



REPUBLIC OF KENYA



Mwangi & 15 others v Njamuku & 20 others (Environment & Land Case 503 of 2014) [2025] KEELC 2957 (KLR) (28 March 2025) (Judgment)

Neutral citation: [2025] KEELC 2957 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NYERI
ENVIRONMENT & LAND CASE 503 OF 2014**

**JO OLOLA, J
MARCH 28, 2025**

BETWEEN

MARY WANJIKU MWANGI 1ST PLAINTIFF
SIMON NDIRITU WAKAGO 2ND PLAINTIFF
JAMES NDIRITU GATHIRU 3RD PLAINTIFF
PETER KIHINGA GACHEBA 4TH PLAINTIFF
MARY NJOKI WANYOIKE 5TH PLAINTIFF
NANCY MUKAMI NDIRANGU 6TH PLAINTIFF
TITUS KAMUNYA RIBUTHI 7TH PLAINTIFF
ELIJAH KABUNJA NDUNG’U MATHU 8TH PLAINTIFF
ESTHER WAMBURA KAGUNYA 9TH PLAINTIFF
MARY WANGUI KAGUNYA 10TH PLAINTIFF
MADALINA NYAMBURA MUREGA 11TH PLAINTIFF
TIMOTHEO NDERITU KING’ORI 12TH PLAINTIFF
MARY WANGUI NDIRITU 13TH PLAINTIFF
DOMINIC GICHURU MANGU 14TH PLAINTIFF
VERONICA MWERU GICHUKI 15TH PLAINTIFF
LUCY WAMBUI KINYUA 16TH PLAINTIFF

AND

JOSEPH KAMAU NJAMUKU 1ST DEFENDANT
JOSEPH NDUMIA NDIRITU 2ND DEFENDANT



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| JOHN MUGUTHI KAMURWA | 3 RD DEFENDANT |
| WACHIRA THEURI | 4 TH DEFENDANT |
| JOSPHAT THEURI MATHAI | 5 TH DEFENDANT |
| SAMUEL MUNYI KABURU | 6 TH DEFENDANT |
| ROSE WATARE NDUMIA | 7 TH DEFENDANT |
| CHARLES IHIGA KANYEKI | 8 TH DEFENDANT |
| JANE WANJIRU NGOTHO | 9 TH DEFENDANT |
| SAMUEL MUCHIRI NDIRITU | 10 TH DEFENDANT |
| CHARLES NJURE MURAGE | 11 TH DEFENDANT |
| JOHN GITONGA MAINA | 12 TH DEFENDANT |
| NDATHI MUGUNDA CO.LTD | 13 TH DEFENDANT |
| JOYCE WOTHAYA NDUMIA | 14 TH DEFENDANT |
| DANIEL NDUMIA NDIRANGU | 15 TH DEFENDANT |
| GEORGE WAMBUGU KING'ORI | 16 TH DEFENDANT |
| DANIEL KING'ORI GITONGA | 17 TH DEFENDANT |
| CHARLES MAINA KING'ORI | 18 TH DEFENDANT |
| JOSHUA MUTHANGA MUGWE | 19 TH DEFENDANT |
| STANLY KABIA WANJOHI | 20 TH DEFENDANT |
| JANE WARUGURU KANIARU | 21 ST DEFENDANT |

JUDGMENT

Background

1. This suit has been in the court corridors for quite some time. Initially filed in the year 2004 as Nyeri HCCC No 133 of 2004, it was transferred to this court and given its current reference in the year 2014
2. By their Plaint dated 17th November, 2004 as amended on 16th October, 2015, the sixteen (16) Plaintiffs pray for Judgment against the Twenty One (21) Defendants for the following:-
 - a. A temporary injunction to restrain the Defendants, their agents, and/or employees and/ or any person acting in that behalf from evicting the Plaintiffs and/or interfering with the Plaintiffs possession of the suit parcels of the land being LR No. Kabaru/ Ngonde/Block 3/ Thegu/85, 94, 21, 116, 89, 73, 88, 35, 54, 69, 41, 110, 57 and 58 and a permanent injunction to permanently injunct the Defendants their workers, and/or agents from interfering with the Plaintiffs lawful occupation and use of the said land parcels
 - b. A declaration that the Defendants acts are fraudulent and surreptitious in defeating the Plaintiffs rights to (the) land parcels and hence should be revoked/ cancelled.



- c. An order of cancellation of the title deed issued to 1st to 12th Defendants and 14th to 21st Defendants and for substitution therefore with new title deeds in the names of the Plaintiffs each getting a title deed for the portions of the land they occupied and land register to reflect the same; and
 - d. The costs of the suit.
3. The Basis of those prayers is the Plaintiffs' claim that as bona fide members of Ndathi Mugunda Company Limited (the 13th Defendant) they were sometimes in the year 1988 allocated one acre each out of the parcels of land that had been bought by the Company and more particularly known as LR. Nos. 3449/4 IR No. 132/14 and LR No. 7242/1, IR No. 6467/6. The Plaintiffs assert that upon the said allocation they took possession and embarked on the development of their respective portions while still awaiting the formal survey and sub-division thereof.
 4. The Plaintiffs aver that following the allegations of irregularities and mismanagement of the affairs of the company, the Provincial Administration formed a Probe Committee to inquire into the issues and prepare a report on the same. It is the Plaintiffs case that the said Probe Committee wrongfully proceeded to survey the land and prepared a Registry Index Map (RIM) creating a new block section known as Kabarungonde/Block 3 (Thego) whereupon the resultant titles were issued to the Defendants.
 5. The Plaintiffs assert that the Probe Committee created a new list of allottees comprising of the Defendants and leaving out the Plaintiffs as a result whereof some of the Defendants proceeded to evict a number of the Plaintiffs from their respective portions of the land.
 6. The Plaintiffs aver that the acts of the 13th Defendant and the said Probe Committee were illegal, dishonest, irregular and fraudulent. They accuse the 1st to 12th Defendants as well as the 14th to 21st Defendants of proceedings on the basis of the illegal actions to invade their land and to demolish their houses and structures thereon between the year 2001 ad 2003.
 7. The Plaintiffs further aver that during the pendency of this suit, a number of the defendants had sold and transferred their titles as follows:-
 - a. 1st Defendant to the 21st Defendant
 - b. 10th Defendant to the 17th and 18th Defendants
 - c. 12th Defendant to the 15th Defendant; and
 - d. 16th Defendant to the 14th and 15th Defendants

It is the Plaintiffs' case that the said transfers were illegal as the transferors has acquired the same fraudulently.

8. But in their statement of Defence as amended on 2nd December, 2021, the 1st, 4th, 5th, 6th and 8th Defendants aver that they are unaware of the formation for the Probe Committee and the acts attributed to it. They aver that they were not outsiders but the original members of the 13th Defendant Company who duly participated in the ballot and were allocated their portions of land before being issued with their respective titles in the year 2001.
9. That was the same position taken by the 2nd Defendant. In his Statement of Defence dated 17th March, 2005, the 2nd Defendant denies that the Plaintiffs are members of the 13th Defendant. It is his case that the Probe Committee was a creation of the 13th Defendant and the Government Administration were



- facilitators and that it did recommend the mode of distribution of the land which was adopted by the Company.
10. The 7th Defendant is equally opposed to the suit. In her Statement of Defence dated 14th April, 2022, she denies that the 8th Plaintiff has occupied parcel No. 35 and asserts that she was allocated the same and has occupied the same without interruption since she was issued with the title deed thereto on 4th July, 2001.
 11. That is the same position taken by the 11th Defendant in his Statement of Defence dated 17th March, 2005.
 12. On their part, the 14th and 15th Defendants aver that they obtained a Clearance Certificate and consent to have the suit land to their names and accordingly they deny any allegations of fraud or impropriety on their part.
 13. In his undated Statement of Defence, the 16th Defendant avers that he is the legitimate owner of his portion of the land the same having been allocated and transferred to him by the 15th Defendant. It is his case that he later on sold the same to the 15th Defendant for valuable consideration.
 14. The 17th and 18th Defendants are equally opposed to the suit. In their Amended Statement of Defence dated 29th June, 2021, they assert that they jointly purchased LR. No. Kabaru/Ngonde/Block 3/Thego/41 from the 10th Defendant for valuable consideration. It is their case that before the purchase, they did carry out due diligence and confirmed that the 10th Defendant was the rightful proprietor of the land. They deny that the 10th and 12th Plaintiffs were on the land when they purchased the same in 2014.
 15. In his Statement of Defence dated 14th April, 2022, the 19th Defendant equally avers that he is the legitimate owner of LR. No. Kabaru/Ngonde/Block 3/Thego/72 after having purchased the same from the 12th Defendant.
 16. The 20th Defendant equally asserts that he bought parcel Nos. 57 and 58 Thego from the 15th Defendant on 5th February, 2013. In his Amended Statement of Defence dated 20th November, 2015, he asserts that he did carry out due diligence before purchasing the land.
 17. Similarly, the 21st Defendant avers that she acquired her parcel of land by way of purchase from the 1st Defendant. In her Statement of Defence dated 29th June 2021, she asserts that she carried out due diligence and inspected the land before executing the Sale Agreement. It is her case that she is an innocent purchaser for value without notice.
 18. On its part, Ndathi Mugunda Company Ltd (the 13th Defendant) avers that its current office bearers were elected on 26th August, 2016. The 13th Defendant admits that the Plaintiffs are bona fide shareholders of the company and that they were each allocated about 1 acre of land in the year 1988 and settled on their respective portions. The 13th Defendant asserts that upon being allocated the land, the Plaintiffs embarked on developing them until sometime in 2001 when they started getting harassed by the 1st to 12th Defendants and the 14th to 21st Defendants.
 19. The 13th Defendant conceded that at some point in time, there was mismanagement of its affairs and a Probe Committee was appointed to look into the issue but the Committee has never made any findings to-date. Further, the 13th Defendant avers that in the year 2000, the said Probe Committee Members entrenched themselves as the 13th Defendant's officials by refusing to hand over office and purporting to recruit new members including the other Defendants sued herein.



20. The 13th Defendant asserts that the Probe Committee tampered with its documents and caused title deeds to be issued to the newly recruited members. It is its case that its co-defendants got land by unlawful means as they were not the original or genuine members of the 13th Defendant. The 13th Defendant avers that it was not a party to the illegal alienation of the Plaintiffs proprietary interests in the lands and pleads that the same ought to be restored to the Plaintiffs

Analysis and Determination

21. At the trial herein, the Plaintiffs called a total of seven (7) witnesses while the Defendants called eleven (11) witnesses in support of their case.
22. I have carefully perused and considered the pleadings filed herein, the testimonies of the witnesses as well as the evidence adduced at the trial. I have similarly perused and considered the submissions and authorities placed before the court by the Learned Advocates representing the parties.
23. By their suit as filed herein, the Plaintiffs have urged the Court to issue an order of injunction restraining the 21 Defendants herein, their servants and/or agents from interfering with the Plaintiffs lawful use and occupation of the parcels of land known as LR. No. Kabaru/Ngonde/Block III/Thego/85, 94, 21, 116, 89, 73, 88, 35, 54, 61, 41, 110, 57 and 58. The Plaintiffs also pray for a declaration that the Defendants acts were fraudulent as well as an order for cancellation of the titles issued in respect of the said parcels of land to the 1st – 12th and the 14th -21st Defendants. In substitution thereof, the Plaintiffs have urged the Court to direct that new title deeds be issued to each of them for the portions of the parcels of land that they had occupied.
24. The Plaintiffs' suit is anchored on their claim that as bona fide members of Ndathi Mugunda Company Limited (the 13th Defendant herein) they were sometimes in the year 1988 allocated one acre of land each bought by the Company on their behalf and which were then known as LR. Nos. 3449/4 (IR No. 132/14) and LR No. 7242/1 (IR No. 6467/6).
25. The Plaintiffs told the Court that upon being allocated the said parcels of land, they took possession and embarked on their developments even as they awaited the formal survey and sub-division of the land.
26. It was the Plaintiff's case after the said allocation, there arose some allegations of irregularities and mismanagement of the affairs of the Company. Subsequently the Provincial Administration formed a Probe Committee to inquire into the issues said to be affecting the company and to make a report thereon. The Plaintiffs accused the Probe Committee of wrongfully exercising the mandate and illegally proceeding to survey the land, to prepare a Registry Index Map (RIM) that created a new block section known as Kabaru/Ngonde/Block III/Thego and to issue the resultant parcels to the Defendants who were not genuine members of the 13th Defendant Company.
27. Save for the 13th Defendant Company, all the other Defendants have denied the Plaintiffs' claim that they were members of the 13th Defendant and/or that they had been allocated the suit properties prior to the issuance of titles to the 1st to 12th and the 14th to 21st Defendants.
28. While asserting their claim over L.R. No.s Kabaru Ngonde Block III (Thego)/85, 88, 89, 73, and 54, the 1st, 4th, 5th and 8th Defendants deny that the Plaintiffs participated in a balloting exercise that was conducted by the Company for allocation of the land. It was the Defendants' case that the delay in issuance of titles for the parcels of land was as a result of a suit between the Company and the original seller of the land.



29. On their part, the 2nd, 9th and 12th Defendants asserted that the company had no right of title to pass by 1988. They told the court that the Probe Committee was a creation of the 13th Defendant and asserted that the Provincial Administration were mere facilitators who recommended a mode of distribution that was acted upon by the Company. The 11th Defendant similarly denied that the Plaintiffs had been allocated the land and had settled thereon.
30. The 14th and 15th Defendants on their part asserted rights over LR. No. Kabaru/Ngonde Block III/Thego/57 and 58. The 15th Defendant told the court he had become a member of the company after buying shares for plot No. 57 from one Mr. Wahome. He eventually sold the said plot to the 20th Defendant.
31. On their part, the 17th and 18th Defendants told the court that they had purchased LR. No. Kabaru/Ngonde Block 3/Thego/41 from the 10th Defendant. They denied that the 10th and 12th Plaintiffs were in occupation of the said parcel of land as at the time they acquired the same from the 10th Defendant.
32. The 20th Defendant similarly asserted that he had purchased Plot Nos. 57 and 58 and urged the court to dismiss the Plaintiffs' suit. That was the same position taken by the 21st Defendant who asserts rights over Plot No. 85.
33. Arising from the pleadings filed by the Plaintiffs and the 13th Defendant Company on the one hand and those filed by the 1st to 12th as well as the 14th to 21st Defendants on the other hand, it was apparent that the court was being called upon to determine the following issues:
 - i) Who between the parties herein were bona fide members of the 13th Defendant Company?
 - ii) Whether the titles issued to the 1st – 12th and 14th – 21st Defendants were validly issued? And
 - iii. Who should bear the costs of this suit.

i. Who were the Bonafide Members of the 13th Defendant Company?

34. From the material placed before the Court, there was no dispute that the 13th Defendant is a land-buying company which was formed for purposes of helping its members and shareholders to acquire land. According to the Company's current Chairman Charles Kinyua Karoki (DW1), the Company was incorporated in 1976 with about 1,500 Members. DW1 told the court that the members had come together in order to empower themselves by buying large tracts of land through the Company and thereafter sub-dividing the same to the members.
35. By 1979, the Company had apparently acquired some four different farms. According to DW1, the farms were Thegu Farm (measuring about 118 acres), Samaki Farm (measuring about 200 acres), Kandue Farm (200 acres) and Chaka Farm (67 acres).
36. According to the Plaintiffs, they did pay for their shares in the Company during its formative years and they were thereafter issued with ballot papers and allocated their respective parcels of land each measuring an acre or thereabouts by the 13th Defendant. It was the Plaintiffs' case that the Defendants herein found the Plaintiffs settled on their respective parcels of land and made all manner of efforts to evict them therefrom before the Plaintiffs instituted this suit.
37. As it were, while the 1st to 12th Defendants and the 14th to 21st Defendants strongly objected to the Plaintiffs' contention that they were the original and genuine shareholders of the 13th Defendant, the Plaintiffs position was strongly supported by the 13th Defendant Company. At paragraph 3 of its



Amended Defence dated 8th March, 2018, the 13th Defendant unreservedly admits that the Plaintiffs were its bona fide shareholders.

38. In his oral testimony before the court, DW1 explained to the Court how the Plaintiffs became shareholders and members of the 13th Defendant and how they were allocated their respective parcels of land awaiting formal sub-division and issuance of title deeds. DW1 told the court that sometime around 1989, the shareholders of the Company who had until then settled in Government forests were evicted therefrom. He told the Court that following the evictions, the company through its then Chairman Newton Gitonga made a decision to settle the members in Thegu Farm and Samaki Farm. He further told the court that those who were settled had membership and ownership documents for their respective portions.
39. The documents which DW1 produced before the court were samples of receipts issued to the original members in the year 1976. They were similar to the documents produced by the plaintiffs in support of their case. In addition, DW1 produced what was referred to as the “List of Allotees of Thegu Farm”.
40. From a perusal of various copies of the official records of the 13th Defendant Company obtained from the Department of the Registration of Companies (Form CR12) for the years 2000 upto 2016, it was apparent that DW1 was a duly elected director and Chairman of the 13th Defendant Company. Arising from the foregoing and given that the 13th Defendant Company is the one expected to have custody of the records of its membership, I was left with no doubt that the Plaintiffs herein were the genuine members and shareholders of the said Ndathi Mugunda Company Ltd.

ii. Were the Titles Issued to the Defendants Valid?

41. The substratum of the dispute herein is the question of the allocation of the land acquired by the 13th Defendant and the validity of the titles subsequently issued in the names of the 1st to 12 and the 14th to 21st Defendants. At the heart of dispute lies the role played by a Probe Committee which all the parties agree was formed at some point in time during the period relevant to this dispute.
42. From the material placed before the court, it would appear that at some point in time, some members of the Company were not happy about the management of its affairs. Following a number of complaints received by the then Provincial Administration, a Probe Committee was formed sometime in the year 1990.
43. According to the Plaintiffs, the Probe Committee was formed to inquire into the issues raising discontent amongst the Company’s shareholders after which it was to prepare a Report for the Company. It was the Plaintiffs’ case that no such Report was ever prepared and that the Defendants including the 13th Defendant acted maliciously and illegally thereafter to issue the Defendants with title for properties that had already been allocated to the Plaintiffs.
44. On their part, the 1st to 12th and 14th to 21st Defendants asserted that the Probe Committee was a creation of the 13th Defendant. They told the court that the Provincial Administration were mere facilitators and that the committee did recommend the mode of distribution of the land which was then adopted by the Company.
45. Again on the formation and the role of the Probe Committee, the 13th Defendant clearly distanced itself from the position taken by its co-defendants. In his testimony before the court, DW1 conceded that the Company was at one point experiencing management challenges thereby necessitating the formation of a Committee to inquire into the issues.



46. From the testimony of DW1 however, it was clear that the 13th Defendant did not consider itself part and parcel of what had transpired. According to DW1, it was the District Commissioner (D.C.) Nyeri and not the Company that had called the meeting at which the Probe Committee was formed. DW1 told the court that at the said meeting held on 15th September, 1990 the D.C. forcefully elected 7 persons as the Probe Committee with the Kieni West District Officer (DO) as the Chair. DW1 told the court that the sole purpose of the Committee was to investigate their then Chairman Newton Gitonga Muhoro.
47. In support of that position, DW1 produced the excerpts of the Minutes of the meeting held on the said 15th September 1990. Minute 5/90 thereof read as follows:-
- Minute 5/90: District Commissioner Report
- Members unanimously passed a resolution the D.C. Nyeri take charge of the affairs of the Company as the Chairman. In response to a request by the members that he (the D.C.) take charge of the affairs of the Company as the Chairman so that the problems can be sorted out efficiently, the D.C. Nyeri District agreed and appointed the D.O. Kieni West, C.I.D. Officer and a Clerk from his office to work with the current Committee Members.”
48. From the wording of those minutes it was apparent that the Probe Committee was not going to operate as a sub-committee of the 13th Defendant. Instead it was actually taking over the affairs of the 13th Defendant with the aim as they stated, of sorting out the Company’s problems efficiently.
49. DW1 testified that 2 years after the Committee was formed, they found out that instead of probing their Chairman, the Committee was recruiting new members for the Company. Unhappy with the situation, the members dispatched a delegation to the Provincial Commissioner (P.C.) Central Province. The P.C. then directed the D.C. to convene a meeting of the members to allow them elect their leaders.
50. It was DW1’s testimony that following the directive, the D.C. convened a meeting on 11th March, 1993 at Kamatongo Primary School where 7 persons including DW1 were elected as directors. Following that election, DW1 told the court that they went to the Registrar of Companies and caused the names of the elected directors to be registered. On 27th June, 1993, the 7 were duly registered as directors.
51. It was however clear that the said election did not solve the Company’s problems. According to DW1, the Probe Committee which had the support of the D.C. refused to release the Company’s properties and documents to the elected officials. He told the court that after stopping them from taking office, the D.C. subsequently ordered the arrest of the 7 directors. In support of that position the 13th Defendant produced a copy of the Judgment in Nyeri SRM Criminal Case No. 4149 of 1993.
52. A perusal of the said Judgment delivered on an unclear date by the Honorable Njuguna Kimani (SRM) reveals that 5 of the directors who were arrested were charged with giving false information to the Registrar of Companies to the extent that they were the newly elected directors of the 13th Defendant. All the accused were acquitted under Section 210 of the *Criminal Procedure Code*.
53. From the materials presented before the court, it was apparent that upon their acquittal, the said directors of the 13th Defendant lodged Nyeri HCCC. No. 498 of 1993; Ndathi Mugunda Company Ltd. –vs- Gabriel Waweru Njogu and 5 Others seeking to stop the members of the Probe Committee from sub-dividing and disposing off the suit properties.



54. Faced with the question as to the mandate of the Probe Committee, the Honorable Justice Lucy Waithaka in a Judgment rendered in the said case on 28th July, 2016 determined as follows:

“On whether the Defendants, as members of the Probe Committee appointed by the D.C. had the legal capacity/right or mandate to manage the affairs of the Plaintiff Company, having read and considered the pleadings filed in this suit and the uncontroverted evidence of PW1, I entertain no doubt that the Defendants were not directors of the Plaintiff. I say this because, for one to qualify as a director of a Company, he must have been appointed or elected as such in accordance with the Company’s Articles of Association and/or the Companies Act. In that regard see section 22(1) as read with Section 184(1) of the Companies Act Cap 486. In my view, the role of the 6th Defendant or any other member of the Provincial Administration if any, in resolving the problems faced by the Plaintiff and its members was restricted to assisting the Plaintiff and its members to find a solution to their problems but not taking over the management of the affairs of the Plaintiff Company.”

55. I could not help but agree more with the Learned Judge. The 13th Defendant being an artificial person can only carry out its day-to-day activities through a body of persons duly elected or appointed into office by its members or shareholders as directors. In that respect actions which are carried out by persons who were not vested with power by virtue of being lawfully in office cannot be binding on the company.

56. In the matter before me, it was evident that the sub-division of the suit properties and the subsequent issuance of title deeds to the 1st to 12th and the 14 to 21st Defendants were not the acts of the 13th Defendant. The persons who took over the running of the Company under the guise of the “Probe Committee” were the persons who sub-divided the land and issued the impugned titles. They had no legal power to do so and the titles issued to the Defendants were clearly irregular and cannot therefore be termed as valid by any stretch of imagination.

57. It was also clear to me that the 17th and 18th Defendants as well as the 20th and 21st Defendants who purported to have purchased the suit properties from the original allottees could not be said to be innocent purchasers for value of the land. The alleged agreements were entered into while this matter was already pending before the court and the same cannot be allowed to stand. The doctrine of *Lis Pendens* prohibits a party to a suit from transferring property under litigation to a third party while the suit in regard to the subject property remains pending for determination.

iii. Who should bear the Costs of this Suit?

58. From the foregoing analysis it was evident that the 1st to 12th Defendants as well as the 14th to 21st Defendants had obtained titles that were vitiated by an illegality. This suit was instituted by the Plaintiffs in the year 2004 because at that time, the Plaintiffs who were occupying the suit properties found themselves at the mercy of the Defendants who were waving their irregularly obtained titles and demanding that the Plaintiffs vacate the land.

59. It was telling that even after the 13th Defendant Company disowned their titles and served them with a Notice of Claim under the Provisions of Order 1 Rule 21(1) of the Civil Procedure Rules, the 1st to 12th and the 14th to 21st Defendants still insisted that the root of their titles came from the genuine shareholders of the 13th Defendant and that they were lawfully entitled to the suit properties. Those Defendants should bear the cost of this litigation.

60. In the circumstances of this case I hereby enter judgement for the Plaintiffs in the following terms.



- a. A permanent order of injunction is hereby issued restraining the Defendants, their servants and/or agents from interfering with the Plaintiffs' lawful occupation and use of the parcels of land known as L.R. No. Kabaru/Ngonde Block 3/Thegu/85, 94, 21, 116, 89, 73, 88, 35, 54, 69, 41, 110, 57 and 58.
- b. An order of cancellation is hereby issued for all the titles issued to the 1st to 12th Defendants and the 14th to 21st Defendants in regard to the said properties.
- c. The cancelled titles to be substituted with new title deeds in the names of the Plaintiffs with each of them getting a title deed for the respective portions of land they occupied prior to the filing of this suit.
- d. The 1st to 12th Defendants and the 14th to 21st Defendants shall pay the costs of this suit to both the Plaintiffs and the 13th Defendants herein.

Orders accordingly.

JUDGMENT DATED, SIGNED AND DELIVERED IN OPEN COURT AND VIRTUALLY AT MOMBASA THIS 28TH DAY OF MARCH, 2025

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J.O. OLOLA

JUDGE

In the presence of:

- a. Ms. Firdaus Court Assistant.
- b. No appearance for the Plaintiffs
- c. Mr. S.K. Njuguna for the 14th, 15th and 19th Defendants
- d. Mr. C.M. Kingori for the 10th Defendant
- e. Ms. Murimi holding brief for Mugambi for the 13th Defendant
- f. Ms. Macharia holding brief for Muchiri for the 21st Defendant and Ms. Mwai for the 17th and 18th Defendants.

