 2 others.
94. The background of the Petitioner's allegation is that the 1st and 2nd Defendants in the Trial Court proceedings known as Kilgoris PMC ELC Case No.14 of 2018 between William Lesho Nkeyua & Another-versus- Paul Saningo Christopher & 2 others are his sons who he had allocated a portion of the property known as LR.No.Transmara/Meguara/44 to develop and utilise for their own benefit.
95. However, the 1st and 2nd Respondents instituted proceedings of trespass against them on the ground that they unlawfully occupied the property known as LR.No.Transmara/Meguara/150.
96. At the end of the proceedings known as Kilgoris PMC ELC Case NO.14 OF 2018 between William Lesho Nkeyua & Another-versus- Paul Saningo Christopher & 2 others, the Petitioner's two sons were ordered to vacate from the property known as LR.No.Transmara/Meguara/150.
97. The Petitioner states that the proceedings in the Trial Court known as Kilgoris PMC ELC Case No.14 of 2018 between William Lesho Nkeyua & Another-versus- Paul Saningo Christopher & 2 others did not give him an opportunity to state his Case and/or failed to make various determination including holding that the Certificate of Title registered in the name of the 1st and 2nd Respondent had been fraudulently procured with the participation of the 4th to 6th Respondents.
98. The Petitioner went further to outline a number of actions which the 4th, 5th and 6th Respondents are purported to have committed in aid of the 1st and 2nd Respondent herein.
99. A perusal of the particulars of the unlawful, unjust, discriminatory and unconstitutional particulars outlined against the Respondents herein directly deal with the facts and or evidence that was placed, considered and/or determined by the Trial Court in the proceedings known as Kilgoris PMC ELC Case NO.14 OF 2018 between William Lesho Nkeyua & Another-versus- Paul Saningo Christopher & 2 others.
100. In essence therefore, the Honourable Court's view is that the Petitioner seems to be aggrieved by the proceedings, evidence and/or determination of the Trial Court in the proceedings known as Kilgoris



PMC ELC Case NO.14 OF 2018 between William Lesho Nkeyua & Another-versus- Paul Saningo Christopher & 2 others.

101. The proceedings known as Kilgoris PMC ELC Case No.14 of 2018 between william lesho Nkeyua & Another-versus- Paul Saningo Christopher & 2 others related to property known as LR.No.Transmara/Meguara/150 and not the Petitioner's property known as LR.No.Transmara/Meguara/44.
102. The Petitioner's sons who are the Defendants in the proceedings known as Kilgoris PMC ELC Case No.14 of 2018 between William Lesho Nkeyua & Another-versus- Paul Saningo Christopher & 2 others were sued in their own capacities for the trespass onto the 1st and 2nd Respondents 'property known as LR.No.Transmara/Meguara/150.
103. The issue therefore in the proceedings known as Kilgoris PMC ELC Case NO.14 OF 2018 between William Lesho Nkeyua & Another-versus- Paul Saningo Christopher & 2 others was vacant possession of the 1st and 2nd Respondent's property known as LR.No.Transmara/Meguara/150 and had not claim against the Petitioner herein as regards his property known as LR.No.Transmara/Meguara/44.
104. In other words, there was no right against the Petitioner in the proceedings known as Kilgoris PMC ELC Case NO.14 OF 2018 between William Lesho Nkeyua & Another-versus- Paul Saningo Christopher & 2 Others which was being challenged and/or litigation as regards the Petitioner's property known as LR.No.Transmara/Meguara/44 which required him to be accorded a fair hearing before determination of the issues therein.
105. According to the evidence placed before this Honourable Court, the Petitioner had actually been called as a witness of the Defendants in the proceedings known as Kilgoris PMC ELC Case NO.14 OF 2018 between William Lesho Nkeyua & Another-versus- Paul Saningo Christopher & 2 others.
106. Clearly therefore, the Petitioner was well aware of the dispute between the 1st and 2nd Respondent herein with his two sons who were the Defendants in the proceedings known as Kilgoris PMC ELC Case NO.14 OF 2018 between William Lesho Nkeyua & Another-versus- Paul Saningo Christopher & 2 others.
107. Despite understanding the issues in the proceedings known as Kilgoris PMC ELC Case NO.14 OF 2018 between William Lesho Nkeyua & Another-versus- Paul Saningo Christopher & 2 others, the Petitioner elected not to be joined either as a Defendant and/or Interested Party in the event he deemed it necessary to participate and/or be given a fair hearing before the determination therein.
108. The Petitioner's actions and/or decision to avoid participating in the proceedings known as Kilgoris PMC ELC Case NO.14 OF 2018 between William Lesho Nkeyua & Another-versus- Paul Saningo Christopher & 2 Others were at the very least intentional as the dispute therein related to LR.No.Transmara/Meguara/150 which he had no interest at all.
109. In essence therefore, as regards to the proceedings known as Kilgoris PMC ELC Case NO.14 OF 2018 between William Lesho Nkeyua & Another-versus- Paul Saningo Christopher & 2 others, the 3rd Respondent did not in any way infringe on the Petitioner's right to a fair hearing or condemn his unheard as alleged and therefore, the said proceedings were not conducted in an unconstitutional way as pleaded by the Petitioner.

Issue No. 2- Was the petitioner's right to own property as enshrined under article 40 of the Kenyan Constitution,2010 infringed upon by the implementation of the judgement pronounced



on the 24.09.2020 in the proceedings known as Kilgoris PMC ELC Case NO.14 OF 2018 between William Lesho Nkeyua & Another-versus- Paul Saningo Christopher & 2 others.

110. The second issue for determination emanates from the judgement pronounced by the Trial Court in the proceedings known as Kilgoris PMC ELC Case NO.14 OF 2018 between William Lesho Nkeyua & Another-versus- Paul Saningo Christopher & 2 others.
111. According to the judgement pronounced on the 24.09.2020 in the proceedings known as Kilgoris PMC ELC Case NO.14 OF 2018 between William Lesho Nkeyua & Another-versus- Paul Saningo Christopher & 2 others, the Defendants were ordered to vacate the 1st and 2nd Respondent's property known as LR.No.Transmara/Meguara/150.
112. This decision by the Trial Court in the proceedings known as Kilgoris PMC ELC Case NO.14 OF 2018 between William Lesho Nkeyua & Another-versus- Paul Saningo Christopher & 2 Others was never appealed against by the Defendants and/or an application of review filed by the Petitioner herein.
113. However, during or before the implementation of the said judgement pronounced on the 24.09.2020, the Petitioner herein filed the present Petition on the basis that the portion on which the Defendants in the proceedings known as Kilgoris PMC ELC Case NO.14 OF 2018 between William Lesho Nkeyua & Another-versus- Paul Saningo Christopher & 2 Others were being evicted from was within the property known as LR.No.Transmara/Meguara/44 and not LR.No.Transmara/Meguara/150.
114. The Petitioner submitted that the 1st and 2nd Respondents actions of evicting the Defendants in the proceedings known as Kilgoris PMC ELC Case NO.14 OF 2018 between William Lesho Nkeyua & Another-versus- Paul Saningo Christopher & 2 Others from within the property known as LR.No.Transmara/Meguara/44 infringed his rights under Article 40 of the Kenyan Constitution 2010.
115. The Petitioner's basis of claiming the infringement of Article 40 of the Kenyan Constitution,2010 was the Certificate of Title re-issued on the 19.11.1996 produced as Petitioner Exhibit 1.
116. According to the Petitioner, his property known as LR.No.Transmara/Meguara/44 is approximately 11.8 Hectares as indicated therein.
117. In essence therefore, the Petitioner is of the view that the portion occupied by the Defendants in the proceedings known as Kilgoris PMC ELC Case NO.14 OF 2018 between William Lesho Nkeyua & Another-versus- Paul Saningo Christopher & 2 Others falls within his property known as LR.No.Transmara/Meguara/44 and not the 1st and 2nd Respondents property known as LR.No.Transmara/Meguara/150.
118. On the other hand, the 1st and 2nd Respondents submit that the portion occupied by the Defendants in the proceedings known as Kilgoris PMC ELC Case NO.14 OF 2018 between William Lesho Nkeyua & Another-versus- Paul Saningo Christopher & 2 Others is on their property known as LR.No.Transmara/Meguara/150.
119. The 4th and 6th Respondents in their evidence during the oral hearing confirmed that the Petitioner is the registered owner of the property known as LR.No.Transmara/Meguara/44 measuring approximately 11.8 Hectares according to the Certificate of Title re-issued on the 19.11.1996.
120. The 1st and 2nd Respondents similarly are the registered owners of the property known as LR.No.Transmara/Meguara/150 measuring 7.0 Hectares.
121. The two properties belonging to the Petitioner and the 1st and 2nd Respondents share a common boundary on the ground.



122. However, when the 4th and 6th Defendants visited the ground to investigate what is bring the conflict between the Petitioner and the 1st and 2nd Respondent, it was discovered that although the Petitioner’s Certificate of Title provided for an acreage of 11.8 Hectares, the actually land on the ground of 4.8 Hectares.
123. As regards the 1st and 2nd Respondents property, the Certificate of Title provided for an acreage of 7.0 Hectares yet on the ground the land was approximately 6.38 Hectares.
124. The 4th and 6th Respondents confirmed that there were clear boundary marking between the Petitioner’s property known as LR.No.Transmara/Meguara/44 and LR.No.Transmara/Meguara/150.
125. As a result of this visit, a Ground Report dated 11.03.2022 was filed in Court and produced as evidence by DW 3.
126. Further to that, DW 3 who testified on behalf of the 4th Respondent stated that the Adjudication Record No. 70244 of Plot.No.44 which was issued with a title as LR.No.Transmara/Meguara/44 clearly provides the acreage as 4.8 Hectares.
127. Consequently therefore, the indication that LR.No.Transmara/Meguara/44 is approximately 11.8 Hectares was not reflective of the Adjudication Record No. 70244.
128. According to DW 3, an alteration of the Adjudication Record can only happen is there is an amendment to the Mutation and/or Registered Index Map to either increase the size of the land or reduce the same.
129. However, according to the 4th and 6th Respondents records, no such amendment was done and therefore the acreage of 11.8 Hectares contained in the Certificate of Title re-issued on the 19.11.1996 is not supported by any lawful document.
130. The Petitioner’s response to all this evidence was that the 1st, 2nd 4th and 6th Respondents had connived and/or collaborated to create the property known as LR.No.Transmara/Meguara/150 from a portion of his land known as LR.No.Transmara/Meguara/44 by altering the Adjudication Records, the Mutations and/or other documents thereof.
131. The Petitioner states that these acts and/or omissions by the 4th and 6th Respondents to alter, fraudulently make and/or create unlawful documents for purposes of issuing the 1st and 2nd Respondents with the Certificate of Title known as LR.No.Transmara/Meguara/150 are unlawful, fraudulent and unconstitutional thereby infringing his rights to property under Article 40 of the Kenyan Constitution, 2010.
132. To begin with, Section 24 of the [Land Registration Act](#), No. 3 of 2012 provides as follows; -
 - “Subject to this Act-
 - a. The registration of a person as the proprietor of land shall vest in that person the absolute ownership of that land together with all rights and privileges belonging or appurtenant thereto; and
 - b.”
133. The plan and clear interpretation of Section 24 of the [Land Registration Act](#), No. 3 of 2012 is that the person registered as the proprietor of any portion of land and thereafter issued with the relevant



- title document is the absolute owner of the property therein together with the rights and privileges appurtenant thereto.
134. Consequently therefore, once a person has been registered as a proprietor of a piece of land under Section 24 of the [Land Registration Act](#), No. 3 of 2012 and issued with a Certificate of Title in accordance with Section 26 of the [Land Registration Act](#), No. 3 of 2012, the ownership rights on the said Certificate of title are automatically protected by the provisions of Article 40 of the Kenyan Constitution, 2010 unless otherwise ordered by a competent Court of law or reviewed through lawful process.
 135. In the present Petition, both the Petitioner and the 1st and 2nd Respondents were issued with Certificates of Titles known as LR.No.Transmara/Meguara/44 measuring approximately 11.8 Hectares and LR.No.Transmara/Meguara/150 measuring approximately 7.0 Hectares.
 136. However, according to the evidence of the 4th and 6th Respondent, the Petitioner's property known as LR.No.Transmara/Meguara/44 should actually be measuring approximately 4.8 Hectares based on the Adjudication Record No. 70244, the Mutation and/or Registered Index Map and the ground occupation thereof.
 137. According to the evidence of DW 3, the Petitioner's title known as LR.No.Transmara/Meguara/44 which was re-issued on the 19.11.1996 with an acreage of 11.8 Hectares is not supported by any documents in their files at the Land office.
 138. The implication of the two titles known as LR.No.Transmara/Meguara/44 measuring approximately 11.8 Hectares and LR.No.Transmara/Meguara/150 measuring approximately 7.0 Hectares is that there should be a total of 18.8 Hectares for both properties to adequately exist on the physical ground.
 139. Unfortunately, the acreage of land on the ground for these two properties known as LR.No.Transmara/Meguara/44 and LR.No.Transmara/Meguara/150 is 4.8 Hectares and 7.0 Hectares respectively totalling to 11.8 Hectares.
 140. In other words, the proprietors of these two properties known as LR.No.Transmara/Meguara/44 and LR.No.Transmara/Meguara/150 can not both enjoy the envisaged privileges and/or rights as provided under Section 24 and 26 of the [Land Registration Act](#), No.3 of 2012 and protected by Article 40 of the Kenyan Constitution, 2010.
 141. In essence therefore, it is this Honourable Court's determination that indeed the implementation of the judgement pronounced on the 24.09.2020 in the proceedings known as Kilgoris PMC ELC Case NO.14 OF 2018 between William Lesho Nkeyua & Another-versus- Paul Samingo Christopher & 2 Others will infringe on the Petitioner's ownership rights over the acreage of 11.8 Hectares contained in the Certificate of Title re-issued on the 19.11.1996.
 142. However, the failure to recognise and enforce the proprietary rights of the 1st and 2nd Respondents over their Certificate of title known as LR.No.Transmara/Meguara/150 would also infringe their rights as enshrined under Article 40 of the Kenyan Constitution, 2010.
 143. The only way out of this situation is by the 4th and 6th Respondents acting to correct any conflicting acreages on the Certificate of Titles known as LR.No.Transmara/Meguara/44 and LR.No.Transmara/Meguara/150 registered in the names of the Petitioner and 1st and 2nd Respondents herein.
 144. Once this corrective measure is undertaken by the 4th and 6th Respondents, then the enforceable and protected rights within the two titles known as LR.No.Transmara/Meguara/44 and



LR.No.Transmara/Meguara/150 will be ascertained and be protected by the provisions of Article 40 of the Kenyan Constitution, 2010 without infringing on each other rights.

145. During the oral hearing of the present Petition, DW 3 who was an official of the 4th Respondent provided a number of documents and/or grounds which can be relied upon in the process of correcting and/or rectifying the acreage on the Petitioner's Certificate of Title issued on the 19.11.1996.
146. It is strange that even after discovery of all those facts discussed by DW 3 and the documents placed before this Honourable Court by the same witness, the 4th Respondent has failed to take the necessary action to remedy the situation.
147. The 4th Respondent and the 6th Respondents cannot alienate and/or register give more land on their Certificate of Titles than what is available on the Ground.
148. It is both their Constitutional and Statutory duty to ensure that the acreages provided in Certificates of Titles issued under Section 26 of the Land Registration Act, No. 3 of 2012 are available on the ground to the persons registered as owners under Section 24 of the Land Registration Act, No. 3 of 2012 so as to safeguard the sanctity of documents issued under Section 26 of the Land Registration Act, No. 3 of 2012.

Issue No. 3- Is the petitioner entitled to the prayers sought in the present petition?

149. The third issue for determination is whether or not the prayers sought in the present Petition are merited or not.

Based on the determinations made under Issue 1 and 2 hereinabove, this Honourable court declines to grant the Petitioner's prayers No. 1,2,3 and 4 as pleaded in the present Petition on the basis such declarations would also infringe on the 1st and 2nd Respondent's rights to enjoy their property known as LR.No.Transmara/Meguara/150 as pronounced in the determination of the Trial Court in the proceedings known Kilgoris PMC ELC Case NO.14 OF 2018 between William Lesho Nkeyua & Another-versus- Paul Saningo Christopher & 2 others.

150. As regards to Prayer No.5, this Honourable Court is satisfied that if the judgement of the Trial Court pronounced on the 24.09.2020 in the proceedings known as Kilgoris PMC ELC Case NO.14 OF 2018 between William Lesho Nkeyua & Another-versus- Paul Saningo Christopher & 2 OtherS is implemented as it is, then the Petitioner's ownership rights created by Section 26 of the Land Registration Act, No. 3 of 2012 through the Certificate of Title issued on the 19.11.1996 over the property known as LR.No.Transmara/Meguara/44 will be infringed contrary to Article 40 of the Kenyan Constitution, 2010.
151. However, because the present Petition was filed on or before the implementation of the judgement by the Trial Court pronounced on the 24.09.2020 in the proceedings known as Kilgoris PMC ELC Case NO.14 OF 2018 between William Lesho Nkeyua & Another-versus- Paul Saningo Christopher & 2 others, then a declaration of the infringement has not crystallised and will not be issued as prayed.

Issue No. 4 – Are the 1st and 2nd respondents entitled to the prayers sought in the cross-petition?

152. The fourth issue relates to the merit and/or demerit of the prayers sought in the Cross-Petition by the 1st and 2nd Respondents dated 08.03.2022.
153. Unfortunately, all the prayers from (a) to (e) do not seek for any constitutional orders but declarations on the ownership of the property known as LR.No.Transmara/Meguara/150 and the subsequent eviction orders issued thereafter.



154. As earlier stated, this Honourable Court was not exercising an Appellate jurisdiction over the judgement pronounced by the Trial Court in the proceedings known as Kilgoris PMC ELC Case NO.14 OF 2018 between William Lesho Nkeyua & Another-versus- Paul Saningo Christopher & 2 Others on the 24.09.2020.
155. The Honourable Court was exercising its jurisdiction to establish and determine whether or not there were Constitutional infringements against the Petitioner herein either during the proceedings of Kilgoris PMC ELC Case NO.14 OF 2018 between William Lesho Nkeyua & Another-versus- Paul Saningo Christopher & 2 Others or the subsequent implementation thereof through the order of eviction.
156. As far as this Honourable Court is concerned, the issues raised in the Cross-Petition and the subsequent prayers therein were fully determined by the proceedings of Kilgoris PMC ELC Case No.14 of 2018 between William Lesho Nkeyua & Another-versus- Paul Saningo Christopher & 2 Others which no appeal has been filed against it.
157. In essence therefore, the prayers sought in the Cross-Petition dated 08.03.2022 are hereby declined.

Issue No. 5- Who bears the costs of this petition?

158. The last issue for determination is who should bear the costs of the present Petition.
159. Keeping in mind facts and determination of Issue No. 2, the Honourable Court takes note that the conflict between the Petitioner's property known as LR.No.Transmara/Meguara/44 and LR.No.Transmara/Meguara/150 emanates from the documents prepared and issued by the 4th and 6th Respondent, then it would not be fair to award costs to the 1st and 2nd Respondents herein who are also trying to enforce a lawful judgement from the proceedings known as Kilgoris PMC ELC Case NO.14 OF 2018 between William Lesho Nkeyua & Another-versus- Paul Saningo Christopher & 2 others.
160. In other words, each party should bear its own costs.

Conclusion.

161. In conclusion therefore, this Honourable Court hereby makes the following Orders in determination of the Petition dated 22.09.2021; -
 - A. The implementation of the judgement pronounced on the 24.09.2020 in the proceedings known as Kilgoris PMC ELC Case No.14 of 2018 between William Lesho Nkeyua & Another-versus- Paul Saningo Christopher & 2 others is a potential infringement of the petitioner's rights provided under article 40 of the Kenyan constitution, 2010.
 - B. The 4th and 6th respondents herein be and are hereby directed to establish the correct acreage of both properties known as LR.No.Transmara/Meguara/44 and LR.No.Transmara/Meguara/150 as is available on the ground within 30 days from the date of this judgement thereof.
 - C. The 4th and 6th respondents are further directed that after ascertaining the correct acreage of both properties known as LR.No.Transmara/Meguara/44 and LR.No.Transmara/Meguara/150 within the period provided hereinabove, their offices should proceed to rectify their documents and issue the petitioner and 1st and 2nd respondent with rectified titles reflecting the correct acreage available on the ground for both titles within 45 days thereof.



- D. The 4th and 6th defendants are further directed to place boundary marking demarcating the petitioner's property known as LR.No.Transmara/Meguara/44 and the 1st and 2nd respondent's property known As LR.No.Transmara/Meguara/150 within 90 days from the date of this judgement.
- E. There shall be a stay of the judgement pronounced on the 24.09.2020 and the subsequent eviction orders thereof for a period of 90 days from the date of this judgement to enable the 4th and 6th respondents implement the directions of this honourable court and thereafter, the 1st and 2nd respondent will be at liberty to execute their decree in the proceedings known As Kilgoris Pmc Elc Case No.14 of 2018 between William Lesho Nkeyua & Another-versus- Paul Saningo Christopher & 2 others if need be.
- F. Each Party Will Bear Its Own Costs.

DATED, SIGNED & DELIVERED VIRTUALLY IN Kilgoris ELC COURT ON 24TH OF JANUARY 2024.

EMMANUEL.M.WASHE

JUDGE

In the presence of:

Court Assistant: Mr.ngeno

Advocates for the Petitioner: Mr.anyoka

Advocates for the 1st& 2nd Respondent: Mr.maroko

Advocates for the 3rd-6th Respondent: Ms.wanjiru

