



Grove Development Limited v County Government of Kwale & 3 others (Environment & Land Petition 008 of 2023) [2024] KEELC 4091 (KLR) (21 May 2024) (Judgment)

Neutral citation: [2024] KEELC 4091 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT KWALE
ENVIRONMENT & LAND PETITION 008 OF 2023**

AE DENA, J

MAY 21, 2024

BETWEEN

GROVE DEVELOPMENT LIMITED PETITIONER

AND

COUNTY GOVERNMENT OF KWALE 1ST RESPONDENT

DIRECTOR OF CRIMINAL INVESTIGATIONS 2ND RESPONDENT

HON. ATTORNEY GENERAL 3RD RESPONDENT

LAND REGISTRAR KWALE COUNTY 4TH RESPONDENT

JUDGMENT

1. The petition subject of this judgement was filed before court on 22nd June 2023 vide the Petition on 20th June 2023. The petition is accompanied by the supporting affidavit dated 20th June 2023 sworn by Nitichandra Krishnalal Pandya a director of the Petitioner company duly authorised to swear the same on his own behalf and on behalf of the company and its directorship as per Authority to Act annexed. The Petitioner contends that at all material times prior to these proceedings the Petitioner Company was and is still the registered owner of the suit property Kwale/Diani Beach Block/20 subdivided into 35 other parcels as listed under paragraph 2 of the supporting affidavit having purchased the same from one Mrs Elizabeth Arbuthnot Grant.
2. It is the Petitioner's case that the property is held under leasehold interest and which was due for expiry on 1/1/2013. That prior to expiry of the 99-year lease in 2013, the Petitioner paid charges with regard to the extension of the lease, change of user and subdivision of Kwale/ Diani Block/ 20 on 29/10/2009 and has been in occupation of the land since the year 2013. That the said application was approved by government authorities. That the Chairperson of the National Land Commission published a notice in the local newspaper on 8/3/2014 inviting Interested Parties to make representations or objections in connection with a Part Development Plan for the suit property and no objection was raised. Later



the lease in the suit was extended in 2019 for an additional 50 years and subdivision was effected into 35 plots. Sometime in March 2022, the Petitioner applied for a certificate of official search of one of the subdivisions and noted the entire parcel had been encumbered by a restriction registered on 25/2/2022 pursuant to letters from the 1st and 2nd Respondents dated 22/2/2022.

3. The Petitioner avers that they then attended the DCI Regional Office Mombasa and recorded a statement on how they acquired the land and that despite numerous correspondences the Respondents are still interfering with their ownership of the suit property. The Petitioner pleads that articles 40 as to its right to property; 47 as to fair administrative actions and 50 as to fair hearing have been violated. Consequently, the Petitioner has filed the petition herein and prays for:
 - a. A declaration that the restriction registered against Kwale/Diani Beach Block/20 and the resultant subdivisions by the 3rd Respondent and the request of the 1st and 2nd Respondents is illegal.
 - b. Permanent injunction restraining the respondents, their agents, servants, invitees and/or squatters from trespassing and/or encroaching on all that parcel of land known as Kwale/Diani Beach Block/20 and the resultant subdivisions thereof, and/or in any other manner whatsoever from interfering with the petitioner's ownership of Kwale/ Diani Beach Block/20.
 - c. General damages for illegal registration of restriction.
 - d. Costs

Response

4. The petition is opposed by a replying affidavit sworn by Saumu Beja Mahaja the County Executive Committee member in charge of Land Natural Resources and Urban Planning. It is averred that the subject property is public land after expiry of its lease and the same is up for alienation by the government. It is stated that contrary to the Petitioners averments, neither the defunct County Council nor the current County Government approved the renewal of the lease which expired on 1/1/2013. That the issue was deliberated by the defunct County Council of Kwale in a meeting held on 13/12/2012 and it was resolved that the lease was not to be renewed. That the purported approval was therefore fraudulent and was without authority.
5. It is further deponed that the County Council had identified beneficiaries upon alienation as per the letters dated 2/8/2013,5/8/2013 and 23/8/2023 between the National Land Commission, Ministry of Lands and the County Government to initiate and conclude the planning and survey of the suit property. The planning was undertaken and published vide Gazette Notice in March 2014 and the plan was to set aside the land for social amenities. That on 18/2/2022 the 1st Respondent received a letter from the 2nd Respondent seeking to be furnished with documents over the suit property which stated the property was subject of an ongoing investigation. That in response the 1st Respondent through a letter dated 20/5/2022 clarified several issues raised by the 2nd Respondent and which were that the alleged approval for extension of lease was by a County Engineer who was not authorised to do so. That the purported approval fees were for change of user and subdivision and not for the extension. Lastly that previously the extension had been objected to.
6. It is averred that the reason for registering a restriction is to prevent the intended disposal of the suit properties. That the above stated reasons are what informed the restriction and the court should dismiss the petition with costs.



7. In response to the petition, the 2nd Respondent filed a replying affidavit sworn by Chief Inspector Jackson Guyo the investigating officer at the Directorate of Criminal Investigations land fraud investigations unit. It is averred that the suit herein is in respect of an inquiry into allegations of fraudulent acquisition and subdivision of LR No Kwale/Diani Beach/20 measuring approximately 27 acres. That the report initiating the investigations was made by Mbalu & Associates Advocate on behalf of their clients Hatibu Mjaka Mtengo and Hassan Rashid Mziga. The said persons were administrator and executors of Achina Kulo, Achina Saburi and Achina Ryza clans of the Digo Community. It is averred that the suit property belongs to the clans as part of their ancestral land and that the subdivisions are fraudulent hence the report to the 2nd Respondent.
8. The deponent further states that based on the complaint, the 2nd Respondent initiated investigations pursuant to Section 35 of the National Police Service Act and forwarded the duplicate police file to the Director of Public Prosecution for action. That during the pendency of their investigations the 2nd Respondent confirmed that certain offences had been committed by directors of the Petitioner. That the Petitioner is fully aware of the investigations and have been informed of its progress. That in the event the orders sought are granted the same will prejudice the ongoing investigations. The court is urged to disallow the same.
9. In response to the replying affidavits dated 4/12/23 and 6/12/23 the Petitioner through Nitichandra Krishnalal Pandya highlighting specific findings from the ruling of Emukule J. averred that the content of the said affidavits were meant at digressing the court into issues which are resjudicata. That all the issues raised by the Respondents were duly considered and findings made in favour of the Petitioners.
10. It was further deponed that applications to set aside the ruling delivered by Emukule J. and joinder by the 1st Respondent, the alleged trustees of Achina Kulo, Achina Saburi and Achina Ryza clans who instigated the investigations by the 2nd Respondent were dismissed by the court in a ruling dated 24/11/2016 which was annexed. That both the rulings herein have never been appealed against or overturned and therefore the Petitioner validly remains the proprietor. That the present Petition is on legality of the restriction and not legality of the extension of lease.

Submissions

11. On 25/10/2023, directions were issued by the court as to the disposal of the petition being written submissions.

Petitioners Submissions

12. The Petitioner's submissions were filed on 24/1/2024. The following issues for determination were identified;-
 1. Whether the restriction registered against the Petitioners suit property by the 3rd Respondent under the instructions of the 1st and 2nd Respondents is legal; and
 2. Whether the Petitioner is entitled to the reliefs sought.
13. On the first issue for determination, citing the provisions of section 76 of the Land Registration Act, it is submitted that it is necessary before registering a restriction for the 3rd Respondent to issue a notice in writing and undertake inquiries and further conduct a hearing involving parties affected over the property. That the failure by the Respondents to give the Petitioners an opportunity to be heard is an abuse of their rights and an abuse of the rules of natural justice. Reliance was placed on Republic Versus Chief Land Registrar & Another Exparte Patrick Mbau Malika & 6 Others [2017] eKLR, Hezekiah



Omondi Adala V Chief Land Registrar [2021] eKLR and Republic V Land Registrar & Another Exparte Ecobank Kenya Limited & Another [2015] eKLR.

14. The Petitioner contends that no sufficient reason has been given for the registration of the restriction. According to the Petitioner, the exercise by the Respondents is res judicata. That in an earlier decision Justice Emukule had stated that the decision by the County Government of Kwale to alienate the suit property as public property without any communication to the Petitioners was a breach to their rights.
15. It is the Petitioner's submission that they instigated the process for extension of the lease before the same expired. That several correspondences were made over renewal and the assertion that the lease was only extended pursuant to the notification for approval is misleading and not true. In reference to the Gazette Notice alluded to by the 1st Respondent, it is submitted that the same was quashed by Justice Emukule. The court is informed that the issues raised by the 1st Respondent in the affidavit in response to the petition are all res judicata having been previously finalised by the court. The Petitioner urges that it is entitled to the reliefs sought as they have been deprived of the use of the suit property with an alleged restriction that is illegal.

1st Respondent's Submissions

16. The 1st Respondent filed their submissions on 20th February 2024 and also adopted the 2nd - 4th Respondents submissions dated 14th February 2024. The 1st Respondent maintains that neither the defunct county council nor the County Government of Kwale approved the renewal of lease. That the purposed renewal must have been through misrepresentation and fraud. That the property is public land and is subject to alienation by the 1st Respondent. That the lease to the said land having expired and not renewed entitles them to manage the same and that the lease alluded to by the Petitioner is a fraud. That lodging the restriction to safeguard the proprietary interest of Kwale people was a legal process and the 1st Respondent should not be condemned for doing so. The 1st Respondent states that there still exists an ongoing investigation over the suit property and the Petition is premature. The 1st Respondent urges that the petition is dismissed with costs.

2nd, 3rd & 4th Respondents' Submissions

17. The 2nd, 3rd and 4th Respondents identified the following issues for determination;
 - I. Whether the restriction registered against the suit property is legal.
 - II. Whether a permanent injunction restraining the Respondents from trespassing and/or encroaching the suit property should be issued.
 - III. Whether general damages should be paid for illegal registration of restriction.
18. On whether the restriction registered against the suit property is legal. It is submitted that under the provisions of Section 76 and 78 of the [Land Registration Act, 2012](#) the Registrar can register a restriction in three instances namely, prevention of fraud or improper dealings on land or for any sufficient cause. That the Registrar may be moved suo moto or on application of any persons interested in the land. The Registrar on receipt of the application is duty bound to direct inquiries to be made, notices to be served and hearing such persons as he considers fit and make an order prohibiting or restricting dealings with any land. Further the restriction may be for a particular period, until the occurrence of a particular event or until a further order is made. The Registrar shall give notice in writing of a restriction to the proprietor affected by the restriction.



19. It is submitted that the 3rd Respondent acted within his mandate as shown above in registration of the restriction against the suit property. Reliance is placed in the following authorities; Matoya Vs Standard Chartered Bank (K) LTD & others (2003) I EA 140, Republic Vs Registrar of Lands, Kiambu County [2015] eKLR. Further that under Section 35 of the *National Police Service Act* the 2nd Respondent is mandated to carry out investigations even on land fraud once a complaint has been made over the same. The court is referred to Republic vs. Commissioner of Police and Another ex parte Michael Monari & Another [2012] Eklr. Relying on Cape Holding Limited vs. Attorney General, Director of Public Prosecution & Another, Misc Civil Applic 240 of 2011 is submitted the suit is premature as the investigations on the suit property are ongoing. In accordance with the above, the Director of Criminal Investigations acted within their legal mandate.
20. On whether a permanent injunction restraining the Respondents from trespassing and/or encroaching the suit property should be issued it is submitted that the Petitioner is aware of the ongoing investigations and were on 26th October, 2023 engaged with Investigating officers at DCI Urban Mombasa Office and were informed of the progress of the case. That the ongoing investigations are at an advanced stage hence the Petition is premature and granting the orders will prejudice the ongoing Investigations.
21. On whether general damages should be paid for illegal registration of restriction the Respondents submit it is notable in this respect that comparative jurisprudence limits the award of general damages in constitutional cases to only proven damages and not presumed damages as held in Ntanda Zeli Fose vs Minister of Safety and Security the Court that an award of constitutional damages in addition to delictual damages would not be appropriate, and that delictual damages are an adequate vindication of the Plaintiff's constitutional rights. That the award of general damages in constitutional petitions is discretionary and will depend on the circumstances of each case, and can indeed be granted as compensation for proven loss. That the Respondents acted within their mandate and therefore the registration of the restriction on the suit property was legal, consequently there should be no payment of general damages. In conclusion the court is urged to find that the registration of restriction on the suit property is not illegal, the Respondents are consequently not liable for the damages.

Analysis and Determination

22. The issues arising for determination in this petition is whether the restriction placed on the suit property is legal and was lawfully placed. If the answer is not in the affirmative then the court will proceed to determine if the Petitioner is entitled to the orders sought.

Whether the restriction placed on the suit property is legal and was lawfully placed

23. The jurisdiction of the court to determine the Petition is not in dispute save for the submission that the petition has been brought prematurely since there were ongoing criminal investigations on the same. The later will be dealt with elsewhere in this judgement.
24. The placement of a restriction against the suit property is largely the heart of this petition. Its registration against the suit property is being impugned by the Petitioner. It is the Petitioner's contention that the registration of the restriction by the 3rd Respondent was undertaken in total disregard to statute and *the constitution*. That the petitioner was not given an opportunity to be heard contrary to the rules of natural justice neither was it given information on the alleged investigations which investigations have taken over 15 months to conclude.



25. It behoves the court to therefore interrogate the registration of the said restriction and its compliance to the procedure provided in law including whether there was infringement of the constitutional provisions cited by the Petitioners.
26. The applicable legal regime is the Land Registration Act 2012 (herein the Act). Section 76 thereof is pertinent as a restriction is defined as an interest registered under the said section. The section is read together with section 77. These sections stipulate as follows;-

Restrictions. 76.

- 1) For the prevention of any fraud or improper dealing or for any other sufficient cause, the Registrar may, either with or without the application of any person interested in the land, lease or charge, and after directing such inquiries to be made and notices to be served and hearing such persons as the Registrar considers fit, make an order (hereinafter referred to as a restriction) prohibiting or restricting dealings with any particular land, lease or charge.
- (2) A restriction may be expressed to endure—
 - (a) for a particular period;
 - (b) until the occurrence of a particular event; or
 - (c) until the making a further order is made, and may prohibit or restrict all dealings or only or the dealings that do not comply with specified conditions, and the restriction shall be registered in the appropriate register.
- (3) The Registrar shall make a restriction in any case where it appears that the power of the proprietor to deal with the land, lease or charge is restricted.

Notice and effect of restriction. 77.

- (1) The Registrar shall give notice, in writing, of a restriction to the proprietor affected by the restriction.
 - (2) An instrument that is inconsistent with it shall not be registered while the restriction is still registered except by order of the court or of the Registrar.
27. My reading of section 76 above is that the registrar may make an order for restriction suo motto or on the application of any person interested in the land for the purposes of compulsory acquisition, prevention of any fraud or improper dealing or for any other sufficient cause. It is noteworthy the present case is not a case for compulsory acquisition. In respect of prevention of fraud or any sufficient cause the restriction may be made on the registrars own motion. However this can only be done after he has directed inquiries to be made and notices to be served and hearing such persons as the registrar considers fit. It is only after these steps have been fulfilled that the registrar shall under the provisions of section 77 of the Act give notice, in writing, of a restriction to the proprietor affected by the restriction.
28. The existence of the restriction against the suit property is not in dispute. It is apparent from these proceedings that the registration of the restriction was instigated by the 1st Respondent as admitted at paragraph 11 and 12 of the replying affidavit of Saumu Beja Mahaja. Also see the letter dated 22/02/22 Ref. CGK/LEG/2022/57/Vol.1 from the 1st Respondent to the Land Registrar. That this was after the 1st Respondent received a letter from the 2nd Respondent informing the 1st Respondent it was investigating allegations of fraud in the acquisition of the suit property. The restriction was therefore not suo motto and even if it was, it still behoved the Registrar to fulfil the requirement to notify



the affected parties as part of the inquiries and deliver to them the outcome as per the provisions enumerated above.

29. Moreover there is no evidence that was placed before this court by the 3rd Respondent that such notice was issued upon the Petitioner prior to registration of the restriction against the suit property or even post its registration. Looking at the letter dated 22/02/21 Ref. CGK/LEG/2022/57/Vol.1, it is not copied to the Petitioner and even assuming it was, the obligation to inform the affected parties was upon the Registrar. The Petitioner has demonstrated to the court that as at the time of the registration of the restriction it was the registered owner. Copies of the Certificates of lease were annexed showing titles were issued to Grove Development Limited pursuant to extension of lease for further 50 years from 1/3/2013 yet the petitioner was never notified. Who else then would be better placed to be notified for inquiry in place of the registered proprietor. Where is the procedural fairness in all this?
30. The court has also not been led to any evidence that hearings were conducted to afford the Petitioner an opportunity to explain the origins of its titles which is not only contrary to the provisions of section 76 of the *Land Act* but is contrary to both articles 40 and 50 of *the Constitution*. The consequences of a restriction is common knowledge is limiting in terms of transacting on the title thus going against the very right to property and its enjoyment guaranteed under article 40 of *the Constitution*. I respectfully disagree with the Respondent's submission that the 3rd Respondent acted within his mandate, the issue is whether the actions were procedural.
31. Based on the foregoing it is this court's finding that the registration of the restriction against the suit property was effected un-procedurally. The court is persuaded by the findings in Republic Vs. Chief Land Registrar & Another Ex parte Patrick Mbau Maika & 6 Others (2017) eKLR and Republic Vs. Land Registrar & Another ex parte Ecobank Kenya Limited & Another (2015) eKLR and Republic v Land Registrar & another Ex parte Joyce Odhiambo & 5 others; National Land Commission & another ((Interested Parties) [2022] eKLR.
32. But before I delve into whether the Petitioner is entitled to the orders sought, I will briefly pronounce myself on the issue of resjudicata which has been raised by the Petitioner. The 1st Respondent urges that there were irregularities in the acquisition of the titles, that the extension was never approved by the Defunct County Council and annexed Minutes of the relevant meeting held on 13/12/2012. The rejoinder is contained in paragraph 5- 9 of the replying affidavit of Saumu Beja Mahaja. It is further contended that the land is public land awaiting alienation as per the Part Development Plan herein.
33. I have carefully considered the ruling by Emukule J delivered on 30/07/2015. I find it necessary to extract the prayers sought in the motion the subject of the said ruling verbatim as follows;-
 - a. An order of certiorari to quash the Notice of Completion of the Part Development Plan made by the First, Second and Third Respondents and published in the local daily Newspapers on 8th March 2014, purporting to invite members of the public to make any representations and objections to the suit property
 - b. An order of prohibition to prohibit the First and Second Respondents, their officers, agents, servants or any other authority appointed for that purpose from dealing, processing titles, allotting, issuing, sub-dividing and or any dealings whatsoever that is detrimental to the Applicants right to all that piece of land known Plot Number Kwale/Diani/Block/20;
 - c. An order of mandamus to compel the First and Second Respondents to renew the Applicants lease to all that piece of land known Plot Number Kwale/Diani/Block/20 and release the same to the Applicant.



34. Indeed the learned Judge allowed in its well-reasoned ruling the Notice of Motion dated 2nd April 2014 in all respects. Following the ruling the lease was renewed. In its determination the court considered at length the arguments raised in opposition by the Director of Physical Planning. The Development Plan and its publication were quashed and became of no use (see paragraph 33 and 34). The 1st Respondent was accorded an opportunity to raise all the issues they are currently raising in their response herein which opportunity they squandered. I say so because I have noted from the said ruling (see paragraph 26) that the court on 13/11/14 ordered that the County Government of Kwale be served with the judicial review papers but the 1st Respondent chose not to enter appearance despite being duly served. The option that was available was to appeal the said ruling which was not done. I have also read the ruling delivered on 24/11/2016 on the applications dated 18/01/2016 and 26/02/2016. In the former the trustees of Achinakulo clan sought to set aside the ruling dated 30/7/2015 as well as an order for joinder as Interested Parties and orders of injunction against the Petitioners from alienating the suit property. In the later the 1st Respondent sought to set aside the ruling dated 30/7/2015. The court dismissed both the applications and gave its reasons for the same. Both rulings have not been overturned on appeal or set aside. The Respondent cannot purport to reintroduce the same grounds for consideration in these proceedings. In any event this courts hands are tied as pronouncing myself on the issues would be firstly dealing with matters that are resjudicata. Secondly it will be tantamount to sitting on appeal of a decision of a court of concurrent jurisdiction. I respectfully decline to entertain the invitation to pronounce myself on the issues being reintroduced through the back door. Moreover what is before me is the legality or otherwise of the restriction.
35. Is the Petitioner herein entitled to the orders sought? I have already made a finding elsewhere in this judgement that the restriction registered against the suit property is illegal and I have cited the reasons for the said finding. It is trite that nothing comes out of an illegality. I'm also guided by the dictum in Sceneries Limited Vs National Land Commission (2017) eKLR where the Court held that a decision arrived at in total breach of the rules of natural justice is ultra vires null and void and cannot be allowed to stand. The court will therefore not hesitate to grant prayer (a).
36. An order of Permanent injunction is also sought restraining the respondents, their agents, servants, invitees and/or squatters from trespassing and/or encroaching on all that parcel of land known as Kwale/Diani Beach Block/20 and the resultant subdivisions thereof, and/or in any other manner whatsoever from interfering with the petitioner's ownership of Kwale/ Diani Beach Block/20. It is urged on behalf of the 2nd, 3rd and 4th Respondents that the investigations by the 2nd Respondent are at an advance stage that the petition is premature and granting an order of permanent injunction will prejudice the ongoing investigations.
37. For me the ownership of the suit property was sealed following the issue of the orders of mandamus (see paragraph 36) whereupon the lease was renewed and or extended for a period of 50 years including the attendant subdivisions. Titles were annexed in this regard and which is prima facie evidence of ownership. I have already made a finding that my hands are tied by the determination dated 30/7//2015. Additionally, while there exists provisions for removal of the restriction under section 78 (1) of the Act the Petitioners efforts toward this did not bear any fruit. The option to move the court under the provisions of section 78(2) therefore kicked in. My understanding of a permanent Injunction is that it fully determines the right of the Parties before the Court and is normally meant to perpetually restrain the commission of an act by an adverse party in order for the rights of a claimant to be protected see Bandari Investments & Co. Ltd v Martin Chiponda & 139 others [2022] eKLR where the principles of granting a mandatory injunction are discussed.
38. I have also considered the limb on the investigations being carried out by the 2nd Respondent which I have noted were pursuant to a complaint by the representatives of the clans that were subject of



the ruling dated 24/11/2016. They are largely the same people who are approaching the DC1. The County itself does not at any point disclose to the DCI and the Land Registrar that that the issues were subject of orders issued by the High Court. The 1st Respondent urges the court to refrain from granting the permanent injunctive order since the Petitioner will definitely dispose of the subject matter as evidenced by the unapproved subdivisions. On the latter position the same attempt was rejected by Emukule J. I do not see any good faith in these investigations. The 1st Respondent has been economical with the truth on issues determined by the court in the ruling dated 30/7//2015. All these in my view go to demonstrate that the Petitioners are likely to suffer real prejudice. Consequently this court will not hesitate to grant the orders sought. In this regard the court agrees and is persuaded by the below dictum of F.O Nyagaka J. in the case of Kitiyo & Another Vs Mwoi & 2 Others (2024) KEELC 3608 (KLR) while commenting on the provisions of section 75 of the Criminal Procedure Code

"The provision is quite clear as with regard to existence of concurrent proceedings both in criminal and civil proceedings in courts over the same subject matter. However, this provision in my view does not give both the complainant and prosecution a blank cheque or red-carpet opportunity to abuse the process of the court, the pendency of the concurrency must be looked at from the prism of the due administration of justice whether on the criminal or civil aspects of jurisdiction. Where the criminal jurisdiction is being used in a manner as to scuttle the civil jurisdiction , torment the defendant or respondent or even settle scores or cause pain to the other party it loses the good faith and incense that the criminal jurisdiction was designed to product and must be abhorred , shunned and stopped at its track"

39. An order for General damages for illegal registration of the restriction is also craved. It has been submitted on behalf of the 2nd 3rd and 4th Respondents that comparative jurisdictions limit the award of general damages in constitutional cases to only proven damages. The Petitioner urges that it has been deprived of a proper use of its land and which has had a negative commercial implication and that it is only fair that it be compensated for violation of its constitutional right to property over the years. The power to grant general damages is discretionary and applying this courts discretion I will not grant this prayer noting that the rest of the orders will suffice.
40. The upshot of the foregoing is that this court finds merit in the Petition and the following orders hereby issue; -
 - a. A declaration be and hereby issues that the restriction registered against Kwale/Diani Beach Block/20 and the resultant subdivisions by the 3rd Respondent and the request of the 1st and 2nd Respondents is illegal.
 - b. A Permanent injunction hereby issues restraining the respondents, their agents, servants, invitees and/or squatters from trespassing and/or encroaching on all that parcel of land known as Kwale/Diani Beach Block/20 and the resultant subdivisions thereof, and/or in any other manner whatsoever from interfering with the petitioner's ownership of Kwale/ Diani Beach Block/20.
 - c. Let each party bear its own costs.

Orders accordingly

JUDGEMENT DATED SIGNED AND DELIVERED THIS 21ST DAY OF MAY 2024.

.....

A.E DENA



JUDGE

In the presence of: -

Mr. Kago for the Petitioner

No appearance for the 1st Respondent

Ms. Njau holding brief for Ms. Langat for 2nd, 3rd and 4th Respondent

Mr. Daniel Disii – Court Assistant

