



**Maelo v Wafula & 2 others (Environment & Land Petition 01 of 2020)
[2024] KEELC 14159 (KLR) (11 December 2024) (Judgment)**

Neutral citation: [2024] KEELC 14159 (KLR)

REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT BUNGOMA

ENVIRONMENT & LAND PETITION 01 OF 2020

EC CHERONO, J

DECEMBER 11, 2024

**IN THE MATTER 2,3,10,19,20,21,22,23,27,40,42,47, 48, 50(1),162(2)
(B), 165 (6) AND 259 OF THE CONSTITUTION OF KENYA, 2010.**

AND

**IN THE MATTER OF ALLEGED CONTRAVENTION, THREATENED
& VIOLATION OF FUNDAMENTAL RIGHTS AND FREEDOMS
UNDER ARTILES 10,19,40(1) AND 3,42,47,50(1) AND 69(2).**

AND

**IN THE MATTER OF SECTIONS 24,25,26,30,31,79,80,81,86
AND 87 OF THE LAND REGISTRATION ACT, 2012.**

AND

**IN THE MATTER OF REGISTERED LAND ACT
CAP 300 OF LAWS OF KENYA (REPEALED).**

AND

IN THE MATTER OF THE LAND DISPUTES TRIBUNAL ACT NO.18 OF 1990(REPEALED).

BETWEEN

FRED MUNIALO MAELO PETITIONER

AND

MATTHEW WAMALWA WAFULA 1ST RESPONDENT

LAND REGISTRAR, BUNGOMA 2ND RESPONDENT

THE ATTORNEY GENERAL 3RD RESPONDENT



JUDGMENT

1. The petitioner filed this petition dated 04/05/2020 seeking the following orders;
 - a. That a declaration be issued that the petitioner is and still remains the bona fide owner of Land Parcel No. W.Bukusu/E.Siboti/1612.
 - b. That a declaration be issued that the petitioners fundamental rights and freedoms to equality before the law, a right to own and hold property, fair administrative action and right to a fair hearing have been violated.
 - c. A declaration to be issued that the proceedings and the decisions of the Bumula Land Disputes Tribunal that purportedly awarded L.R. No. W.Bukusu/E.Siboti/1612 to the 1st respondent were irregular, unlawful, invalid, null and void for all purposes.
 - d. That an order of judicial review by way of certiorari be issued removing into this honourable court for quashing the decision of the said Bumula and Disputes tribunal with respect to L.R. No. W.Bukusu/E.Siboti/1612 and the subsequent adoption by the subordinate court.
 - e. That an order of judicial review by way of mandamus di issue directing the 2nd respondent to rectify the register and reinstate the petitioners as the registered owner of L.R. No. W.Bukusu/E.Siboti/1612.
 - f. That an order for payment of compensation by way of general damages do issue against the respondents for violation of the petitioners rights under Articles 27,40,42,47, 50(1) and 69(2) of *the Constitution* of Kenya, 2010.
 - g. That an order for payment of compensation by the 1st respondent of the petitioner's eucalyptus trees damaged.
 - h. Costs of this petition.
 - i. Interests of (f) and (g) above at court rates.
2. The said petition is supported by the affidavit of Fred Muniolo Maelo sworn 04/05/2020. It is the petitioner's case that he is the registered owner of L.R. No. W.Bukusu/E.Siboti/1612 (hereinafter referred to as the 'suit land') having purchased it from one Kassim Nyongesa Biketi. That he obtained his title in the year 1995 and took possession by fencing off and planting eucalyptus trees. That he has been utilizing the suit land and even used the title deed to secure loan facilities. He averred that he has never been involved in any dispute with anyone and that he was shocked to find people on the said land on 16/04/2020 purporting to have been contracted by the 'owner' to cut down the trees on the land.
3. That when police officers from Napara Police station visited the scene, the 1st Respondent identified himself as the 'owner' of the land and that he had a court order to support his claim. That the police then asked the two claimants to submit their documents before the DCIO for investigations. That it later dawned on him that the 1st Respondent and others not before Court had filed a claim before the Bumula Land Disputes Tribunal ('LDT') against Kassim Nyongesa Biketi over L.R. No. W.Bukusu/E.Siboti/1658. The said Kassim Nyongesa Biketi did not enter appearance and the tribunal made an award that the Title to suit land be cancelled and awarded to the 1st Respondent. That the said award was subsequently adopted by Bungoma Chief Magistrate's Court as an order of the court.



4. He stated that at the time the abovementioned proceedings took place, the disputed land parcel No. W.Bukusu/E.Siboti/1568 was non-existent, the same having been closed on subdivision on 10/01/19976. That he had been denied a chance to defend his right to land and the LDT having been repealed, he could not file an appeal against the said award. That the 1st Respondent's registration as the owner of the suit land without notice violated his rights under Articles 43 and 27 of *the Constitution* of Kenya, 2010. That the cutting down of the eucalyptus tress on the suit land violated Article 43 of *the Constitution*. That the fact that his title was cancelled by the 2nd Respondent without any recourse to him violated his rights under Article 47 of *the Constitution*. That his right to fair hearing under Article 50 and 48 of *the Constitution* were also violated as he was not involved in the proceedings leading to the cancelation of his title. The petitioner attached the following documents to his petition.
 - i. A copy of his title to L.R. No. W.Bukusu/E.Siboti/1612.
 - ii. A sale agreement between him and Kassim Nyongesa Biketi.
 - iii. A copy of the proceedings and award of the Bumula LDT.
 - iv. A copy of the orders of Bungoma CMCC LDT NO.12 of 2009
 - v. A copy of the register of L.R. No. W.Bukusu/E.Siboti/1612
5. A replying affidavit in response to the Petition was sworn and filed by Mathew Wamalwa Wafula, the 1st Respondent herein on 11/06/2020. According to him, he purchased a portion of the suit land now known as W.Bukusu/E.Siboti/1612 Measuring 70 x 100 Feet from one Masinde Maenyi Alias Sylvester Masinde in the year 1976. He stated that the said Masinde Maenyi had purchased the entire land from one Kassim Nyongesa. That upon purchase, he took possession and planted eucalyptus trees. That together with others, they sued Kassim Nyongesa for their title at the Bumula LDT where they obtained an award in their favour and further had the award adopted by the magistrate's court in Bungoma CM LDT No.12 of 2009 and that the same was later effected by the land Registrar who issued him with a certificate of title.
6. That at first, the claim was taken before the DO Bumula Division on 04/12/1995 and that the petitioner entered into a sale agreement with Kassim Nyongesa when the matter was still pending at the DO's office. He argued that the petitioner's case had not met the threshold as provided for in the Anarita case and that the orders sought would not only affect the 1sts Respondent but would also affect third parties not before this court. That the petitioners claim for judicial review orders is time barred by dint of Section 9 of the Law Reforms Act Cap 26 Laws of Kenya. Further, it was argued that if at all the petitioner was aggrieved by the award of the tribunal, he would have made an application to be joined as a party and thereafter appeal against the award. He argued that he took possession of the suit land in the year 1976 peacefully and has been in occupation continuously to date. Lastly, he stated that the petitioner was made aware of the petition by the LDT.
7. The 2nd and 3rd Respondents filed Grounds of opposition in response to the petition dated 09/07/2020 where they averred that the 2nd Respondent was simply complying with the court order issued in Bungoma CMCC LTD Case no.12 of 2009 on 03/06/2011. That its only role was to obey the court order and as such, it has not breached the provisions of *the Constitution* as averred in the petition
8. After complying with order 11, the parties agreed to proceed by way of viva voce evidence where the petitioner called one witnesses while the Respondents called three Witnesses.



Petitioners Case.

9. Fred Munialo Maelo (PW1) Was sworn and referred to his supporting affidavit attached to the petition sworn on 30/12/2021 and witness statement dated 30/12/2021 which he adopted as his testimony-in-chief. He also referred to a list of documents containing seven items also dated 30/12/2021 which he in evidence as P-Exhibit NO. 1-7. He reiterated the contents of his supporting affidavit and witness statement. In cross examination, he stated that he purchased land measuring 70ft by 100ft although his agreement refers to 50ft by 100ft. He stated that the said land was to be excised from L.R No. W.Bukusu/E.Siboti/1568. That once he obtained his title, he planted Eucalyptus trees on the land. He denied knowledge of the allegation that the 1st Respondent had bought the land back in the year 1976. He stated that although he has not presented a consent from the land control board, they appeared before the board and were issued with a consent. He sought to have the order of the tribunal set aside and/or varied. He testified that the land Registrar was ordered by the court to register the 1st Respondent as the owner of the suit land and that he (the land Registrar) was not involved in cutting down trees. In re-examination, he testified that vide an agreement dated 13/04/1997, he bought a portion of land measuring 70ft by 100ft. He testified that at the time of filing of the suit before the LDT, he was already registered as the owner of the suit land.
10. PW2 Kassim Nyongesa(PW2) Was also referred to his witness statement dated 30/12/2021 which he adopted as his testimony-in-chief. On cross-examination, the witness stated that he occupies L.R No. W.Bukusu/E.Siboti/1606 which is his ancestral land. He testified that he owned L.R No. W.Bukusu/E.Siboti/1568 measuring 3 acres which he acquired from the clan and he sub-divided it in 1998 into three portions. He stated that he took possession of plot 1606, plot W. Bukusu/E.Siboti/1611 went to Simiyu Manyonge, plot NO. W.Bukusu/E.Siboti/1610 went to Wakoli Bifwoli, while plot NO.W.Bukusu/E.Siboti/1612 went to the petitioner while he couldn't recall who took possession of plot 1607. He stated that he never sold land to Masinde Maenyi as alleged. He denied knowledge of the case before the LDT and the Bungoma Chief Magistrates court. He testified that he planted trees on the suit land with the petitioner.

1ST Respondent's Case.

11. Mathew Wamalwa Wafula (DW1) The 1st Respondent gave sworn testimony and was referred his Replying affidavit sworn on 11/06/2020 which adopted as his testimony-in-chief. He was referred a sale agreement dated as 26/06/1976 which he produced as 1st D-Exhibit 1. He was also referred to another undated sale agreement which he produced as 1st D-Exhibit 2 as well proceedings and order from Bumula LTD which he also produced as 1st D-Exhibit 3 &4. He was referred to an order from Bungoma CMCC 12 of 2009 as 1st D-Exhibit 5, a letter dated 04/12/1995 as 1st D-Exhibit 6, a letter dated 04/12/1998 as 1st D-Exhibit 7, a title deed for L.R No. W.Bukusu/E.Siboti/1612 as 1ST D-Exhibit 8, a copy of certificate of search for L.R No. W.Bukusu/E.Siboti/1612-as D-Exhibit 9, a letter of consent dated 24/11/2011 as 1stD-Exhibit10, a transfer form as 1st D-Exhibit 11, an application for land control board consent as 1st D-Exhibit 12 and proceedings and ruling in Bungoma CM LTD No. 12 of 2009 as 1st D-Exhibit 13. He testified that the prayer to set aside/vacate the LDT'S award would disadvantage other third parties who are yet to be joined in this case.
12. On cross-examination, he testified that Sango Primary School occupies the suit land and the said school was a party before the LTD. He stated that he bought the suit land from one Kassim Nyongesa Biketi in the year 1976 and title deeds had not been issued. He confirmed that in the sale agreement dated 25/6/1976, the particulars of the land being sold are not indicated and added that the land had not been allocated a number. He testified that at the time the case before the LDT was filed



L.R. No. W.Bukusu/S.Siboti/1568 had been closed upon sub-division that gave rise to resultant parcels NO.W.Bukusu/E.Siboti/ 1606,1607,1608,1609,1610,1612 and 1613 and further that L.R.No. W.Bukusu/S.Siboti/1612 was registered in the name of the petitioner and that he had taken a loan with Kenya Institute of Estates. He testified that the petitioner was so registered in the year 1997 while the tribunal case was rendered in the year 1998.

13. Orize Wanjala Kundu (DW2) was referred his witness statement dated 22/10/2022 which he adopted as his testimony-in-chief. He testified that the suit land was initially registered in the name of Matthew Wafula and that he was a witness before the LDT.

2ND Respondent's Case.

14. Babu Allan (DW1) Was referred to his replying affidavit sworn on 09/06/2024 which he adopted as his testimony-in-chief. He testified that he is the Land Registrar, Bungoma County. He was also referred a list of documents containing four(4) items which he produced as 2nd D-Exhibits No. 1-4. He stated that the suit land was transferred to the current owner by a Court order. He testified that the said order does not make reference to the petitioner but to one Matthew Wafula.

Legal Analysis And Determination.

15. I have carefully considered the content of the Petitioner's Petition as well as the supporting affidavit. I have also considered the Respondents' replying affidavits and the rival submissions of Counsel as well as the relevant provisions of the law and the cited Authorities. From the materials placed before me, In my view, I find the following as the issues arising for determination: -
 - a. Whether the petition meets the test of constitutionality.
 - b. Whether any of the Petitioners' Constitutional rights had been infringed.
 - c. Whether the Petitioner is entitled to the orders sought in the Petition?

Whether the petition meets the test of constitutionality.

16. *The Constitution* through the Mutunga Rules provide ways in which parties whose fundamental rights under the bill of rights have been violated or threatened to be violated seek remedies in the Court. In the case Anarita Karimi Njeru Vs Republic (1976-1980) KLR, the Court held thus;

“We would however again stress that if a person is seeking redress from the High Court on a matter which involves a reference to *the Constitution*, it is important (if only to ensure that justice is done to his case) that he should set out with reasonable degree of precision that of which he complains, the provision said to be infringed and the manner in which they are alleged to be infringed.”

17. That principle was affirmed by the Court of Appeal in the case of Mumo Matemu v Trusted Society of Human Rights Alliance & 5 others [2013] eKLR. The Petitioner in this case has urged the Court to declare that his rights under Article 2,3,10,19,20,21,22,23,27,40,42,47, 48, 50(1),162(2)(b), 165 (6) and 259 of *the Constitution* has been breached. In his petition the Petitioner mainly contend that the proceedings before the LDT that saw title to the suit land issued to the 1st Respondent was in breach of his right to a fair hearing and administrative action and in the end curtailed his right to property. From the complaint in this petition, one is capable of discerning the violations complained of, the same having been particularized and the petitioner having attempted to tie the violations to the above provisions of *the Constitution*.



18. The 1st Respondents has argued that the particulars of breaches alluded to in respect to the provisions of Articles 40, 47 and 50 were not demonstrated with clarity and specificity to allow them answer to the same
19. I subscribe to the pronouncements of Olao J in the case of Martin Wanyonyi C.E.O Centre for Human Rights Organization) & another v County Government of Bungoma & 2 others [2019] eKLR where the learned Judge stated as follows;

‘However, I do not see the Anarita And Mumo Matemtu cases (supra) as laying down a hard rule that a Petition which does not set out with particularity the Constitutional provisions alleged to have been infringed must suffer the fate of dismissal or striking out. Indeed, the Mumo Matemtu case (supra) refers to “reasonable precision” while the Anarita Karimi Njeru case (supra) talked about a “reasonable degree of precision.” The Anarita Karimi Njeru case (supra) also emphasizes the need “to ensure that justice is done.” The view I take of the matter is that whereas it is important to follow the guidelines and draw proper pleadings because they are the background upon which Constitutional Petitions and indeed all other claims are determined, transgressions that do not prejudice the opposing party should not in themselves be employed to defeat a claim because even Article 159(2) (d) of *the Constitution*, while not a panacea, for all ills, recognizes that:-

“Justice shall be administered without undue regard to procedural technicalities
....”

It is also provided for in Article 22(3) (b) of *the Constitution* with regard to the enforcement of the Bill of Rights that: -

“formalities relating to the proceedings including commencement of the proceedings, are kept to the minimum, and in particular that the Court shall, if necessary, entertain proceedings on the basis of informal documentation.”

20. Therefore, as far as format is concerned, this Petition is worth sustaining.

Whether any of the Petitioners’ Constitutional rights has been infringed

21. The gravamen of the petitioner’s case is that he was not a party to the proceedings before the Tribunal and Bungoma Chief Magistrates court therefore the proceedings therein are null and void and should not ideally apply to him. The 1st Respondent on his part maintained that the proceedings and the resultant award and decree were proper. The 2nd and 3rd respondent contend that the office of the land registrar simply complied with the court order that was served upon them and that the said office cannot therefore be faulted.
22. In the case of Samuel Ngigi Wahogo & 4 others v Attorney General & 2 others Samuel Chege(Interested Party) [2019] Eklr, the court stated as follows;

“At this juncture I need to distinguish between one being aware of certain proceedings and one being a party to proceedings. I may be aware that there are some proceedings that are on going but that does not necessarily mean that I am a party to the said proceedings. It does not also mean that because I am aware of proceedings, then I have been given an opportunity of being heard. When it comes to the right to be heard, and a decision is going to be made that affects a person, that person needs to be afforded an opportunity of being heard, and



being afforded an opportunity of being heard means that the person is invited formally, to give his/her views over the matter that is being discussed.”

When it comes to judicial proceedings, that is proceedings before a court or a tribunal or arbitral proceedings, I know of no other way of giving the defendant, or accused, or the person against whom an order is sought, the right to be heard, other than making that person a party to the proceedings. An order in judicial proceedings ought not to be given against a person who has not been made a party to those proceedings. If there are proceedings that are going to affect the rights of a person, it is not enough to say that the said persons must have been aware of those proceedings because the proceedings were notorious. What is significant is whether such person was made a party to those proceedings, for you cannot make orders adverse to the interests of a particular person, unless that person is a party to the proceedings that resulted in the orders in issue.

23. Article 50 (1) of *the Constitution* embodies the right to a fair hearing and provides as follows:-

50(1) Every person has the right to have any dispute that can be resolved by the application of law decided in a fair and public hearing before a court or, if appropriate, another independent and impartial tribunal or body.

24. In as much as the proceedings before the Tribunal and Magistrate’s Court took place before *the Constitution* of 2010, I note that the effects of the award and decree of the tribunal and Magistrate’s court were carried out in the year 2019 when this provision was operational. Further, the right to natural justice, still existed even in the regime of the old constitution.

25. From the record, it is clear that the proceedings before the tribunal were commenced by Wekesa Masinde and Others v Kassim Nyongesa Biketi on 07/01/1998. At that time, the petitioner herein was the registered proprietor of the suit land, having been so registered on 17/06/1997. This fact is confirmed by the copy of certificate of title and search produced by the petitioner as P-Exhibit 1. The 1st Respondent confirmed this position as can be seen from the proceedings before the LDT produced by the 1st Respondent as 1st D-Exhibit 3. In those proceedings, the complainant’s witness stated that the petitioner had been allocated the suit land.

26. This court is at a loss why, despite being aware of the fact that the petitioner was the registered owner of the suit land, the 1st Respondent and his co-complainants failed to join the petitioner in the dispute so that he could respond to the complaint as the registered owner considering that the claim before the tribunal would affect his interest as the registered proprietor. Surely, one cannot claim that there was a fair hearing in the former judicial and quasi-judicial proceedings, where the Petitioner whose rights were the subject of those proceedings was not made a party to the said proceedings. For proceedings where the title of a person is sought to be cancelled, the title holder must be made a party to those proceedings. It is against the rules of natural justice for proceedings to be held and title cancelled when the title holder is not a party to those proceedings.

27. In any event, the Tribunal exceeded its mandate under Section 3 of the Land Disputes Tribunal Act (now repealed) which provided as follows on the jurisdiction of the Land Disputes Tribunal:-

3.

(1) Subject to this Act, all cases of a civil nature involving a dispute as to—

(a) the division of, or the determination of boundaries to land, including land held in common;



- (b) a claim to occupy or work land; or
- (c) trespass to land, shall be heard and determined by a Tribunal established under section 4.(2).

28. Having found that the proceedings and the award of the LDT were null and void, the magistrate's court could not properly endorse and enter judgment in respect of that award. There was no valid award that the magistrate's court could have given effect to. The award by the tribunal was a nullity and so was the endorsement of the same as judgment and decree of the court. It also follows that there was no valid order for the land Registrar to effect. In the case of Republic –vs- Chairman Borabu Land Disputes Tribunal & 2 Others ex parte Florence Nyaboke Machani [2014] Eklr, Okong'o J held thus:-

“Now the decision of the 1st respondent was null and void, was there anything that the 2nd respondent could adopt as a judgment of the court? In the case of Macfoy –vs- United African Co. Ltd [1961] 3 ALL ER 1169, Lord Denning stated as follows concerning an act which is a nullity at page 1172;

“If an act is void, then it is in law a nullity. It is not only bad but incurably bad. There is no need for an order of the court to set it aside. It is automatically null and void without much ado, though it is sometimes convenient to have the court to declare it to be so. And every proceeding which is founded on it is also bad incurably bad. You cannot put something on nothing and expect it to stay there. It will collapse.”

I am of the view that since the decision of the 1st respondent was a nullity, there was nothing in law that could be filed before the 2nd respondent for adoption as a judgment of the court. Such judgment would equally be a nullity. I am of the view that section 7 of the Land Disputes Tribunal Act pursuant to which the decision of the 1st respondent was lodged with the 2nd respondent for adoption envisaged a lawful decision by the 1st respondent. Since the decision of the 1st respondent was a nullity for want of jurisdiction, there was nothing on the basis of which the 2nd respondent could enter judgment and issue a decree.”

29. The petitioner herein has sought for various orders and at this juncture, it is imperative to note that this court derives its jurisdiction from Article 23 of *the Constitution* which provides as follows :-

Authority of courts to uphold and enforce the Bill of Rights

- (1) The High Court has jurisdiction, in accordance with Article 165, to hear and determine applications for redress of a denial, violation or infringement of, or threat to, a right or fundamental freedom in the Bill of Rights.
- (2) Parliament shall enact legislation to give original jurisdiction in appropriate cases to subordinate courts to hear and determine applications for redress of a denial, violation or infringement of, or threat to, a right or fundamental freedom in the Bill of Rights.

In any proceedings brought under Article 22, a court may grant appropriate relief, including—

23.

- (3)
 - (a) a declaration of rights;
 - (b) an injunction;



- (c) a conservatory order;
- (d) a declaration of invalidity of any law that denies, violates, infringes, or threatens a right or fundamental freedom in the Bill of Rights and is not justified under Article 24;
- (e) an order for compensation; and
- (f) an order of judicial review.

30. As far as the writs of judicial review are concerned, the 1st Respondent submitted that the prayers are time barred under The Law Reforms Act and the framework set out in Order 53 of the Civil Procedure Rules. However, this court is of the opinion that whatever is before it is a Petition and not Judicial Review proceedings which would ideally fall under the provisions relied upon by the 1st Respondent. As such, the rules governing Judicial Review applications are inapplicable in the circumstances of this case.
31. Looking at the prayers sought in the petition vis-a vis the above provision of the law, the courts mandate under Constitutional petitions is limited to matters relating to the bill of rights. The petitioner has sought for a declaration that he is the bona fide owner of the suit land and for compensation for damages/destruction of eucalyptus trees. These prayers are clearly not constitutional in nature and as such, cannot be granted in this case as constituted. Such orders can only be made once appropriate pleadings are presented before a court with jurisdiction.
32. The petitioner also sought for compensation by way of general damages for violation of his rights. I note that not much was revealed on the extent of the loss of income. This court has not been told that the suit land was being used in any particular way to generate income apart from the mention that some eucalyptus trees had once been sold to KPLC. Put differently, no evidence was given of how much in earnings the parcel of land was generating for the Petitioners. This court is however of the considered opinion that had it been that the petitioner accessed the suit land, he would have utilized it in one way or the other for his own benefit. He could have made losses as well. Doing the best I would, I consider a sum of Kenya Shillings Two Million (Kshs. 00,000/=) Only as appropriate compensation for damages for violation of his right to property
33. In the premises, I find this petition meritorious to the extent that the petitioner's title to LR W.Bukusu/E.Siboti/1612 was unlawfully cancelled through a process that was null and void. Accordingly I enter Judgment for the petitioner in the following terms:-
- a. A declaration is hereby issued that the petitioner's fundamental rights and freedoms to equality before the law, a right to own and hold property, fair administrative action and right to a fair hearing have been violated.
 - b. A declaration is hereby made that the proceedings and the decisions of the Bumula Land Disputes Tribunal that purportedly awarded L.R. No. W.Bukusu/E.Siboti/1612 to the 1st respondent were irregular, unlawful, invalid, null and void for all purposes.
 - c. An order of certiorari is hereby issued quashing the decision of the said Bumula and Disputes tribunal with respect to L.R. No. W.Bukusu/E.Siboti/1612 and the subsequent adoption by the Bungoma Magistrate court in Bungoma Ldt No. 12 of 2009.
 - d. An order of mandamus is hereby issued directing the 2nd Respondent to rectify the register and reinstate the petitioners as the registered owner of L.R. No. W.Bukusu/E.Siboti/1612.



- e. An award of damages for breach of fundamental rights to protection of property and fair administrative action together with the unlawful trespass by the Respondents to the tune of Kenya Shillings two Million Only (Kshs. 2,000,000/=)

34. Since Costs follow the event, the Respondents shall bear the costs of this Petition.

35. Orders accordingly.

DATED AND SIGNED AND DELIVERED AT BUNGOMA THIS 11TH DAY OF DECEMBER, 2024.

HON.E.C CHERONO

ELC JUDGE

In the presence of;

M/S Wakasa H/B Mr. Murunga for the Petitioner.

Mr. Tarus for the A.G.

Petitioner-present.

1st Respondent-present.

