



Mwaura & 2 others (Suing as the legal administrator of the Estate of the Late Peter Njuguna Mwaura - Deceased) v Thuo & 5 others (Environment & Land Case E003 of 2023) [2024] KEELC 13563 (KLR) (28 November 2024) (Judgment)

Neutral citation: [2024] KEELC 13563 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT THIKA
ENVIRONMENT & LAND CASE E003 OF 2023
JG KEMEL, J
NOVEMBER 28, 2024**

BETWEEN

**BERNARD NDUNGU MWAURA 1ST PLAINTIFF
JOSEPH NJUGUNA MWAURA 2ND PLAINTIFF
JOHN MWAURA NJUGUNA 3RD PLAINTIFF
SUING AS THE LEGAL ADMINISTRATOR OF THE ESTATE OF THE LATE
PETER NJUGUNA MWAURA - DECEASED**

AND

**WANJIRU THUO 1ST DEFENDANT
WANGUI MUNGAI 2ND DEFENDANT
FRANCIS THUO KABUGO 3RD DEFENDANT
MUTHAMA KABUGO 4TH DEFENDANT
KENNEDY MUNGAI 5TH DEFENDANT
MUTHONI MUNGAI 6TH DEFENDANT**

JUDGMENT

The Pleadings

1. Vide a Plaint dated the 4/1/2023 and filed on the 10/1/2023 the Plaintiffs filed suit against the Defendants claiming the following orders;
 - a. A permanent injunction be issued against the Defendants by themselves their agents servants and or representatives acting under their authority from burying John Mungai (deceased), on



the Plaintiffs suit lands known as Kiambu/Kanunga/1117, 1118 & 1119 (hereinafter called the suit lands).

- b. A permanent injunction be issued against the Defendants by themselves their agents servants and or representatives acting under their authority from using occupying surveying subdividing developing clearing claiming or in another manner interfering with the Plaintiffs parcels namely Kiambu/Kanunga/1117, 1118 & 1119.
 - c. An order of eviction be issued directing the Defendants to vacate and or remove any fixtures of the Plaintiffs parcels of land within three months failure to which the Plaintiffs shall be at liberty to forcefully evict the Defendants at the Defendant's costs.
 - d. An order be issued directing the Defendants to pay the Plaintiffs Mesne Profits to be assessed by the Court for illegal use of the Plaintiffs' parcel of lands Kiambu/Kanunga/1117, 1118 & 1119.
 - e. Costs for the suit shall be borne by the Defendants.
2. On the 12/1/2023 on application the Plaintiffs were allowed to amend the plaint to remove prayer No 1 as it had been overtaken by events. It would appear that the Plaintiff failed to file an Amended Plaint. That said the Court will determine the case of the parties based on the pleadings on record taking into consideration the tenets of substantive justice.
 3. It is the Plaintiffs case that parcel 498A was registered in the name of Kagia Kimani in 1958 and later sold to Mwaura Njuguna Kuria, the father of the Plaintiffs.
 4. The Plaintiffs aver that they are the registered owners of the suit lands having been given to them by their father Mwaura Njuguna Kuria upon the subdivision of the mother title being parcel 498A. That their father allowed their grandmother namely Teresia Wambui to occupy the land as a licensee as she looked for her own property. That Teresia relocated to her property in Ruiru where she lived upto her death.
 5. That the Defendants have been occupying the suit land without the consent of the Plaintiffs and despite demand to vacate they have refused to so vacate and that their continued occupation of the land has deprived the Plaintiffs of their right and enjoyment of the suit lands. It was further averred that several cases have been filed with respect to the suit lands being;
 - a. Kiambu SRMCC No. 234 of 2009
 - b. Kiambu SRMCC No. 3384 of 1993
 - c. Nairobi HCCC No. 1972 of 1995 Wanjiru Thuo & Others Vs. Bernard Ndungu & Others
 - d. Kiambu CMCC No. 5876 of 1993 (O.S) Wanjiru Thuo & Others Vs. Bernard Ndungu & Others
 - e. Nairobi ELC No. 479 of 2013 Wanjiru Thuo & Others Vs. Bernard Ndungu & Others
 6. The Defendants denied the claim of the Plaintiffs vide their Statement of Defence dated 13/6/2023 and filed on the 29/6/2023. They put the Plaintiffs to the strict proof with respect to their allegation of ownership of the suit land and contended that the land was illegally transferred to the Plaintiffs father by one Kagia Kimani, a trustee of the Kuria Clan in 1993 to circumvent their entitlement of title by way of adverse possession. That the land belonged to the Kuria Clan that allocated the suit land to Teresia Wambui in 1958.



7. In their counterclaim, the Defendants assert that they have lived on the suit land for over 12 years peacefully, without interference and have buried their kin since 1974 without any hindrance from the Plaintiffs and therefore are entitled to a claim of adverse possession. In addition, they contend that the titles held by the Plaintiffs have been obtained through fraud and misrepresentation. They sought the following orders;
 - a. The Plaintiffs suit be dismissed.
 - b. A permanent injunction restraining the Plaintiffs their agents' servants and representatives from interfering with the Defendant's peaceful occupation of their ancestral land.
 - c. The Court be pleased to nullify and cancel the illegally and fraudulently acquired title – parcel 498A by one Mwaura Njuguna and the same be vested in the names of the Defendants
 - d. Costs of the suit be borne by the Plaintiffs.
8. In addition to the above the Defendants filed a Preliminary Objection dated the 29/9/2023 raising the following points of law;
 - a. That the Plaintiffs case is Resjudicata and an abuse of the process of the Court on account of the matters; Kiambu CMCC No 235 of 2009; Kiambu CMCC No 234 of 2009; Kiambu CMCC No 233 of 2009; Karuri LDT No 3 of 2009;
 - b. The Plaintiffs case is statutory barred as it has taken the Plaintiffs more than 10 years to file a case /appeal having lost the previous cases.
 - c. That in the entire pleadings are frivolous, vexatious and an abuse of the Court process and should be struck out with costs.

The evidence of the parties

9. PW1 – Bernard Ndungu Mwaura testified and relied on his witness statement dated the 4/1/23 as his evidence in chief and produced documents marked as PEX No 1-6 in support of the Plaintiffs case.
10. The witness in his testimony reiterated the contents of the pleadings on record and added that the mother title namely 498A was registered in the name of Kagia Kimani (Kimani) in 1958. Without producing any evidence in support the witness stated that Kimani sold the land to Mwaura Njuguna Kuria, (Kurua) the Plaintiffs father. Without giving any particulars he stated that Kuria exchanged his other land with Kimani. That prior to his death, Kuria subdivided the mother title into three plots namely parcel 1117, 1118 & 1119 and distributed to his three sons, the Plaintiffs in this case. That earlier Kuria had allowed Teresia Wambui , the Plaintiffs grandmother, (or the Plaintiffs Aunt?) to occupy the land as a licensee temporarily as she sought her own land which she did acquire in Ruiru and relocated thereon where she lived upto her demise and was buried therein. That the claim of adverse possession by the Defendants was interrupted by several cases that the parties have filed over time concerning the ownership of the suit land and therefore the Defendants are mere trespassers and the Court was urged to order their eviction to allow the Plaintiffs to enjoy peaceful and quiet possession of their lands.
11. In cross the witness admitted that the Defendants are his relatives and have occupied the suit land for a period of over 20 years and that he has never lived on the land. Without producing any evidence in support, and by way of apparent contradiction, the witness explained that there was no sale between Kimani and Kuria and that Kimani and Kuria exchanged parcels 498A and 498C the result of which



Kuria took over 498A and Kimani took 498C. Finally he admitted that none of the Plaintiffs have successfully claimed the land from the Defendants.

12. With that the Plaintiffs case was then closed.
13. DW1 -Fredrick Thuo Muikia testified and relied on his witness statement dated the 13/9/23 as well as his Affidavit sworn on the 3/4/95 in evidence in chief. He added that he served as a Sub-Chief in Kanunga area for 18 years and therefore the parties in the suit are well known to him. That Teresia Wambui was the sister of Kuria and on account of her vulnerable economic status, the land was given to Teresia Wambui by the Mbari ya Kuria clan (her brothers) and that the Defendants have lived on the suit land for a long time while the Plaintiffs have never occupied the land. That he is aware that Kuria did not purchase the land. That other than accompanying the members of the Land Dispute Tribunal to visit the land, he did not handle any dispute with respect to the suit land. Further he added that he was not aware of the suit filed in 2016 because by then he had retired from service. That Teresia later bought land at Ruiru where she lived and was buried.
14. DW2 - Martha Njeri Matheri relied on her witness statement dated the 26/9/23 where she stated that she is the daughter of the late Teresia Wambui and that the parties in the suit are related. She stated that her mother was given the land by her brothers in 1958 and that she was born and raised on the suit land which is her ancestral land. That the Defendants have occupied the land peacefully developed the land and cultivated it from time immemorial and even buried their kin since the early 1970s without any hindrance from anyone let alone the Plaintiffs who have never lived on the land or removed them.
15. She stated that her mother was buried in her sons' land in Ruiru according to her wishes.

The written submissions

16. The firm of Naikuni Ngaah & Miencha & Co Advocates filed written submissions on behalf of the Plaintiffs while those of the Defendants were filed by the firm of Kabaiku & Company Advocates. I have read and considered the submissions in the judgment.

Analysis and determination

17. Having considered the pleadings the evidence led at the trial and the rival submissions the Court finds the following issues for determination;
 - a. Whether the Defendants have proved title by adverse possession;
 - b. Whether the Plaintiffs claim is resjudicata;
 - c. Whether the Plaintiffs are entitled to the orders of eviction and mesne profits;
 - d. Costs of the suit.
18. The suit land has been embroiled in litigation for close to three decades. A close perusal of the green card for the mother title shows that the suit lands emanate from Parcel No Kiambaa/Kanunga 498A measuring 0.34 hectares. The land became registered in the name of Kimani on 24/5/1958. On the 16/11/1993 the land became registered in the name of Kuria. The Court is unable to decipher the nature of Kuria's acquisition of the land as no documents were produced to show how he acquired the land. There are two opinions of how Kuria may have acquired the land. The Plaintiffs have led contradicting evidence in that regard, firstly that Kuria purchased the land from Kimani at an undisclosed period. Further PW1 added that there was no purchase but was an exchange with parcel 498C with Kimani. The Defendants on the other hand contend that the Land was illegally transferred to Kuria by one Kimani who was a trustee for the Kuria Clan in 1994 to circumvent their claim for



adverse possession. It was their evidence that the land belonged to the Kuria clan and was allocated to Teresia Wambui by the clan in 1958. This evidence finds credence in the letter dated the 7/12/93 and affidavit sworn on 16/4/93 by Gathua Kuria, letter of Francis Thuo Mungai dated the 5/4/95 and affidavit and evidence of DW1. The sum total of the evidence is that the land in question belonged to the clan of Mbari ya Kuria. That plot 498A was erroneously registered under the name of Kimani who had undisputedly settled in plot No 498C. Unchallenged evidence that on unknown dates Kuria caused 498C to be registered in his name. Later both gentlemen agreed to exchange the lands hence the transfer of the land to Kuria in 1993 while Kimani took 498C.

19. In the absence of any documentary evidence by the Plaintiffs in support of a purchase the Court takes the explanation tendered by the Defendants as plausible.
20. Be that as it may the record shows that the land was registered in the name of Kuria on 16/11/1993 and shortly thereafter the title was closed on subdivision of the 498A into three parcels namely parcel 1117-1119 and the titles registered in the names of the Peter Njuguna Mwaura Bernard Njuguna Mwaura and Joseph Njuguna Mwaura respectively on the 15/4/1994, 14/4/1994 and 15/4/1994 respectively.
21. It is not disputed that the parties to the suit are related. The father of the Plaintiffs, Kuria was the brother of Teresia Wambui, the mother and grandmother of the Defendants.

Adverse possession

22. It is the case of the Defendants in their Counterclaim that title by way of adverse possession has accrued to them on account of their continued peaceful and exclusive possession of the suit land, first through their mother namely Teresia Wambui from as early as 1958 and later on their own from the time they were born until todate. The Plaintiffs contend that the occupation of the Defendants on the suit land has not met the threshold of quiet possession as shown by the interruptions by several cases that were filed disputing the ownership of the land being; Kiambu SRMCCC No. 3384 of 1993, Kiambu CMCC No. 5876 of 1993 (O.S), Nairobi HCCC No. 1972 of 1995, Kiambu SRMCC No. 234 of 2009, Nairobi ELC No. 479 of 2013. In Nairobi HCCC NO. 1972 of 1995 and Nairobi ELC No. 479 of 2013 the Defendants claimed adverse possession, however, the two suits were dismissed.
23. The doctrine of Adverse Possession is one of the ways of land acquisition in Kenya. I will highlight some of the statutory provisions that underpin the doctrine as set out in the Limitations of Actions Act Cap 22 and the Registration of [Land Act](#) No 6 of 2012; Section 7 states that-

“An action may not be brought by any person to recover land after the end of twelve years from the date on which the right of action accrued to him or, if it first accrued to some person through whom he claims, to that person.”

Further in Section 13

- “(1) A right of action to recover land does not accrue unless the land is in the possession of some person in whose favour the period of limitation can run (which possession is in this Act referred to as Adverse Possession), and, where under Sections 9, 10, 11 and 12 of this Act a right of action to recover land accrues on a certain date and no person is in Adverse Possession on that date, a right of action does not accrue unless and until some person takes Adverse Possession of the land.



- (2) Where a right of action to recover land has accrued and thereafter, before the right is barred, the land ceases to be in Adverse Possession, the right of action is no longer taken to have accrued, and a fresh right of action does not accrue unless and until some person again takes Adverse Possession of the land.
- (3) For the purposes of this section, receipt of rent under a lease by a person wrongfully claiming, in accordance with Section 12(3) of this Act, the land in reversion is taken to be Adverse Possession of the land”.

Section 16 provides as follows;

“For the purposes of the provisions of this Act relating to actions for the recovery of land, an administrator of the estate of a deceased person is taken to claim as if there had been no interval of time between the death of the deceased person and the grant of the letters of administration.”

Section 17 goes on to state;

“Subject to section 18 of this Act, at the expiration of the period prescribed by this Act for a person to bring an action to recover land (including a redemption action), the title of that person to the land is extinguished”.

Finally, Section 38(1) and (2) states;

- “(1) Where a person claims to have become entitled by Adverse Possession to land registered under any of the Acts cited in section 37 of this Act, or land comprised in a lease registered under any of those Acts, he may apply to the High Court for an order that he be registered as the proprietor of the land or lease in place of the person then registered as proprietor of the land.
- (2) An order made under subsection (1) of this section shall on registration take effect subject to any entry on the register which has not been extinguished under this Act.”

24. The combined effect of these Sections is to extinguish the title of the proprietor of the land in favour of the adverse possessor at the expiry of 12 years of occupation of the Adverse Possession on the suit land.
25. Section 28(h) of the [Land Registration Act](#), 2012 recognizes overriding interests on land, some of which are rights acquired or in the process of being acquired by virtue of any written law relating to the limitation of actions or by prescription. Under Section 7 of the [Land Act](#), 2012 prescription is one of the ways of acquisition of land.
26. In *Kasuve Vs. Mwaani Investments Limited & 4 Others* 1 KLR 184, the Court of Appeal restated what a Plaintiff in a claim for Adverse Possession has to prove;

“In order to be entitled to land by Adverse Possession, the claimant must prove that he has been in exclusive possession of the land openly and as of right without interruption for a period of 12 years either after dispossessing the owner or by discontinuation of possession by the owner on his own volition.”



27. The key test is that the owner of the land must have been dispossessed or has discontinued possession of the property. In the case of *Francis Gacharu Kariri Vs. Peter Njoroge Mairu, Civil Appeal No. 293 of 2002* (UR):

“... the possession must not be broken, or any endeavours to interrupt it.”

28. In the case of *Mbui Mukangu Vs. Gerald Mutwiri* (2004) eKLR the Court spoke to the possessory rights being codified in the previous land regime when it stated as follows;

“Overriding interests which arise in right only of possession or actual occupation without legal title are equitable rights which are binding on the land, therefore on the registered owner of it, under Section 30(g) of the Registered *Land Act* (Cap 300 repealed) they possess legal sanctity without being noted on the register. They have achieved legal recognition in consequence of being written into statute; they are not subject to interference or disturbance such as by eviction save when inquiry is made and they are not disclosed [Emphasize added].”

29. In the case *Mwangi & Another Vs. Mwangi*, (1986) KLR 328, it was held that the rights of a person in possession or occupation of land are equitable rights which are binding on the land and the land is subject to those rights.

30. What is adverse possession? the Court answered this question in the case of *Matana Lewa Vs. Kahindi Ngala Mwangandi* (2015) eKLR as follows;

“Adverse possession is essentially a situation where a person takes possession of land and asserts rights over it and the person having title to it omits or neglects to take action against such person in assertion of his title for a certain period, in Kenya, is twelve (12) years. The process springs into action essentially by default or inaction of the owner. The essential prerequisites being that the possession of the adverse possessor is neither by force or stealth or under the licence of the owner. It must be adequate in continuity, in publicity and in extent to show that possession is adverse to the title owner.”

31. The Defendants have led unchallenged evidence that Teresia Wambui occupied the land since 1958. The Plaintiffs have not challenged this fact. Infact PW1 admitted that the Defendants have lived on the land for over a period of 20 years. DW1, the former sub chief led unchallenged evidence that Teresia lived on the land and that the Defendants have been on the land upto the time he testified in Court. He also added that the Plaintiffs have never been on the land. The Court finds that the evidence of the former Sub-Chief was credible and believable. DW2 too stated that she and the Defendants were born on the land and have lived thereon and call the land their ancestral land. In the absence of evidence to the contrary the Court finds that the Defendants have been in occupation of the land first through Teresia Wambui and secondly on their own.

32. The next question is whether the Defendants’ occupation is adverse to the paper owners of the title. In the case of *Ruchire Vs. Swift Rutherfords & Co. Ltd.* (1980) KLR 10 at page 16 letter B, where Kneller J. held that:

“The Plaintiffs have to prove that they have used this land which they claim as of right: nec vi, nec clam, nec precario (no force, no secrecy, no persuasion). So the Plaintiff must show that the company had knowledge (or the means of knowing actual or constructive) of the possession or occupation. The possession must be continuous. It must not be



broken for any temporary purposes or any endeavours to interrupt it by way of recurrent consideration”.one must show that they are in long exclusive, uninterrupted possession, possession is hostile to the rights of the registered owner and the registered owner is aware; possession has as much publicity as not to be missed by the registered owner.”

33. It is the Plaintiffs case that Teresia occupied the land as a licensee of Kuria their father. The Court has already found that Kuria became registered as owner of the land in 1993. Even if the Court was to take the Defendants evidence that the clan gave Wambui land in 1958 to settle and that her occupation was permissive, no evidence was led by the Plaintiffs that Kuria took any action to remove Wambui in 1993 when he became owner of the land or at any other time. No evidence was led to show that Kimani who was the registered title holder from 1958 – 1993 removed Wambui from the land.
34. The Court finds that Wambui and later the Defendants have been in occupation of the land since 1958.
35. Was possession broken or interrupted? In this case the Plaintiffs have submitted that though the Defendants have been in long possession of the suit land, their possession was interrupted by several cases filed to challenge the ownership of the land.
36. While it is trite that adverse possession is interrupted by the owner retaking and evicting the adverse possessor, the paper owner filing suit or the adverse possessor relinquishing possession to the owner, notwithstanding the Plaintiffs submissions, it is regrettable that the Plaintiffs did not produce the proceedings and the outcomes of the disclosed suits to enable the Court peruse them for purposes of this judgement. The Court has however gleaned the following from the record;
37. The Criminal Case No. 3703 of 1996 was determined in 1998. In this case the Plaintiffs were charged with malicious damage of property. Though the outcome of the case was not produced but it suffices to show that the same was concluded in 1998, the Court finds that it did not interrupt adverse possession because it was not brought by the Plaintiffs to claim title. For the period 1994 – 2009 the Plaintiffs have not demonstrated any action they took to remove the Defendants from the suit land.
38. Vide SRMCCC No 234 of 2009 the Plaintiffs through Peter Njuguna Mwaura sued the Defendants for eviction on account that they were the owners of the suit land. The suit was referred to the Land Dispute Tribunal where the panel of elders determined the suit in 2011. The Court adopted the award of the Tribunal on 18/8/2011. The Court finds that adverse was interrupted from 2009-2011. That said there is no evidence that the Plaintiffs took any action to remove the Defendants from the year 2011 to 2023, a period of 12 years.
39. Evidence was led that the Defendants have cultivated the land constructed houses in which they live in to buttress their evidence that they have used the land as their own and thus have proved animus possidendi. DW1 the area Sub-Chief led unchallenged evidence that during the period he served as a sub chief of the area, he did not come across any dispute on the land. This evidence underscores the element of peaceful possession of the land by the Defendants. The Court finds that the Defendants possession of the land was peaceful.
40. From the above analysis the Court finds that the possession of the Defendants was exclusive, peaceful, continuous and adverse to the title of the Plaintiffs. I therefore find that adverse possession crystallized in favour of the Defendants hence the right to adverse possession has accrued to them.

Resjudicata

41. Section 7 of the *Civil Procedure Act* provides as follows;

“7. Res judicata



No court shall try any suit or issue in which the matter directly and substantially in issue has been directly and substantially in issue in a former suit between the same parties, or between parties under whom they or any of them claim, litigating under the same title, in a court competent to try such subsequent suit or the suit in which such issue has been subsequently raised, and has been heard and finally decided by such court.

Explanation. (1)—The expression “former suit” means a suit which has been decided before the suit in question whether or not it was instituted before it.

Explanation.(2)—For the purposes of this section, the competence of a court shall be determined irrespective of any provision as to right of appeal from the decision of that court.

Explanation. (3)—The matter above referred to must in the former suit have been alleged by one party and either denied or admitted, expressly or impliedly, by the other.

Explanation.(4)—Any matter which might and ought to have been made ground of defence or attack in such former suit shall be deemed to have been a matter directly and substantially in issue in such suit.

Explanation. (5)—Any relief claimed in a suit, which is not expressly granted by the decree shall, for the purposes of this section, be deemed to have been refused.

Explanation. (6)—Where persons litigate bona fide in respect of a public right or of a private right claimed in common for themselves and others, all persons interested in such right shall, for the purposes of this section, be deemed to claim under the persons so litigating.”

42. On the 18/8/2011 the Court stated as follows;

“That it is not possible to evict the Objectors since they are young people who were left by their parents in the said parcel for over 10 years and the claimants had waited for so long after the death of their parents so that to evict them.”

43. It follows therefore that the claim of eviction was determined by a Court of competent jurisdiction. The Plaintiffs failed to lead evidence to show that the said decision of the Court was set aside vacated and or successfully appealed. The claim of the Plaintiffs is therefore resjudicata.

Mesne profits

44. Section 2 of the [Civil Procedure Act](#) provides as follows;

““mesne profits”, in relation to property, means those profits which the person in wrongful possession of such property actually received or might with ordinary diligence have received therefrom, together with interest on such profits, but does not include profits due to improvements made by the person in wrongful possession.”

45. Order 21 rule 13 of the Civil Procedure Rules provides as follows;

“Decree for possession and *mesne* profits [Order 21, rule 13.]



1. Where a suit is for the recovery of possession of immovable property and for rent or mesne profits, the court may pass a decree- (a) for the possession of the property;
 - b. for the rent or mesne profits which have accrued on the property during a period prior to the institution of the suit or directing an inquiry as to such rent or mesne profits;
 - c. directing an inquiry as to rent or mesne profits from the institution of such suit until—
 - i. the delivery of possession to the decree-holder;
 - ii. the relinquishment of possession by the judgment-debtor with notice to the decree-holder through the court; or
 - iii. the expiration of three years from the date of the decree, whichever event first occurs.
2. Where an inquiry is directed under subrule (1)(b) or (1)(c), a final decree in respect of the rent and mesne profits shall be passed in accordance with the result of such inquiry.”

46. From the findings of the Court stated above, the Court finds that the claim of mesne profits faces the same fate for two reasons; the claim of eviction is both resjudicata and unmerited in view of the Courts holding on adverse possession and secondly the Plaintiffs failed to lead any evidence in support of the claim of mesne profits given that it falls within special damages which must be pleaded and proved.
47. The Court finds that the claim of mesne profits is rejected on the above grounds.
48. Costs follow the event and in this case the Defendants having been successful in their counterclaim, I find no reason to deny them costs.
49. Final orders for disposal;
 - a. The Plaintiffs suit be and is hereby dismissed.
 - b. The Defendants counterclaim succeeds.
 - f. That the Defendants have acquired the suit lands Kiambu/Kanunga/1117, 1118 & 1119 (hereinafter called the suit lands) by adverse possession. I order that they be registered as owners in the place of the Plaintiffs.
 - c. That the Deputy Registrar of this Court do sign all the necessary documents to facilitate transfer of suit lands to the Defendants.
 - d. A permanent injunction restraining the Plaintiffs their agents’ servants and representatives from interfering with the Defendant’s peaceful occupation of their ancestral land.
 - e. Costs of the suit and the counterclaim be borne by the Plaintiffs.
50. Orders accordingly.

DATED, SIGNED AND DELIVERED VIRTUALLY AT THIKA THIS 28TH DAY OF NOVEMBER, 2024 VIA MICROSOFT TEAMS.



J G KEMEI

JUDGE

Delivered online in the presence of;

Macharia h/b Ms. Njoki for 1st, 2nd and 3rd Plaintiffs

Kabaiku for 1st – 6th Defendants

Court Assistant – Phyllis

