

Approved for tabling in the House.
Bhat SNA

12/4/2022



REPUBLIC OF KENYA
THE NATIONAL ASSEMBLY

NATIONAL ASSEMBLY	
DATE: 12 APR 2022	DAY: TUE
CLERK-AT-THE-TABLE:	Hon (DA) RACHEL NYAMA
	In 2080

TWELFTH PARLIAMENT – SIXTH SESSION – 2022

DEPARTMENTAL COMMITTEE ON LANDS

REPORT ON-

(PUBLIC PETITION NO 063 OF 2021)

BY RESIDENTS OF MWANANGUVUZE VILLAGE IN TIMBWANI WARD OF
LIKONI CONSTITUENCY REGARDING SECURING LAND OWNERSHIP RIGHTS
OF MWANANGUVUZE RESIDENTS

DIRECTORATE OF DEPARTMENTAL COMMITTEES
CLERK'S CHAMBERS
PARLIAMENT BUILDINGS
NAIROBI

APRIL, 2022

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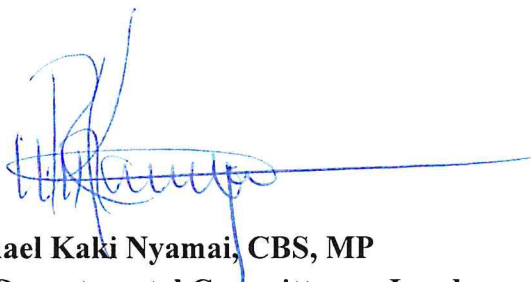
CHAIRPERSON'S FOREWORD

Hon. Mishi Mboko, CBS, MP, on 19th October 2021, conveyed to the House Public Petition No 063 of 2021, on behalf of Mwananguvuze Village residents in Timbwani Ward Likoni Constituency, regarding securing land ownership rights of Mwananguvuze residents.

While considering the Petition, the Committee met the Petitioners during a field visit to Likoni Constituency on 4th November 2021. The Committee also met the Chairperson, National Land Commission, on Thursday, 24th March 2022 and the Cabinet Secretary, Ministry of Lands and Physical Planning, on 2nd December 2021 and 9th March 2022, in Parliament Buildings, respectively.

The Committee is thankful to the Offices of the Speaker and the Clerk of the National Assembly for the logistical and technical support accorded to it during its sittings. The Committee is also thankful to the Petitioners, the Cabinet Secretary, the Ministry of Lands and Physical Planning, and the Chairperson National Land Commission for the submissions they made to the Committee.

Under Standing Order 227, it is my pleasant duty to table the Report of the Departmental Committee on Lands on its consideration of Public Petition No 063 of 2021 by residents of Mwananguvuze Village in Timbwani Ward of Likoni Constituency regarding securing land ownership rights of Mwananguvuze residents.



Hon. Dr. Rachael Kaki Nyamai, CBS, MP
Chairperson, Departmental Committee on Lands

EXECUTIVE SUMMARY

This report responds to the prayers by Petitioners in Public Petition No 063 of 2021 by residents of Mwananguvuze Village in Timbwani Ward of Likoni Constituency regarding securing land ownership rights for Mwananguvuze residents. The Petitioners prayed that the National Assembly, through the Departmental Committee on Lands, intervenes to:

- a. Conduct a fact-finding mission to Mwananguvuze village to ascertain the situation on the ground as highlighted in the petition.
- b. Urgently intervene to forestall the impending eviction of residents of Mwananguvuze village from the land registered as plot No. 120 Mwananguvuze/Timbwani.
- c. Investigate the circumstances in which the said Mr Mahesh Jatantilal Haria seeks to assume ownership of the parcel of land.
- d. Secures the issuance of title deeds of plot No/ 120 Mwananguvuze / Timbwani to the residents who are the bonafide owners of the land.

Regarding the prayer that the National Assembly conduct a fact-finding mission to Mwananguvuze village to ascertain the situation on the ground as highlighted in the Petition. The Committee undertook a field visit to Likoni on 4th November, 2021 to gather information on the issues raised in the Petitions. The Committee observed that:

- i. The land claimed by the Petitioners, LR No. MS/1/120 was initially Government land, but it has since been subdivided into seven parcels; Plot No 1789, Plot No 1787, Plot No 1788, Plot No. 1786, Plot 1780 and MS/1/1837.
- ii. The Ministry of Lands & Physical Planning reported no records to show that Plot No. 1786, 1780 and MS/1/1837 have been allocated to any owner.
- iii. Considering that the subdivision of the land was first registered on 1st September 1994, a ground report could have indicated to the Ministry of Lands and Physical Planning that the Petitioners already occupied the land
- iv. The land is densely populated. It would be difficult to evict the persons currently occupying, given that they have erected permanent structures and social amenities, including mosques and churches.
- v. The Petitioners considered the land their ancestral land as they have occupied land for years, as evidenced by ancient gravesites and the Mwananguvuze Mosque, whose foundation stone was laid by the late Hon Sharif Nassir in 1980.

On the second prayer seeking the intervention of the National Assembly to forestall the impending eviction of residents of Mwananguzuve village from the land registered as plot No. 120 Mwananguvuze Timbwani; the Committee observed that:

- vi. The alleged eviction is on plot No. MS/1/1836 measuring 0.400 Ha. owned by Mahesh Jayantialal on a leasehold of 99 years from 1st July 1997.
- vii. The land is heavily settled.
- viii. Although Mr Mahesh Jayantialal seeks ownership of the parcel, he has never taken possession of the portion of land.
- ix. During a field visit to the area, the committee was not presented with proof of an eviction order.
- x. The Commission also confirmed that it had not been presented with any proof of eviction order.
- xi. However, if an eviction order exists as alleged by the Petitioners, the process can only be halted by a court of law. The Petitioners may consider seeking legal redress.

Regarding the prayer seeking investigations into the in which the said Mr Mahesh Jatantilal Haria seeks to assume ownership of the parcel of land, the Committee that:

- a. According to evidence provided by the Ministry of Lands and Physical Planning, Mr Mahesh Jaltantilal is the registered owner of MS/BLOCK /1836, measuring 0.400 Ha. The parcel of land, MS/BLOCK /1836, is a subdivision of plot No. MS/1/120.
- b. Mr Mahesh Jaltantilal acquired the parcel of land from Transoil Kenya Ltd, who had received it from the first registered owner Noudin Ahmed Abubakar
- c. The Committee further observed that the land registered to Mr Mahesh Jaltantilal is MS/BLOCK /1836 measuring 0.400 Ha. and not the entire plot 120 as claimed by the Petitioners.

On the issuance of title deeds of plot No. 120 Mwananguvuze / Timbwani to the residents who are the bonafide owners of the land. The Committee observed that title deeds could only be issued to the Petitioners after the regularization of their occupation of the unalienated government land, namely No. MS/1/1837 and No. MS/1/1786 and No. MS/1/1786, for which no ownership records exist.

The Committee concluded that only four plots arising from the subdivision of the original lot No. 120 are registered to individuals and firms. There are no records to show that a larger portion of the land, including the 52 acres parcels No. MS/1/1837, Plot No. 1786 and 1780 have been allocated. Therefore, the land is available for allocation to the residents of Mwanaguvuze.

Finally, the Committee recommends that the Cabinet Secretary, Ministry of Lands and Physical Planning, in consultation with the National Land Commission and the County Government of Mombasa, regularizes the Petitioners' settlement on the unalienated government land, namely No. MS/1/1837 and No. MS/1/1786 and No. MS/1/1786, for which no ownership records exist within six months of tabling this report.

1.0 PREFACE

1.1 Mandate of the Committee

1. The Departmental Committee on Lands is established under the provisions of Standing Order No. 216 (1) and (5) with the following terms of reference amongst others:

- (i) investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations, and estimates of the assigned Ministries and departments.*
- (ii) study the programme and policy objectives of Ministries and departments and the effectiveness of the implementation.*
- (iii) make reports and recommendations to the House as often as possible, including the guidance of proposed legislation.*
- (iv) Study and review all legislation referred to it.*
- (v) study, access, and analyse the relative success of the Ministries and departments as measured by the results obtained compared with their stated objectives.*
- (vi) investigate and inquire into all matters relating to the assigned Ministries and departments as they deem necessary and referred to them by the House.*
- (vii) study and review all legislation referred to it.*

1.2 Committee Subjects

3. The Committee is mandated to consider the following subjects:

- a) Lands
- b) Settlement

1.3 Oversight

4. The Committee oversees the Ministry of Lands and Physical Planning and the National Land Commission.

1.4 Committee Membership

5. The Committee membership comprises:

Chairperson

Hon. Dr Rachael Nyamai, CBS, MP
Kitui South Constituency

Jubilee Party

Vice-Chairperson

Hon. Mishi Mboko, MP
Likoni Constituency

Orange Democratic Movement (ODM)

Hon. Benjamin Washiali, CBS, MP
Mumias East Constituency

Jubilee Party

Hon Joshua Kutuny Serem, MP
Cherangany Constituency

Jubilee Party

Hon. Omar Mwinyi, MP
Changamwe Constituency

Orange Democratic Movement (ODM)

Hon. William Kisang, MP
Marakwet West Constituency

Hon Jubilee Party

Hon. Ahmed Kolosh, MP
Wajir West Constituency

Jubilee Party

Hon. Ali Mbogo, MP
Kisauni Constituency

Wiper Democratic Movement (WDM)

Hon. Babu Owino, MP
Embakasi East Constituency

Orange Democratic Movement (ODM)

Hon. Caleb Kipkemei Kositany, MP
Soy Constituency

Jubilee Party

Hon George Aladwa, MP
Makadara Constituency

Orange Democratic Movement (ODM)

Hon George Risa Sunkuyia, MP
Kajiado West Constituency

Jubilee Party

Hon. John Muchiri Nyaga, MP
Manyatta Constituency

Jubilee Party

Hon. Josphat Gichunge Kabeabea, MP
Tigania East Constituency

Party of National Unity (PNU)

Hon. Lilian Tomitom, MP
West Pokot County

Jubilee Party

Hon. Owen Yaa Baya, MP
Kilifi North Constituency

Orange Democratic Movement (ODM)

Hon. Patrick Munene Ntwiga, MP
Chuka/Igambangombe Constituency

Jubilee Party

Hon. Samuel Kinuthia Gachobe, MP
Subukia Constituency

Jubilee Party

Hon. Teddy Mwambire, MP
Ganze Constituency

Orange Democratic Movement (ODM)

1.5 Committee Secretariat

6. The Committee secretariat comprises:

Lead Clerk

Mr. Leonard Machira

Senior Clerk Assistant

Mr. Ahmad Guliye

Clerk Assistant II

Dr Kefa Omoti

Principal Researcher Officer

Ms. Jemimah Waigwa

Legal Counsel I

Mr. Joseph Okongo

Media Relations Officer

Mr. Collins Namulen

Fiscal Analyst III

2.0 INTRODUCTION

7. Hon. Mishi Mboko CBS MP, on 19th October 2021, conveyed to the House Public Petition No 063 of 2021 by residents of Mwananguvuze Village in Tibwani Ward of Likoni Constituency regarding securing land ownership rights of Mwananguvuze residents.
8. Mwananguvuze Village in Timbwani Ward of Likoni Constituency is a pre-colonial centre established in 1860. It traces its roots to Rashid Mbaya Mwazra, born in 1830, Mr Ali Juma Mwangare, born in 1927 and Mr Mohamed Hamisi Mbaya, born in 1929.
9. The land is registered as plot No. 120 and is inhabited by over 12600 residents who undertake fishing and other agricultural activities to earn a living.
10. The Petitioners have occupied the land for over 150 years, as exemplified by ancient gravesites, Mwananguvuze Mosque, and old indigenous trees.
11. The residents were assured of their land rights when land adjudication commenced. However, the Ministry of Lands and Physical Planning irregularly and illegally issued title deeds to strangers under unclear circumstances to the disadvantage of the residents.
12. The Petitioners were recently informed of plans by one Mr Mahesh Jatantila Haria to assume ownership of the entire land under unclear circumstances and to evict the residents of Mwananguvuze from their ancestral land.
13. The efforts made by the Petitioners to have the matter addressed through the relevant government agencies were futile.
14. The Petitioners also stated that the matters in which the petition is made are not pending before any court of law or any constitutional or legal body.
15. The Petitioners prayed that the National Assembly, through the Departmental Committee on Lands
 - a. Conduct a fact-finding mission to Mwananguvuze village to ascertain the situation on the ground as highlighted in the petition.
 - b. Urgently intervene to forestall the impending eviction of residents of Mwananguvuze village from the land registered as plot No. 120 Mwananguvuze/Timbwani.
 - c. Investigate the circumstances in which the said Mr Mahesh Jatantila Haria seeks to assume ownership of the parcel of land.
 - d. Secures the issuance of title deeds of plot No/ 120 Mwananguvuze / Timbwani to the residents who are the bonafide owners of the land.
 - e. Make any other recommendation it deems appropriate in the circumstances of the petition.

3.0 SUBMISSIONS

3.1 Submissions by the Petitioners

16. The Committee met the Petitioners during a field visit to Likoni on 4th November 2021. During the meeting, the Petitioners informed the Committee as follows:
17. According to the Petitioners, the land in question was initially registered as plot No. 120. The land is in Mwananguvuze Village in Timbwani Ward, Likoni Constituency.
18. The Petitioners considered the land their ancestral land. It has been occupied for over 150 years, as evidenced by ancient gravesites and the Mwananguzuve Mosque, whose foundation stone was laid by the late Hon Sharif Nassir in 1980.
19. They also stated that the residents were assured of their land rights when land adjudication commenced. However, other persons were issued tiles under unclear circumstances apart from the residents.
20. The Petitioners stated that they were aware that the land had been subdivided into five plots as follows:
 - a. LR. No. 1836
 - b. LR. No. 1789
 - c. LR. No. 1736
 - d. LR. No. 1787
 - e. LR. No. 590
 - f. LR. No. 1735
21. The Petitioners indicated that they were aware that one Mr Jatantil Haria registered as the owner of LR. No. 1836 plans to occupy the land and evict them.
22. The Petitioners requested the Committee to intervene in the matter to have the land allocated to the residents of Mwananguvuze and the Ministry of Lands and Physical Planning to issue them with title deeds.

3.2 Submissions by relevant Government field offices

23. The Committee met the relevant government officers during a field visit to Likoni on 4th November 2021. The Officers led by the County land Adjudication and Settlement officer informed the Committee as follows
24. The land claimed by the Petitioners is plot No. 120, which was initially government land (GL)
25. Mwananguzuze village is on MS/1/1837 and MS /1/1836.
26. The first subdivisions from Plot No. 120 were as follows:

S/N	Plot No.	Size	Registered owner
1.	Plot No. 1789	.1034 Ha	Nora Holdings Limited
2.	Plot No. 1787	0.0254 Ha	Abdalla Chuo Ali
3.	Plot No. 1788	0.0534 Ha	Abdalla Chuo Ali
4	Plot No. 1786		No records
5	Plot No. 1780		No records

27. Two other subdivisions for MS/BLOCK /1836 and MS/BLOCK /1837 were undertaken.

28. The land registered to Mahesh Jaltantilal is MS/BLOCK /1836, measuring 0.400 Ha. Therefore, the latter is a subdivision of plot No. 120. The initial owners were as follows:

- a. First owner Nourdin Ahmed Abubaker in 1997
- b. 2nd Owner Transoil Kenya Ltd in 2006
- c. Current owner - Mahesh Jaltantilal

29. There are no records at the Land Registry on the ownership of MS/1/1837, but survey plans indicate that the plot is 21.2 Ha. or 52 acres.

30. The officers concluded that given that LR No. 1786, LR. No. 1780 and MS/BLOCK /1837 were originally government land; in the absence of records indicating any allocation of the said land, the land remains government /public land.

3.3 Submissions by the Cabinet Secretary Ministry of Lands and Physical Planning

31. The Committee met the Cabinet Secretary Ministry of Lands and Physical Planning on 2nd December 2021 and 9th March 2022. The Cabinet Secretary responded to the issues raised by the Petitioners as follows:

32. The subject land LR. No. MS/1/120 was initially Government land. The parcel of land was subdivided and registered to the following:

S/N	Plot No.	Size	Registered Owner
1	Plot No 1789	0.1034 Ha	Mombasa Holdings Limited
2	Plot No 1787	0.0254 Ha	Abdalla Chuo Ali
3	Plot No 1788	0.0534 Ha	Abdalla Chuo Ali
4	Plot No 1786		No records to show the allocation of the plot
5	Plot No 1780		No records to show the allocation of the plot
6	Plot No MS/1/1836	0.400 Ha.	1 st owner – Noudin Ahmed Abubaker- 2 nd Owner Transoil Kenya Limited - Current owner – Mahesh Jaltantilal
7	Plot No MS/1/1837	52 acres	No records to show the allocation of the plot

33. Mwananguvuze residents occupy the entire area, which is densely populated with over 400 permanent structures, graves, Madrasa, markets, schools, mosques, and churches.

34. The owner of parcel MS/1/1836, Mahesh Jaltantilal, has issued an eviction notice to the residents.

3.4 Submissions by the Chairperson National Land Commission

35. The Committee met the Chairperson National Land Commission on Thursday 24th March. The Chairperson responded to the issues raised in the petition as follows:

36. The subject land LR. No. MS/1/120 was initially Government land (GL) measuring approximately 21.992 Ha. The following excisions on MS/1/120 have been undertaken:

- Plot No 1789 – 0.1034 Ha- registered to Mombasa Holdings Limited 99 years from 1st September 1996
- Plot No 1787 – 0.0254 Ha. registered to Ha- Abdalla Chuo Ali 99 years from 1st September 1994
- Plot No 1788 – 0.0534 Ha. - registered to Ha- Abdalla Chuo Ali 99 years from 1st September 1994

- d. Plot No 1786 – No records to show the allocation of the plot
- e. Plot No 1780 – No records to show the allocation of the plot
- f. Plot No MS/1/1836 – 0.400 Ha - registered to Mahesh Jaltantilal for 99 years from 1st July 1997

- 37. Mwananguvuze occupies all the above parcels of land and the remainder of parcel 120. The area is densely populated with over 400 permanent structures. There are shops, residential houses, mosques, churches, schools, and madrasa.
- 38. The alleged eviction is on plot No. MS/1/1836 measuring 0.400 Ha. owned by Mahesh Jayantialal on a leasehold of 99 years from 1st July 1997. The land is heavily squatted, and it is evident that Mr Mahesh Jayantialal seeks ownership by dint of being the bona fide registered owner of the parcel of land. However, he had never taken possession of the portion of land.
- 39. The residents can appeal against the alleged eviction order. However, during a field visit to the area, the commission was not presented with proof of an eviction order.
- 40. The Petitioners can also seek redress in a court of law if the alleged order contravenes the eviction procedures stipulated under the Land Act 2012.
- 41. The current occupiers of the un- alienated part of the original LR. NO. MS/1/120, which is heavily squatted, can petition to regulate their settlements through the County Government of Mombasa upon planning, survey, and subsequent allocation as per Section 14 of the Land Act in collaboration with the National Land Commission and the Ministry of Lands and Physical Planning.

4.0 ISSUES FOR DETERMINATION AS PER THE PRAYERS IN THE PETITION

- a. **That the National Assembly conduct a fact-finding mission to Mwananguzuve village to ascertain the situation on the ground as highlighted in the Petition.**

The Committee undertook a field visit to Likoni on 4th November 2021 to gather information on the issues raised in the Petitions. The Committee observed that:

- i. The land claimed by the Petitioners, LR No. MS/1/120 was initially Government land, but it has since been subdivided into seven parcels; Plot No 1789, Plot No 1787, Plot No 1788, Plot No. 1786, Plot 1780 and MS/1/1837.
- ii. The Ministry of Lands & Physical Planning reported no records to show that Plot No. 1786, 1780 and MS/1/1837 have been allocated to any owner.
- iii. Considering that the subdivision of the land was first registered on 1st September 1994, a ground report could have indicated to the Ministry of Lands and Physical Planning that the Petitioners already occupied the land
- iv. The land is densely populated. It would be difficult to evict the persons currently occupying, given that they have erected permanent structures and social amenities, including mosques and churches.
- v. The Petitioners considered the land their ancestral land as they have occupied land for years, as evidenced by ancient gravesites and the Mwananguzuve Mosque, whose foundation stone was laid by the late Hon Sharif Nassir in 1980.

- b. **Urgently intervenes to forestall the impending eviction of residents of Mwananguzuve village from the land registered as plot No. 120 Mwananguzuve Timbani**

The Committee observed that:

- i. The alleged eviction is on plot No. MS/1/1836 measuring 0.400 Ha. owned by Mahesh Jayantialal on a leasehold of 99 years from 1st July 1997.
- ii. The land is heavily settled.
- iii. Although Mr Mahesh Jayantialal seeks ownership of the parcel, he has never taken possession of the portion of land.

- iv. During a field visit to the area, the committee was not presented with proof of an eviction order.
- v. The Commission also confirmed that it had not been presented with any proof of eviction order.
- vi. However, if there exists an eviction order as alleged by the Petitioners, the process can only be halted by a court of law. The Petitioners may consider seeking legal redress.

c. Investigate the circumstances in which the said Mr. Mahesh Jatantilal Haria seeks to assume ownership of the parcel of land

Regarding the prayer seeking investigations into the in which the said Mr Mahesh Jatantilal Haria seeks to assume ownership of the parcel of land, the Committee observed that:

- i. According to evidence provided by the Ministry of Lands and Physical Planning, Mr Mahesh Jaltantilal is the registered owner of MS/BLOCK /1836, measuring 0.400 Ha. The parcel of land, MS/BLOCK /1836, is a subdivision of plot No. MS/1/120.
- ii. Mr Mahesh Jaltantilal acquired the parcel of land from Transoil Kenya Ltd, who had received it from the first registered owner Noudin Ahmed Abubakar
- iii. The Committee further observed that the land registered to Mr Mahesh Jaltantilal is MS/BLOCK /1836 measuring 0.400 Ha. and not the entire plot 120 as claimed by the Petitioners.

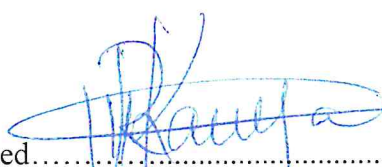

d. Secures the issuance of title deeds of plot No. 120 Mwananguvuze / Timbwani to the residents who are the bonafide owners of the land

The Committee observed that title deeds could only be issued to the Petitioners after the regularization of their occupation of the unalienated government land, namely No. MS/1/1837 and No. MS/1/1786 and No. MS/1/1786, for which no ownership records exist.

The Committee concluded that only four plots arising from the subdivision of the original plot No. 120 are registered to individuals and firms. There are no records to show that a larger portion of the land, including the 52 acres parcels No. MS/1/1837, Plot No. 1786 and 1780 have been allocated. Therefore, the land is available for allocation to the residents of Mwananguvuze.

5.0 COMMITTEE RECOMMENDATION

Pursuant to Standing Order 227, the Committee recommends that the Cabinet Secretary, Ministry of Lands and Physical Planning, in consultation with the National Land Commission and the County Government of Mombasa, regularizes the Petitioners' settlement on the unalienated government land, namely No. MS/1/1837 and No. MS/1/1786 and No. MS/1/1786, for which no ownership records exist within six months of tabling of this report.

Signed.......... Date..........

The Hon. Dr. Rachael Kaki Nyamai, CBS, MP.

Chairperson, Departmental Committee on Lands



REPUBLIC OF KENYA
KENYA NATIONAL ASSEMBLY
TWELFTH PARLIAMENT

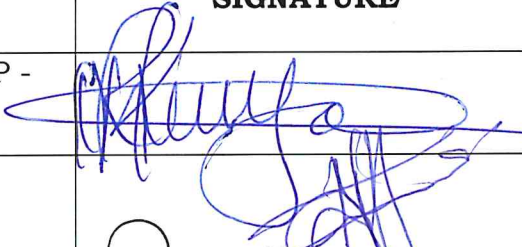
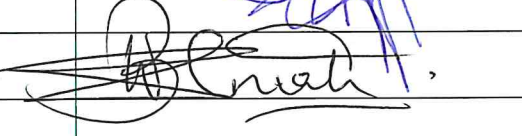

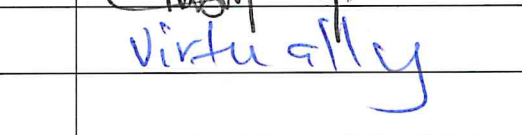
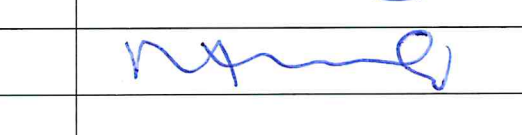
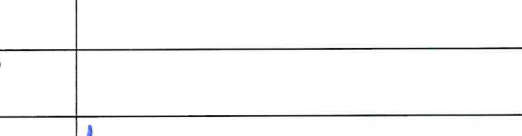
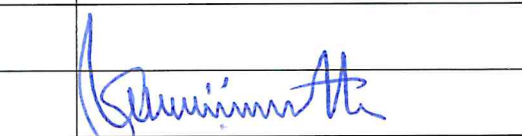

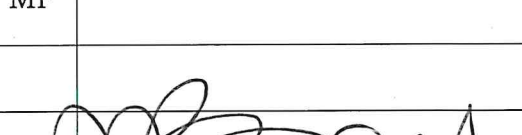
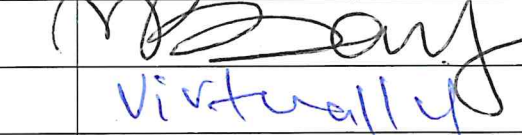
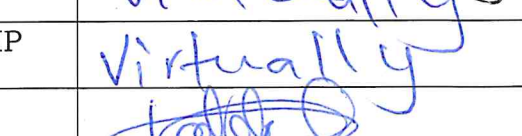
DEPARTMENTAL COMMITTEE ON LANDS

Adoption List

REPORT ON THE PUBLIC PETITION NO. 063 BY HON MISHI MBOKO, MP ON BEHALF OF RESIDENTS OF MWANANGUVUZE VILLAGE IN TIMGWANI WARD OF LIKONI CONSTITUENCY REGARDING SECURING LAND OWNERSHIP RIGHTS OF THE RESIDENTS

Date:

31/03/2022

	NAMES	SIGNATURE
1.	Hon. Dr. Rachael Nyamai, CBS, MP - Chairperson	
2.	Hon. Mishi Mboko, CBS, MP V/Chairperson	
3.	Hon. Benjamin Washiali, CBS MP	
4.	Hon. Joshua Kutuny Serem, MP	
5.	Hon. Omar Mwinyi Shimbwa, MP	
6.	Hon. William Kisang, MP	
7.	Hon. Ahmed Kolosh, MP	
8.	Hon. Ali Mbogo, MP	
9.	Hon. Babu Owino, MP	
10.	Hon. Caleb Kipkemei Kositany, MP	
11.	Hon. George Aladwa, MP	
12.	Hon. George Risa Sunkuyia, MP	
13.	Hon. John Muchiri Nyaga, MP	
14.	Hon. Josphat Gichunge Kabeabea, MP	
15.	Hon. Lilian Tomitom, MP	
16.	Hon. Owen Yaa Baya, MP	
17.	Hon. Patrick Munene Ntwiga MP	
18.	Hon. Samuel Kinuthia Gachobe, MP	
19.	Hon. Teddy Mwambire, MP	

**MINUTES OF THE 17TH SITTING OF THE DEPARTMENTAL COMMITTEE ON
LANDS HELD ON THURSDAY, 31ST MARCH 2022 AT COMMITTEE ROOM ON 2ND
FLOOR, CONTINENTAL HOUSE, PARLIAMENT BUILDINGS AT NOON**

PRESENT

- | | |
|--------------------------------------|--------------------|
| 1. Hon. Dr. Rachael Nyamai, CBS, M.P | - Chairperson |
| 2. Hon. Mishi Mboko, CBS, M.P | - Vice-Chairperson |
| 3. Hon. Benjamin Washiali, CBS, M.P | |
| 4. Hon. Omar Mwinyi Shimbwa, M.P | |
| 5. Hon. Ahmed Kolosh, MP | |
| 6. Hon. Ali Mbogo, M.P | |
| 7. Hon. George Risa Sunkuyia, M.P | |
| 8. Hon. Owen Yaa Baya, M.P | |
| 9. Hon. Patrick Munene Ntwiga, MP | |
| 10. Hon. Samuel Kinuthia Gachobe, MP | |
| 11. Hon. Teddy Mwambire, M.P | |

APOLOGIES

1. Hon. Joshua Kutuny, MP
2. Hon. Babu Owino, MP
3. Hon. Caleb Kositany, M.P
4. Hon. William Kisang, MP
5. Hon. George Aladwa, M.P
6. Hon. John Muchiri Nyaga, MP
7. Hon. Josphat Gichunge Kabeabea, M.P
8. Hon. Lilian Tomitom, MP

IN ATTENDANCE

THE NATIONAL ASSEMBLY SECRETARIAT

- | | | |
|------------------------|---|------------------------|
| 1. Mr. Leonard Machira | - | Senior Clerk Assistant |
| 2. Ms. Jemimah Waigwa | - | Legal Counsel |
| 3. Ahmad Guliye | - | Second Clerk Assistant |
| 4. Ms. Maureen Kweyu | - | Audio Officer |
| 5. Ms. Peris Kaburi | - | Serjeant at Arms |

MIN. NO. NA/DC/LANDS/2022/074: PRELIMINARIES

The meeting was called to order at thirteen minutes past noon with a word of prayer.

MIN. NO. NA/DC/LANDS/2022/075: CONFIRMATION OF MINUTES

- i. The minutes of the eight sitting of the Committee held on Tuesday 24th February 2022 were confirmed as an accurate record of the Committee's deliberations. The minutes were proposed and seconded by Hon. Ali Mbogo, MP and Hon. Benjamin Washiali, MP, MP, respectively.
- ii. The minutes of the ninth sitting of the Committee held on Tuesday 1st March 2022 were confirmed as an accurate record of the Committee's deliberations. The minutes were proposed and seconded by Hon. Owen Baya, MP and Hon. Teddy Mwambire, MP, respectively.
- iii. The minutes of the tenth sitting of the Committee held on Thursday 3rd March 2022 were confirmed as an accurate record of the Committee's deliberations. The minutes were proposed and seconded by Hon. Teddy Mwambire and Hon. Ali Mbogo, MP respectively.
- iv. The minutes of the eleventh sitting of the Committee held on Tuesday 8th March 2022 were confirmed as an accurate record of the Committee's deliberations. The minutes were proposed and seconded by Hon. Owen Baya, MP and, Hon. Benjamin Washiali, MP MP respectively.
- v. The minutes of the eleventh sitting of the Committee held on Tuesday 8th March 2022 were confirmed as an accurate record of the Committee's deliberations. The minutes were proposed and seconded by Hon. Owen Baya, MP and Hon. Benjamin Washiali, MP MP respectively.
- vi. The minutes of the twelfth sitting of the Committee held on Wednesday 9th March 2022 were confirmed as an accurate record of the Committee's deliberations. The minutes were proposed by Hon. Omar Mwinyi Shimbwa, M.P and seconded by and Hon. George Risa Sunkuyia MP respectively.
12. The minutes of the thirtieth sitting of the Committee held on Wednesday 16th March 2022 were confirmed as an accurate record of the Committee's deliberations. The minutes were proposed by Hon. Patrick Munene Ntwiga, MP and seconded by Hon. Owen Baya respectively.
- vii. The minutes of the fourteenth sitting of the Committee held on Thursday 17th March 2022 were confirmed as an accurate record of the Committee's deliberations. The minutes were proposed by Hon. George Risa Sunkuyia MP and seconded by MP and Hon. Samuel Kinuthia Gachobe, MP respectively.

MIN. NO. NA/DC/LANDS/2022/076: MATTERS ARISING

No matters arose.

**MIN. NO. NA/DC/LANDS/2022/077: ADOPTION OF A REPORT ON THE
CONSIDRATION OF PUBLIC PETITION NO
063 OF 2021 BY RESIDENTS OF
MWANANGUVUZE VILLAGE IN TIMBWANI
WARD OF LIKONI CONSTITUENCY
REGARDING SECURING LAND
OWNERSHIP RIGHTS FOR
MWANANGUVUZE RESIDENTS**

The Committee unanimously adopted the report having agreed on the following observations and recommendations. The Hon Teddy Mwambire, MP proposed the adoption of the report and the Hon George Sunkuyia seconded the proposal.

Regarding the prayer that the National Assembly conducts a fact-finding mission to Mwananguzuve village to ascertain the situation on the ground as highlighted in the Petition. The Committee noted that it undertook a field visit to Likoni on 4th November, 2021 to gather information on the issues raised in the Petitions and observed that:

- i. The land claimed by the Petitioners, LR No. MS/1/120 was initially Government land, but it has since been subdivided into seven parcels; Plot No 1789, Plot No 1787, Plot No 1788, Plot No. 1786, Plot 1780 and MS/1/1837.
- ii. The Ministry of Lands & Physical Planning reported no records to show that Plot No. 1786, 1780 and MS/1/1837 have been allocated to any owner.
- iii. Considering that the subdivision of the land was first registered on 1st September 1994, a ground report could have indicated to the Ministry of Lands and Physical Planning that the Petitioners already occupied the land
- iv. The land is densely populated. It would be difficult to evict the persons currently occupying, given that they have erected permanent structures and social amenities, including mosques and churches.
- v. The Petitioners considered the land their ancestral land as they have occupied land for years, as evidenced by ancient gravesites and the Mwananguzuve Mosque, whose foundation stone was laid by the late Hon Sharif Nassir in 1980.

On the second prayer seeking the intervention of the National Assembly to forestall the impending eviction of residents of Mwananguzuve village from the land registered as plot No. 120 Mwananguvuze Timbwani; the Committee observed that:

- vi. The alleged eviction is on plot No. MS/1/1836 measuring 0.400 Ha. owned by Mahesh Jayantialal on a leasehold of 99 years from 1st July 1997.
- vii. The land is heavily settled.
- viii. Although Mr Mahesh Jayantialal seeks ownership of the parcel, he has never taken possession of the portion of land.
- ix. During a field visit to the area, the committee was not presented with proof of an eviction order.
- x. The National Land Commission also confirmed that it had not been presented with any proof of eviction order.
- xi. However, if an eviction order exists as alleged by the Petitioners, the process can only be halted by a court of law. The Petitioners may consider seeking legal redress.

Regarding the prayer seeking investigations into the in which the said Mr Mahesh Jatantilal Haria seeks to assume ownership of the parcel of land, the Committee observed that Mr Mahesh Jaltantilal is the registered owner of MS/BLOCK /1836, measuring 0.400 Ha. The parcel of land, MS/BLOCK /1836, is a subdivision of plot No. MS/1/120 and not the entire plot 120 as claimed by the Petitioners.

On the issuance of title deeds of plot No. 120 Mwananguvuze / Timbwani to the residents who are the bonafide owners of the land. The Committee observed that title deeds could only be issued to the Petitioners after the regularization of their occupation of the unalienated government land, namely No. MS/1/1837 and No. MS/1/1786 and No. MS/1/1786, for which no ownership records exist.

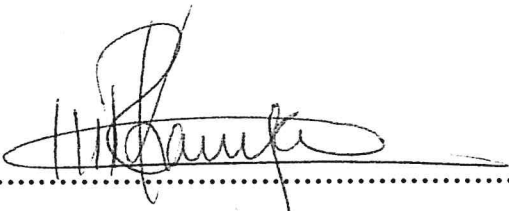
The Committee concluded that only four plots arising from the subdivision of the original lot No. 120 are registered to individuals and firms. There are no records to show that a larger portion of the land, including the 52 acres parcels No. MS/1/1837, Plot No. 1786 and 1780 have been allocated. Therefore, the land is available for allocation to the residents of Mwanaguvuze.

Committee Recommendation

The Committee recommended that the Cabinet Secretary, Ministry of Lands and Physical Planning, in consultation with the National Land Commission and the County Government of Mombasa, regularizes the Petitioners' settlement on the unalienated government land, namely No. MS/1/1837 and No. MS/1/1786 and No. MS/1/1786, for which no ownership records exist within six months of tabling this report.

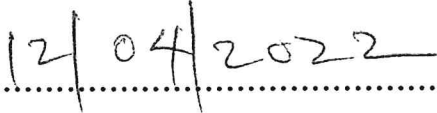
MIN. NO. NA/DC/LANDS/2022/078: ADJOURNMENT

There being no other business to discuss, the meeting was adjourned at fourteen minutes to one o'clock. The next meeting will be held on Friday 1st April 2022 at 10;00 a.m.

Signature


HON. DR. RACHAEL KAKI NYAMAI, CBS, M.P.

(Chairperson)

Date.....


5
Hon. Speaker
You may approve.
Carap Kinu
18/10



REPUBLIC OF KENYA

TWELFTH PARLIAMENT

THE NATIONAL ASSEMBLY – FIFTH SESSION

Approved.
Bhat
SNA
19/10/2021

PUBLIC PETITION

(No. 063 of 2021)

**REGARDING SECURING LAND OWNERSHIP RIGHTS OF
MWANANGUVUZE RESIDENTS**

I, the **UNDERSIGNED**, on behalf of the residents of Mwananguvuze Village in Timbwani Ward of Likoni Constituency;

DRAW the attention of the House to the following:

1. **THAT**, Mwananguvuze Village, which is located in Timbwani Ward of Likoni Constituency, is a pre-colonial centre that was started in 1860 and traces its root to Mzee Rashid Mbaya Mwazara who was born in 1830, as well as Mr. Ali Juma Mwangare (born in 1927) and Mr. Mohamed Hamisi Mbaya (born in 1929);
2. **THAT**, the land registered as Plot No. 120 in Mwananguvuze Village is currently home to over 12,600 residents composed of men, women, children and the elderly whose ancestors have undertaken agricultural activities as well as fishing on this land resource for more than 150 years as exemplified by ancient grave sites, Mwananguvuze Mosque whose foundation stone was laid by former Minister Hon. Shariff Nassir in 1980, old indigenous trees that are decades old, among others;
3. **THAT**, when adjudication of land commenced in Likoni Constituency, residents of Mwananguvuze Village were assured of securing their right to the land, but were greatly disappointed and shocked when the Ministry of Lands irregularly and illegally issued title deeds of the land to strangers and newcomers that residents had never heard of before;
4. **THAT**, the residents have recently been informed of plans by one Mr. Mahesh Jatantilal Haria to assume ownership of the entire land under unclear circumstances, and intends to evict the residents from their ancestral land;
5. **THAT**, efforts to address these concerns through various agencies have been futile;
6. **AND THAT**, the issues in respect of which this Petition is made are not pending before any court of law, or before any constitutional or legal body;

NATIONAL ASSEMBLY
RECEIVED

12 OCT 2021

SPEAKER'S OFFICE
P. O. Box 41842, NAIROBI

PUBLIC PETITION
REGARDING SECURING LAND OWNERSHIP RIGHTS OF
MWANANGUVUZE RESIDENTS

NOW THEREFORE your humble petitioners pray that the National Assembly through the Departmental Committee on Lands with the support of the National Land Commission:-

- (1) conducts a fact-finding mission to Mwananguvuze Village to ascertain the situation on the ground as highlighted in this Petition;
- (2) urgently intervenes to forestall the impending eviction of residents of Mwananguvuze Village from the land registered as Plot No. 120 Mwananguvuze/Timbwani;
- (3) investigates the circumstances in which the said Mr. Mahesh Jatantila Haria seeks to assume ownership of the said parcel of land;
- (4) secures the issuance of title deeds of Plot No. 120 Mwananguvuze/Timbwani to the residents who are the bonafide owners of the land, and
- (5) makes any other recommendations it deems appropriate in the circumstances of the Petition.

And your PETITIONER will ever pray.

PRESENTED BY:



HON. MISHI JUMA MBOKO, MP
MEMBER FOR LIKONI CONSTITUENCY

Date:.....14th October 2021.....

18TH AUG 2021.

HISTORIA FUPI YA MWANANGUVUZE PLOT NUMBER 120 TIMBWANI LIKONI
MWANANGUVUZE.

Mwananguvuze ni mji unaopatikana eneo bunge la Likoni ward ya Timbwani kusini mwa Mombasa. Mji huu wa mwananguvuze una takribani 12,600 wakaazi tukijumuisha watoto, akina mama, vijana na wazee kijumla.

Mwananguvuze ni katika miji ya kwanza iliobuniwa Likoni miaka ya 1860 kabla ya Kenya kupata Uhuru. Mkongwe anatambulika kubuni mji huu wa mwananguvuze ni alietangulia mbele za haki. Bwana Rashid Mbaya Mwazara na familia yake, bwana huyu alizaliwa mwaka wa 1830 Kwa miaka mingi familia hii ya Mwanaguvuze ilitegemea ilitegemea kilimo na uvuvi ilikujikimu kupata riziki yao ya kila siku. Hadi kufikia mda huu wa sasa, ni takribani karne moja na nusu Zaidi vizazi hivi vya Mwananguvuze vikiwemo ndani ya maeneo haya.

Tukitaja baadhi ya wajukuu wa kizazi cha bwana mwendazake Rashid Mbaya Mwazara ni, Mohammed Hamisi Mbaya alizaliwa mwaka wa 1929 na Ali Juma Mwangare aliezaliwa mwaka wa 1927. Vizazi hivi vya Mwananguvuze vilikua na Imani kubwa sana kwa serekali haswa kulipo kuingia magari makubwa makubwa kutoka kwa wizara ya ardhi mtaani. Walikua na tamaa ya kupokezwa hati miliki za mashamba yao walio miliki tangu enzi. Kinyume na matarajio yao, vizazi vya Mwanaguvuze vilikosa hati miliki.

Waliopewa stakabadhi ni wageni waliokuja baada ya karne moja unusu. Wasiwasi umetanda hivi sasa kwa vizazi hivi vya Mwananguvuze kulipoibuka tasi tasi kwa shamba ya Mwananguvuze ina mmiliki mpya mmoja asie julikana kwa sura lakini twaskia jina lake anaitwa Mahesh Jatantilal Haria. Tumejaribu kumlinganisha mmiliki huyu mpya wa ardhi ya Mwanaguvuze kiumri na wajukuu wa mwendazake bwana Rashid Mbaya Mwazara, hakuna anaetoshana nae kiumri. Ombi kwa serikali kuu, tunaomba ibuni tume itakayo fika mashinani mwananguvuze na kupata twasira kamili.

Kwani mlala hoi huyu wa mwananguvuze aliebuni ardhi toka enzi za ukulima huyu wa Mwanamkulima hadi sasa ataenda wapi atakapo ondolewa kwenye ardhi hii. Baadhi ya alama za kuthibitisha ya kwamba mwanaguvuze ni mji wa kale na wazamani makaburi yaa mzee Mbaya iliyoko miembeni nyumba za kale ni ya mama Mwanatumu vipawa nyuma ya msikiti na msikiti wa Mwananguvuze ulioekwa jiwe la msingi kurekebishwa upanzi na bwana mheshimiwa Shariff Nassir mwaka wa 1980 na mengineyo amabao yako katika ardhi hii.

Tumemjumisha barua hii na orodha ya wamiliki wa nyumba za Mwananguvuze Likoni:

No.	Name	ID No.	Phone Number	Sign
229	SULEIMAN ABDALLA	22806761	798510415	<i>Sul</i>
230	RIZIKI JDD KIDIWA	22411429	790294068	<i>Riz</i>
231	JUMA MWIJAKA SWALEH	23148498		<i>Juma</i>
232	SAUMU ALI MWAKALATO	5415468	726134719	<i>Saum</i>
233	JACKLINE KWAMBOKA	23769533	712257399	<i>Jack</i>
234	MUMINI SAID SALIM	11873342	725617399	<i>Mumini</i>
235	SWALEHE MANSURI BAKARI	8534452	757142642	<i>Swalehe</i>
236	IBRAHIM HAMISI MWABOMBA	10769413	721240014	<i>Ibrahim</i>
237	MOHAMED N MWAMBINDO		73913809	<i>Mohamed</i>
238	MOH'D HAMISI MBAYA	2184717		<i>Moh'd</i>
239	MWANAJUMA HAMISI	8535990	795358159	<i>Mwana</i>
240	SALIM RASHID MANJI	4604515	790910643	<i>Salim</i>
241	BINTI MOHAMED MOHAMED	21284039	722531645	<i>Binti</i>
242	FATUMA SHAFI	22641272	729077626	<i>Fatuma</i>
243	SAID KURERA	23432808	705601923	<i>Said</i>
244	SAID MOHAMED GOGO	22492205	724603253	<i>Said</i>

245	NYENYE N. CHUKA	14456449	0723873797	<i>NYENYE</i>
246	RASHID SOLOMA	13357147	0792334240 0741181311	<i>RASHID</i>
247	HERMAN MTUA-KIT	0713195383	0724823415	<i>HERMAN</i>
248	MAAMUMA BAKARI KIBUMI	0632891	0728273858	<i>MAAMUMA</i>
249	ROBERT NJAU NJUA	20493447	0728490847	<i>ROBERT</i>
250	JOHN WAMBUA	25067207	(0729820455)	<i>JOHN</i>
251	SAIDI KI MUHAJE	6733795	0728499125	<i>SAIDI</i>
52	MUMINI SAID	11873342	0725617399	<i>MUMINI</i>
3	ALYASI AITHUMANI SAID	13839586	0707469248	<i>ALYASI</i>
4	MWANA JUMA SWALEHE	2450855	0795365217	<i>MWANA</i>
5	KI SWALEH MATASIZ	0764325	0720117798	<i>KI</i>
6	BAKARI PASKALI	8387887	0728713328	<i>BAKARI</i>
7	MATTHEW MBANDO DICKSON	22815725	0702389150	<i>MATTHEW</i>
8	ABDALLA BAKARI	20071906	0727852251	<i>ABDALLA</i>
1	CORNEL NABUKO ASSEGA	1136728	0728152041	<i>CORNEL</i>
2	MARY ADHIAMBO OBEI	35365397	0704932604	<i>MARY</i>
1	ABDALLA SITI MWACHOGA	8395653	0713316267	<i>ABDALLA</i>

18TH AUG 2021.

HISTORIA FUPI YA MWANANGUVUZE PLOT NUMBER 120 TIMBWANI LIKONI MWANANGUVUZE.

Mwananguvuze ni mji unaopatikana eneo bunge la Likoni ward ya Timbwani kusini mwa Mombasa. Mji huu wa mwananguvuze una takribani 12,600 wakaazi tukijumuisha watoto, akina mama, vijana na wazee kijumla.

Mwananguvuze ni katika miji ya kwanza iliobuniwa Likoni miaka ya 1860 kabla ya Kenya kupata Uhuru. Mkongwe anatambulika kubuni mji huu wa mwanaguvuze ni alietangulia mbele za haki. Bwana Rashid Mbaya Mwazara na familia yake, bwana huyu alizaliwa mwaka wa 1830 Kwa miaka mingi familia hii ya Mwanaguvuze ilitegemea ilitegemea kilimo na uvuvi ilikujikimu kupata riziki yao ya kila siku. Hadi kufikia mda huu wa sasa, ni takribani karne moja na nusu Zaidi vizazi hivi vya Mwananguvuze vikiwemo ndani ya maeneo haya.

Tukitaja baadhi ya wajukuu wa kizazi cha bwana mwendazake Rashid Mbaya Mwazara ni, Mohammed Hamisi Mbaya alizaliwa mwaka wa 1929 na Ali Juma Mwangare aliezaliwa mwaka wa 1927. Vizazi hivi vya Mwananguvuze vilikua na Imani kubwa sana kwa serekali haswa kulipo kuingia magari makubwa makubwa kutoka kwa wizara ya ardhi mtaani. Walikua na tamaa ya kupokezwa hati miliki za mashamba yao walio miliki tangu enzi. Kinyume na matarajio yao, vizazi vya Mwanaguvuze vilikosa hati miliki.

Waliopewa stakabadhi ni wageni waliokuja baada ya karne moja unusu. Wasiwasi umetanda hivi sasa kwa vizazi hivi vya Mwananguvuze kulipoibuka tesi tesi kwa shamba ya Mwananguvuze ina mmiliki mpya mmoja asie julikana kwa sura lakini twaskia jina lake anaitwa Mahesh Jatantilal Haria. Tumejaribu kumlinganisha mmiliki huyu mpya wa ardhi ya Mwanaguvuze kiumri na wajukuu wa mwendazake bwana Rashid Mbaya Mwazara, hakuna anaetoshana nae kiumri. Ombi kwa serikali kuu, tunaomba ibuni tume itakayo fika mashinani mwananguvuze na kupata twasira kamili.

Kwani mlala hoi huyu wa mwananguvuze aliebuni ardhi toka enzi za ukulima huyu wa Mwanamkulima hadi sasa ataenda wapi atakapo ondolewa kwenye ardhi hii. Baadhi ya alama za kuthibitisha ya kwamba mwanaguvuze ni mji wa kale na wazamani makaburi yaa mzee Mbaya iliyoko miembeni nyumba za kale ni ya mama Mwanatumu vipawa nyuma ya msikiti na msikiti wa Mwananguvuze ulioekwa jiwe la msingi kurekebishwa upanzi na bwana mheshimiwa Shariff Nassir mwaka wa 1980 na mengineyo amabao yako katika ardhi hii.

Tumemjumisha barua hii na orodha ya wamiliki wa nyumba za Mwananguvuze Likoni.

MWANANGWUZE LAND

No.	Name	ID No.	Phone Number	Sign
1	HASSAN SULEIMAN GONGAN	9881211	72367354 7	
2	IDD KASSIM KATERA	4628502	71014905 8	
3	ALMASI ATHUMAN SAID	13839586	7074692	
4	OMAR SHAME MUYAKA	8417162	72091168	
5	RASHID SULEIMAN MBAYA	1016646	7227914	
6	MOHAMED ABDALLA CHIRONDA	1016759	75824807	
7	ABDALLA ATHUMANI WATSINGWA	2205516	72081200	
8	ZUHURA OMARI SAID	21944748	72351687 0723516	
9	ALI JUMA MWAVUNGA	9529330	757058859	
10	MWANASHA OMARI BEDZENZA	22076867	711674797	
11	LAMIN JUMA MWAVUNGA	5384425	72394971	
12	BINTI HAMISI MCHOMBO	26775604	72412699	
13	AMINA ALI KANAWO	22978036	7144467181	
14	HADIJA ALI MWAMWEHO	2185232	76925928	
15	ROSELINE ATIENO SIMOLO	11597225	7203429	
16	HALIMA JUMA MWAMUHEMBO	5387785	73179594	
17	ALI JUMA MWANGARE	5385967	74890119	
18	REHEMA ABDALLA LULI	2149771	72613925	
19	MASUDI JUMA MWANDALE	8460114	727969915	
20	DZINE MWAKAMIRI KIGAMBA	29698112	754226563	
21	SULEIMAN ATHUMAN MBUGUSS	13196976	722318991	
22	VERONICA NJERI KARIUKI	21502449	720800916	
23	SULEIMAN BAHATI SAID MWAKIDUNDU	22499611	721469181	
24	MOHAMED SALIM KIMBUNJA	1015274	704140669	
25	SALIM MOHAMED ALI	24931819	702413385	
26	ALI IBRAHIM MWAHANGA	20685910	723883056	
27	HAMISI JUMA MWAZARA	36600543	7077469248	
28	MOHAMED ALI MASEMO	22432623	721423608	
29	BEATRICE MWABWAKA NJEMA	4604188	700319999	
30	NGOZI SALIM NDARO	8397359	722368419	
31	IBRAHIM JUMA MWAMUHEMBO	3912601	786947259	
32	FATUMA RAMADHANI MWAPHUYE	2196014	7007649513	
33	ROBERT NJERY NJOKA	70493467	7284908	
34	MESALIM MOHAMED WALAI	2269949	725909	
35	MWANATIBU MWAVYONI	21104513	0	
36	ALI MOHAMED KIMBONJA	27900512	792266	
37	AMINA JUMA ALI FAKI	26297302	724503	
38	BAKARI KEYA MAGUMBA	1345092	7683815	
39	BAKARI SWALEHE DZOO	2462157	7198888	
40	SALIM ALI	31534183	7682472	
41	MERUSA AUMA OGWARI	11227144	7152465	
42	MWANAMISI RAMADHANI MWATEMA	2185181	7105084	
43	ALI KABADI JEFWA	11569549		
44	AYUB BAKARI KASIDI	8469571	733929139	
45	ABDALLA MOHAMED MCHALA	20989806	7049341	
46	ABDALLA KASSIM MVEGA	1014750	7450381	
47	MWAKANGA SULEIMAN ABDALLA	20536269	1145115/0114588679	
48	FREDRICK WAMBUA KIOKO	25717275	725369 0727536913	
49	SOFIA ALI MWACHIMIRA	10954655	7261384	
50	ABDALLA MDOGO CHANGA	23366952	7241748	
51	FATUMA ABDALLA ALI	2196207	745570	
52	MWANATUMU BAHATI MWACHIDUNDU	2197689	71668205	
53	ALI MOHAMED ALI NZAU	13357946	7049343	
54	SAUMU JUMA KIMBONJA	5329318	7074692	
55	SULEIMAN MPOLE	27383206	7120500	
56	SAUMU SAID MWAKUDZILOLA	2195268	71676013	
57	MAHAMUMA ABDALLA CHIBUMI	46043335	7075151	

CHAKA Vyan

111 36449 7228729 97

No.	Name	ID No.	Phone Number	Sign
58	MERASHIDI BAKARI WASIRIMA	29302092	7916069	Handa
59	GABRIEL ANGATSI LAUZI	11568957	7229928	Sulu
60	KIZURI MWIJAKA	74200949	7054910	Hand
61	DANIEL LUGE TSUMA	852946	7226792	Shur
62	MWANASHA SAIDI HAMISI	11874419	7213802	Hand
63	ATHUMANI OMAR MWAMBEMBE	8409143	7252781	Tawa
64	MUTIO GEORGE MUTIO	10768385	728819060	Mutio
65	ALI HAMIS ABADALLAH	36421819	798759000	Hand
66	OMAR HAMISI MBAYA	1014453	72015591	Pella
67	HAMISI RAMADHAM MWAPHUYE	4605914	71321030	Msimu
68	JUMA ALI KUSEMA			Hand
69	MOHAMED SALIM MWACHARO	9986114	7437081	MCHD
70	MOHAMED SALIM FUNDI	11367164	7229826	Shur
71	ABDALLA BAKARI SHABAN	23283801	7272906	Hand
72	SIMON KAHINDI BOTI	2242773	72247135	Wanana
73	SALIM KADIRI AWADH	35526696	791554895	Hand
74	ENOCH OCHANJI	21922778	718511966	Hand
75	OMAR MWINYI	21874258	7880736	Hand
76	MOHAMED HAMISI	85234858	7655177	Hand
77	ABUBAKAR ALI FAU	2251112	72197698	Hand
78	MALIK OMARI	8535731	723334	Hand
79	FATUMA KUYENDA KIBUMI	2194723	711513388	Hand
80	MARIAMU ATHUMANI KIBUMI	2196008	7279423	Hand
81	ROBUNA MAKOKA	11228914	71535951	Hand
82	JUMA NASSOR MATEO	1015484	757395571	Hand
83	SULEIMAN SALIM MAHABA	8417667	11186000	Hand
84	TWALIB MWINIMKUU	29457231	720391148	M.M
85	MWANAISHA MOH'D SWAKA	14620486	724226034	Hand
86	HALIMA SWALEH BAKARI	13198956	78053864	HALIMA SWALEH
87	MWANAHAMISI ISSA YUSUF	20295155	717109331	Hand
88	ALI MWINYI MGWISHO	25786000	72551227	Hand
89	JOHN MUIA MWAILU	7947273	721550837	Hand
90	MISBAHU	26183934	7240604	Hand
91	SALIM MWAGELE	27631897	70132948	Hand
92	HALIMA ABDALLAH	21531897	71676224	Hand
93	ZARI ATHUMAN	22946736	71943301	Hand
94	MESWALEHE JUMA	962921	70055276	Hand
95	SOFIA KHAMISI	11227271	72360737	Hand
96	PHILIP MAHAGWA HAMISI	20687597	72785285	Hand
97	FATUMA MOHAMED	26295258	722362	Hand
98	ATHUMAN MOHAMED	2223847	70155356	Hand
99	NASOR ATHUMAN SAID	22688472	73812740	Hand
100	ALI SAID MWACHIVOYERO	392245	7036900	Hand
101	ABDALLA HAMISI	26771554	79634403	Hand
102	SAID MOH'D MWAMBOZE	37167876	70799167	Hand
103	BINTIALI TAMBALU WASIA	4604342	706458871	Hand
104	HAMISI SAIDI MWAFUA	5328157	715815459	Hand
105	RUKIA SHOMBE MOHAMED	39604625	705015594	Hand
106	RAMADHAN ATHUMAN	24761696	729175583	Hand
107	HAMISI RASHID MBAYA	261310267	768242770	Hand
108	RASHID HAMISI MBAYA	1016493	722636015	Hand
109	MWANAJUMA DATI			Hand
110	MWANAIIDI ALI MAJONDO	1017726	71220435	Hand
111	ALI SAID MWAFUA	39128051	70539616	Hand
112	ALIMA HAMISI MBAYA	2197360	76916633	Hand
113	IDI RASHID MBAYA HAMISI	23080879	713948316	Hand
114	RAMA SALIM MWABUNDU	27237490	769613459	Hand

011/26 0007

No.	Name	ID No.	Phone Number	Sign
115	MWANAKATUNDA ATHUMANI ABDALLA	5384528 559 0655	71525232	Mesha
116	MESHO SALIM MWABUNDU	5384155 553 865	710352126	Mesha
117	RASHID SALIM MBAYA	26126910 520 4155		R.A.S
118	MWINYIHAMISI RASHID MBAYA	26126910	721916146	Amir
119	SULEIMAN SALIM	13456957	780509395	
120	SULEIMAN OMARI HAMISI	24805850	740621616	
121	SALIM OMAR MBAYA	30159602	70202194	
122	JUMA RAMADHANI SUDI			
123	SALIM RASHID MBAYA	21890955	74325933	
124	MOHAMED HAMISI MWAMLUGA	8523458	705517799	
125	IBRAHIM JUMA BASHO	14426895	721279288	
126	JOJI MUGOYA	6422921	721552491	
127	HAMISI OMAR SEFU	11873946	726231504	
128	ATHUMAN SALIM MWANDILO	8397546	72303506	
129	MARIAM SALIM	27357144	70756186	
130	TATU KOMBO BATI	13838980	70587835	
131	ZENA NASORO GANZORI	765967	72588663	
132	RASHID SULEIMAN MBAYA	1016646	72279147	
133	SALAMA MOHAMED Tsuma	2184363	74453899	
134	BADI HAMISI	20423810	711234010	
135	SHABAN HAMISI	12771261	742266264	
136	SAFIYA NASSOR KHAMIS	22773052	74195036	
137	SAID KELEH	16050518	711718838	
138	JUMA MWINYI MWAVUCHE		72736606	
139	SAID HAMISI	8410731	71244844	
140	HASSAN MWALIMU S MAMBO	11873661	722105667	
141	PAILIS ORIEMA NYARANGA	12748429	1152326	
142	SALIM SAID CHITISNGISIS	26250538	71521221	
143	FATUMA MOH'D	26295258	7223620	
144	HIYARI KHAMIS	22592818		
145	MWINYI MASOUD MWINYI	32058253	70826253	
146	NURU DOLA	28182320	746361140	
147	ZUBEDA JUMA	30539073	74129502	
148	DOUGLAS KYALO MWELU	26888064	71622295	
149	NEEMA SHAFFI SALIM	20305506	721552674	
150	FATUMA SALIM	9988070	72678832	
151	MBWANA MOHAMED	11225053	717259178	
152	ALI MOHAMED KIMBONJA	27900512	792266711	
153	RASHID HAMISI MBAYA	1016493	722636015	
154	MWANATUMU HAMISI MBAYA	5440016	0790757240	
155	SHOMBE MOH'D HAMISI	11228503	727179830	
156	MOHAMED MWAVUO GENYE	24609348	727008456	
157	RASHID MOHAMED MASHA	22803846	746952061	
158	DANIEL OMANYO	21882829	723422736	
159	SAID KHAMISI	5466642	707459747	
160	HAMISI SAID	11873676	722559820	
161	RASHID HAMISI	2373906	71487782	
162	MWALIMU MWEWE	8407042	72284550	
163	CHRISTINE NJERI NJIRU	11810769	71410265	
164	STELLAMARRIS KALEKYE MUTISO	9634570	72146563	
165	SULEIMAN S MAHABA	8417667	111860007	
166	MOHAMMED S MWARONGA	23268763	727681518	
167	IBRAHIM H MWABUMBA	10769413	721240014	
168	MWANASHA BAKARI KIBUMI	27868592	791345450	
169	SUBIRA NOTI	10578513	79842872	
170	JUMA ALI KUSEMA	5326980		
171	MASHA DZAYA KALUME	21265005	740233735	

No.	Name	ID No.	Phone Number	Sign
172	PHILIP MAHAGWA HAMISI	20687697	72785285	<i>[Signature]</i>
173	OMAR HAMISI CHUO	26371773	70223785	<i>[Signature]</i>
174	MERY AZAMO	36365397	7049326	<i>[Signature]</i>
175	ABDALLAH SALIM	26269568	72569541	<i>[Signature]</i>
176	ABDALLAH SALIM ALI	13198111	72467735	<i>[Signature]</i>
177	RAJAB HASSAN	27694284	717562785	<i>[Signature]</i>
178	SAIDI MAWAZO SUBIRA	10955664	794795252	<i>[Signature]</i>
179	RASHID HAMISI MBAYA	1016494	722636015	<i>[Signature]</i>
180	SWALEH SALIM KUNYUTIKA	5326564	797412907	<i>[Signature]</i>
181	GRACE SAU SALIM	31522272	706918136	<i>[Signature]</i>
182	ASHA SALIM ATHUMAN	22394458	722945356	<i>[Signature]</i>
183	MARIAM TANDIKO	25469324	700805473	<i>[Signature]</i>
184	ZAITUN ATHUMAN MWAPHUYE	29963984	779883281	<i>[Signature]</i>
185	SULEIMAN RASHID MBAYA	2635838	743868467	<i>[Signature]</i>
186	SAID SALIM MWAMWOSO	3912810	711146371	<i>[Signature]</i>
187	MWANAJUMA SWALEH	24501855	795365217	<i>[Signature]</i>
188	ABDALLA SALIM MWAGELE	32225497		<i>[Signature]</i>
189	JUMEIRIYA OMAR RASHID	13683535	718303043	<i>[Signature]</i>
190	MWANATUMU JUMA HAMISI	24553509	745783370	<i>[Signature]</i>
191	OMAR ALI MAGOGO	5386078	748312192	<i>[Signature]</i>
192	AISHA ALI FAKI	11458651	711769048	<i>[Signature]</i>
193	JOICE ANYANGO OKUKU	5134279	715929456	<i>[Signature]</i>
194	BASOMO SOLOMA	15838120	790294068	<i>[Signature]</i>
195	HASARA RASHID	3313454	720441481	<i>[Signature]</i>
196	SALIM GONGOLO	13357147	741151311	<i>[Signature]</i>
197	JUNGLE HASARA	37000833	76831457	<i>[Signature]</i>
198	ICEVAN SUNDOLI	29180350	702148637	<i>[Signature]</i>
199	SHUMI MOHAMMED	21562340	711146371	<i>[Signature]</i>
200	MISHI SAID MOHAMMED	36919412	745586608	<i>[Signature]</i>
201	MWANAHAWA ABDALLA MWASUYA	4604049	746240462	<i>[Signature]</i>
202	SULEIMANI MOHAMED KOJA	21631403	724030522	<i>[Signature]</i>
203	SARAI SALIM	29664794	758182130	<i>[Signature]</i>
204	AARON MWEMA	24028964	718300003	<i>[Signature]</i>
205	MATANO RAMTU	34579379	718520313	<i>[Signature]</i>
206	HALIMA ABDALLA	21538917	716762242	<i>[Signature]</i>
207	KITONGU MUSYOKA	273607711	716415658	<i>[Signature]</i>
208	MWANAHAMISI ABDALLA MWAKUJIBU	2203915	724012466	<i>[Signature]</i>
209	MWANAPWANI MASUDI	1015985	111378662	<i>[Signature]</i>
210	MWANAMISI OMARI HIGA	13418885	741518311 11815311	<i>[Signature]</i>
211	BAKARI ALI PANGO	26888881	702924416	<i>[Signature]</i>
212	ATHUMAN ABDALLA CHUO	1016735	76855818	<i>[Signature]</i>
213	HAMISI JUMA ALI	33489539	795525603	<i>[Signature]</i>
214	SAID MOHAMMED GOGO	22492205	724603254	<i>[Signature]</i>
215	JUMA MWAKAI KATANA	22366683	720338278	<i>[Signature]</i>
216	MWANAIISI KADAMA KAZI	39595310	0750782318	<i>[Signature]</i>
217	MWANAHARUSI MASUDI	23190072	714515151	<i>[Signature]</i>
218	FRANCIS KISILU KITINGA	4660837	715651831	<i>[Signature]</i>
219	MWANAMKASI MOHAMMED	508692	790736072	<i>[Signature]</i>
220	BENARD ONYANGO	22034260	720265486	<i>[Signature]</i>
221	SULEIMAN S KOGO	1015543	728260702	<i>[Signature]</i>
222	JAVANI MWALUGA	20932081	733912372	<i>[Signature]</i>
223	SALIM KEA	8389491	727791312	<i>[Signature]</i>
224	MWANARUSI MWACHIBULO	23371117	720998605	<i>[Signature]</i>
225	FATUMA ATHUMANI CHUO	32304705	768555818	<i>[Signature]</i>
226	HERMAN MTUA KITILI	13195383	724823418	<i>[Signature]</i>
227	MARERE KAZI YAHINDI	32417473	742452554	<i>[Signature]</i>
228	MWAGELE HAMISI	24194843	796378535	<i>[Signature]</i>

No.	Name	ID No.	Phone Number	Sign
228	SULEIMAN ABDALLA	22806761	798510415	
230	RIZIKI JDD KIDIWA	22411429	790294068	
231	JUMA MWIJAKA SWALEH	23148498		
232	SAUMU ALI MWAKALATO	5415468	726134719	
233	JACKLINE KWAMBOKA	23769533	712257399	
234	MUMINI SAID SALIM	11873342	725617399	
235	SWALEHE MANSURI BAKARI	8534452	757142642	
236	IBRAHIM HAMISI MWABOMBA	10769413	721240014	
237	MOHAMED N MWAMBINDO		73913809	
238	MOH'D HAMISI MBAYA	2184717		
239	MWANAJUMA HAMISI	8535990	795358159	
240	SALIM RASHID MANJI	4604515	790910643	
241	BINTI MOHAMED MOHAMED	21284039	722531645	
242	FATUMA SHAFI	22641272	729077626	
243	SAID KURERA	23432808	705601923	
244	SAID MOHAMED GOGO	22492205	724603253	

245	NYENYE N. THAKA	14436449	0723873797	
246	RASHID SOLOMA	13357147	0792334240 0741181311	
247	HERMAN MTUA-KI	13195383	0724823415	
248	MAAMUMA BAKARI KIBUMI	9632891	0728273858	
249	ROBERT NDEY NDEA	20493447	0728490847	
250	JOHN WAMBUA	25067207	(0729820455)	
251	SAIDI KI MUHAJE	6733795	0728499125	
252	MUMINI SAID	11873342	0725617399	
253	ALMARSI AITHUMANI SAID	13839556	0707469248	
254	MUNA NATUMA SWALEHE	2450855	0795366217	
255	KI SWALEH MATASIZ	0764325	0720117798	
256	BAKARI PASKALI	8387887	0728713328	
257	MATTHEW MBONDO DICKSON	22815785	0702389150	
258	ABDALLA BAKARI	20071906	0727852251	
259	CORNEL NABUKO ASSEGA	1136728	0728152041	
260	MARY ADHIAMBO OBE	36365397	0704932604	
261	ABDALLA JITI MWACHINGA	8395653	0713316267	

COMPLAINTS OF MWANANGUVUZE VILLAGE RESIDENTS

TIMBWANI WARD - LIKONI CONSTITUENCY

- Residents claim that they have been living in this village since 1860. They traced their roots from one Mzee Rashid Mbaya Mwazara who was born in 1830 as well as Mr. Juma Mwangare (born in 1927) and Mohamed Hamisi Mbaya (born in 1929).
- They claim that the land was registered as plot No.120 in Mwananguvuze village, currently home to over 12,600 residents. (*The information given on the plot No. 120 was not sufficient to obtain an official search from the Land Registry*).
- They residents claim that their ancestors have undertaken agricultural activities as well as fishing for over 150 years. Mwananguvuze mosque foundation stone was laid by the former Minister Hon. Sharif Nassir in 1980; there are also indigenous trees that are more than 50 years old.
- The villagers claim that they were assured that their land rights will be secured, but later they were disappointed to learn that the land belongs to one Mr. Mahesh Jaltantilal who intends to assume possession of the entire land and render the residents landless.
- Mr. Mahesh through his lawyer served the residents with documents confirming that he is the owner of the plot. Due to this development the residents made a complaint to the Governor Hon. Hassan A. Joho on 22nd October, 2021 requesting for intervention by the County Government and other relevant authorities.
- According to official search issued on 26th November, 2020 the plot MS/BLOCK/1836 is registered to Mr. Mahesh Jaltantilal. The size of the plot is 0.400 Ha.
- While the residents are claiming that they are in plot No.120 it has only been established that the plot in question is MS/BLOCK/1836. The relationship between the said plot No.120 and MS/BLOCK/1836 needs to be established.
- Though the residents claim that plot No.120 is home to over 12,600 residents the likelihood of being accommodated in MS/BLOCK/1836 which is 0.400 Ha is not practical hence the said plot No. MS/BLOCK/1836 might be a sub-division from plot No.120. Therefore there could be other sub-divisions from the mother parcel which is yet to be established.

RECOMMENDATIONS

- A ground visit with Surveyors to establish the relationship between plot No.120 and MS/BLOCK/1836 (*occupation survey*).
- Provision of searches after confirmation of the area occupied by the residents.
- Intervention by all relevant authorities towards resolving Mwananguvuze village land issues.

FINDINGS

- The land was initially MS/1/120
- Mwananguvuze village is in MS/1/1837 (part) and MS/1/1836 which was initially MS/1/120.
- **MS/1/1837 (GOK Lessor)**
 - ✓ No records at Land Registry but survey plans show that the plot is 21.2 Ha (*approximately 52 acres*).
- The land crosses the Likoni – Lunga Lunga road.
- **MS/BLOCK/1836 (GOK Lessor)**
 - ✓ First owner Nourdin Ahmed Abubakar in 1997
 - ✓ 2nd owner Transoil Kenya Limited in 2006
 - ✓ Current owner is Mr. Mahesh Jaltantilal – from 2013
 - ✓ Plot size – 0.400 Ha

Earlier sub-divisions that exist are:-

- 1789 - Nora Holdings Limited
0.1034 Ha
99 years lease from 1997
- 1787 - Abdalla Chuo Ali
0.0254 Ha
99 years lease from 17/01/1997
- 1788 - Abdalla Chuo Ali
0.0534 Ha
99 years lease from 01/09/1995
- 1786 - No records
- 1780 - No records



REPUBLIC OF KENYA

MINISTRY OF LANDS AND PHYSICAL PLANNING

RESPONSES TO THE NATIONAL ASSEMBLY DEPARTMENTAL COMMITTEE ON LANDS

Honourable Chair,

Pursuant to a letter Ref. NA/DC/LANDS/2022/ (006) dated February 8, 2022, the Committee requested the Cabinet Secretary Ministry of Lands and Physical Planning to respond to the following:

1. Public Petition No. 068 by Victor Mwanganda Gogo on behalf of the residents of Kwa Kadzengo village in Mtepeni Ward of Kilifi regarding the resolution of the Kwa Kadzengo land dispute
2. Public Petition No. 063 of 2021 by Hon. Mishi Juma Mboko, MP, on behalf of the residents of Mwananguvuze Village in Timbwani ward of Likoni Constituency regarding securing land ownership rights of Mwananguvuze residents
3. Complaint by the Hon. Owen Baya, MP on behalf of the family of Fundi Sudi regarding alleged irregular allocation of land parcel number 11/Kilifi/Mafumbini.

Honourable Chair, I wish to respond as follows:

1. Public Petition No. 068 by Victor Mwanganda Gogo on behalf of the residents of Kwa Kadzengo village in Mtepeni Ward of Kilifi regarding the resolution of the Kwa Kadzengo land dispute

The Petition

Honourable Chair,

The Petitioners claim that the Kwa Kadzengo land, registered as Kilifi/Kikambala Block 285/3, was initially owned by Ms. Sheila Norton who divested her interests in 1968 and gave instructions to have the land subdivided and transferred to her ex-employees whose families currently reside on the land. They claim that subsequently, their families occupied the land and constructed houses, built churches, mosques and schools and cultivated the land for sustenance and commercial purposes.

The Petitioners allege that the land was later converted to become part of the Kikambala Settlement Scheme for purposes of settling squatters residing thereon. However, the land was irregularly allocated to Francis Kinuthia in unclear circumstances and was later sold to the Railway Housing Cooperative Society in April 2006.

The Petitioners aver that the fact that the Railway Housing Co-operative Society has for over 15 years never attempted to develop the said parcel of land confirms that its management is fully aware that the land legally belong to the residents of Kwa Kadzengo Village currently residing on it. They claim that the management of the Co-operative Society is using illegal and unorthodox avenues in attempts to evict residents from the land. For this reason, the petitioners request the Committee to intervene to forestall the impending eviction and investigate the circumstances in which the Railway Housing Corporation Society ostensibly purchased the land despite knowing that its bonafide owners were already in occupation.

Response

Honourable Chair, I wish to respond as follows:

Kilifi Kikambala Block 285/3 is a registration section located in Kilifi South Subcounty in Mtepeni Ward. The Edition one Green Cards were opened on March 23, 1992 and comprised of 42 parcels of land. The proprietors are as per the attached list of beneficiaries marked **Annexure 1a**.

All other titles in the section are as a result subdivisions of the original 42 Parcels of land.

Parcel Nos. 28, 29, 32, 33 and 35 were transferred to Railway Housing Co-operative Society Limited as follows:

- a) Plot No. 28 was on March 20, 1992 registered in favour of Mohamed Ngala Badi Hamisi. On October 8, 1993 the parcel was transferred to Francis Kamau Kinuthia. On August 2, 2002 the parcel was transferred to Fauzia Shaban Snedi. The parcel was on April 19, 2006 transferred to Railway Housing Co-operative Society Limited (**annexure 1b**)
- b) Plot No. 29 was on March 20, 1992 registered in favour of Mohamed Ngala Badi Hamisi. On October 8, 1993 the parcel was transferred to Francis Kamau Kinuthia. The parcel was on April 19, 2006 transferred to Railway Housing Co-operative Society Limited (**annexure 1c**)
- c) Plot No. 32 was on March 20, 1992 registered in favour of Mohamed Ngala Badi Hamisi. On October 28, 1996 the parcel was transferred to Francis Kamau Kinuthia. The parcel was on April 19, 2006 transferred to Railway Housing Co-operative Society Limited (**annexure 1d**)

- d) Plot No. 33 was on March 20, 1992 registered in favour of Mohamed Ngala Badi Hamisi. On October 28, 1996 the parcel was transferred to Francis Kamau Kinuthia. The parcel was on April 19, 2006 transferred to Railway Housing Co-operative Society Limited (annexure 1e)
 - e) Plot No. 35 was on March 20, 1992 registered in favour of Mohamed Ngala Badi Hamisi. On October 28, 1996 the parcel was transferred to Francis Kamau Kinuthia. The parcel was on April 19, 2006 transferred to Railway Housing Co-operative Society Limited. (annexure 1f).
2. Public Petition No. 063 of 2021 by Hon. Mishi Juma Mboko, MP, on behalf of the residents of Mwananguvuze Village in Timbwani ward of Likoni Constituency regarding securing land ownership rights of Mwananguvuze residents

Honourable Chair, I wish to respond as follows:

A response to the petition dated November 19, 2021 was submitted to the Committee on November 22, 2021. The response is contained in item no. 5 of the report marked annexure 2. We reported that the subject land L.R No. Ms/1/120 was initially Government land. The parcel has since been subdivided into Plots Nos. 1789, 1787, 1788, 1786, 1780, MS/1/1836 and MS/1/1837.

Ownership details regarding Plots Nos. 1789, 1787, 1788 and MS/1/1836 are indicated in the said report. Copies of the official searches in respect of these plots are annexed herewith marked annexures 3.

The Ministry requested additional time to provide information pertaining to Plots Nos. 1786, 1780 and MS/1/1837.

Honourable Chair,

We have not found records to show that Plots Nos. 1786, 1780 and MS/1/1837 have been allocated.

3. Complaint by the Hon. Owen Baya, MP on behalf of the family of Fundi Sudi regarding alleged irregular allocation of land parcel number 11/Kilifi/Mafumbini located in Mafumbini Mnarani, Kilifi North Constituency. In particular the Committee requested the Cabinet Secretary to provide:
- i) The original and copies of entries made by the Recorder of Titles in the Mombasa Land Registry for account number 948/58 (948/1958) dated January 11, 1972
 - ii) A chronology of the ownership of the said land including information of its current registered owner

The Petition

Honourable Chair,

The petitioners claim land parcel Plot No. 11/Kilifi/Fumbini (Mnarani) indicated in Survey Plan FR 198/2 dated 1964 (L.R 11 in Topo Sheet 198/2) which they allege is their ancestral land. They claim that following the enactment of the Land Titles Act (Cap. 282) (now repealed) which was applied to parts of the coast province, the family patriarch namely Khamis Bin Fundi alias Khamis Bin Sudi made an application to the Recorder of Titles for registration of the land. The application is said to have been registered as reference 950/1828 and issued acknowledgment account number 984/58 dated January 11, 1972.

The Government issued Gazette Notice No. 4056 in October 1983 extending the period for the public to register their claims to the land before unclaimed land could be declared public land. According to the petitioners, the Recorder of Titles vide a letter dated January 31, 1986 requested them demarcate the land they claimed. In a letter dated March 7, 1986 the District Land Officer wrote to the Commissioner of Lands indicating that the said Mr. Khamisi Sudi had lodged a complaint that his land had been invaded.

They claim that in 1987, they were invited to appear before the Recorder of Titles alongside Kilifi Plantations Limited who were said to also lay claim to the land. They complain that they have not been able to obtain title to the land since then.

They presented their case to the National Land Commission in 2014. The Commission vide a letter dated November 3, 2016 invited Kilifi Plantation Limited to submit documents supporting their claim to the land but they failed to do so. The petitioners state that despite numerous visits to the Ministry and the National Land Commission, they have been unable to get a title to their land.

They therefore request the Committee to:

- i. Demand that the Ministry of Lands and Physical Planning produce all records pertaining to the claim made by the Sudi family and entered by the Recorder of Titles as Application No. 950/1828 and evidenced as Account No. 984/58
- ii. Demand the Ministry to confirm whether there were other documents required or process under the Land Titles Act that the Sudi Family did not acquire or follow other than those that they have
- iii. Require the Ministry to state why Plot no. 11 under Claim No. 984/58 cannot be titled to the Sudi family
- iv. On the other hand, since the family identifies Plot No. 11 in Survey Sheet No. 198/11, can the Ministry of Lands give a chronological background of the parcel of land since the enactment of the Land Titles Act

- v. Just in case the Ministry claims that the land is registered elsewhere, the Committee should demand from the Ministry evidence on how the registration was done, to whom, when and through which process
- vi. The Ministry also to be made to undertake a re-survey of Plot No. 11 to demarcate the boundaries.

Response

Honourable Chair, I wish to respond as follows:

1. Records held by the Ministry indicate that Kilifi Plantations Limited through their advocate Hamilton Harrison & Mathews applied for a Temporary Occupation Licence (TOL) over 6 acres out of the subject land Plot 11/Group V Kilifi as shown in the area edged red in the plan marked **annexure 4**. A copy of the application letter Ref. 10/22775/1 dated October 7, 1980. A copy of the application is marked **annexure 5**
2. The Commissioner of Lands sought the District Commissioner and the Clerk, County Council of Kilifi comments on the application vide a letter Ref. 49514/II/103 dated July 1, 1981 (**annexure 6**). They did not object to the application as demonstrated in their respective letters Ref. P&S.7/4/75 dated October 27, 1981 and KFI/LND/8/Vol. VI/116 dated December 28, 1981 respectively marked **annexures 7 and 8**. The District Forest Officer, Kilifi vide his letter Ref. K/5/7 dated February 8, 1983 gave permission for the removal of mangrove trees on the portion of land required by Kilifi Plantations Limited (**annexure 9**)
3. The Commissioner of Lands subsequently prepared the Temporary Occupation Licence and forwarded it to Kilifi Plantations Limited vide a letter dated March 22, 1985 for execution (**annexure 10**)
4. In a letter dated May 4, 1985 Kilifi Plantations Limited however informed the Commissioner of Lands that they were no longer interested in the entire 6 acres and only needed 0.5 acres citing disinterest in the kind of boats they intended to manufacture (**annexure 11**). This constituted a fresh application for a TOL. We have no records regarding processing of the new application

Honourable Chair,

5. We note that the National Land Commission's letter dated November 3, 2016 referred to by the petitioners, which requested Kilifi Plantations Limited to submit their documents makes reference to L.R. MN/IV/151, CR 13079 said to measure approximately 478 Acres. The records in our possession regarding the parcel indicate that was it transferred from Mohamed Bin Omar to Salim Khamis Bin Salman vide a Memorandum of Registration of Transfer of land dated August 19, 1963 (**annexure 12**).

The land measures 100 Acres and not 478 Acres as indicated by the Commission. An application to transfer the land to John Paul Kambi was approved by the Kilifi Land Control Board on March 24, 1969. **Annexure 13** is a copy of the letter of consent. The transfer was however not concluded by the registration of the transfer as the vendor, Salim Khamis Bin Salman departed the country and later on passed on. The purchaser also passed on afterwards. This is evidenced by a copy of a letter of Anil Suchak, Advocate dated October 22, 2009 marked **annexure 14**

Honourable Chair,

6. Our records indicate that a parallel title for the parcel was registered in favour of Kanamai Coconut Investment Limited on December 7, 2009. A copy of the title is marked **annexure 15**. Kanamai Coconut Investment Limited applied to subdivide the land and the proposal was approved by the County Council of Kilifi and the Ministry. Copies of the PPA2 and the final approval letter from the Ministry are marked **annexures 16** and **17** respectively
7. The land is currently the subject of a historical injustice claim before the National Land Commission with Residents of Majengo-Kanamai Sub-Location on one part and Kanamai Coconut Investment Limited on the other (**annexure 18**). It is also the subject of Case No. 71 of 2014 before the Environment and Land Court at Malindi (**annexure 19**). The family of the late John Paul Kambi also lays a claim on the land.

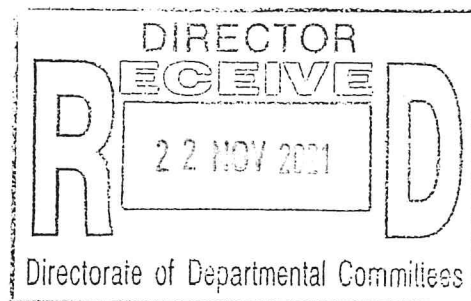
Honourable Chair, we will continue to gather information on the original Plot. 11 of Group V as reflected in topo sheet 198/II.

Honourable Chair, I submit.



Farida Karoney, EGH
CABINET SECRETARY

March 8, 2022



MINISTRY OF LANDS AND PHYSICAL PLANNING

RESPONSES TO THE NATIONAL ASSEMBLY DEPARTMENTAL COMMITTEE ON LANDS

Honourable Chair,

Leonard Ndiru

pls facilitate

22/11/21

Pursuant to a letter Ref. NA/DDC/LANDS/2021/ (149) dated October 21, 2021, the Committee invited the Cabinet Secretary Ministry of Lands and Physical Planning to respond to the following petitions:

1. Public Petition No. 037 of 2021 by Hon. Sarah Korere, MP on behalf of residents of Kirimun regarding restoration of Kirimun Community land
2. Public Petition No. 004 of 2021 by Hon. Michael Kingi, MP on behalf of Magarini community land owners regarding irregular extension of Galana Ranching boundary
3. Public Petition No. 004 by Hon. Joshua Kutuny, MP on behalf of the family of the late Hon. Arthur Kinyanjui Magugu, MP regarding alleged fraudulent subdivision of land registered as L.R No. 12422/9
4. Public Petition No. 056 of 2021 by Hon. Khatib Mwashetani, MP on behalf of residents of Wasini island regarding appeal for land adjudication in Wasini island
5. Public Petition No. 063 by Hon. Mishi Mboko, MP on behalf of residents of Mwananguvuze village in Timgwani Ward, Likoni Constituency regarding securing land ownership rights of Mwananguvuze residents
6. Public Petition No. 068 by Victor Mwaganda Gogo on behalf of residents of Kwa Kadzengo village in Mtepeni Ward of Kilifi regarding resolution of Kwea Kadzengo land dispute

Honourable Chair, I wish to respond as follows:

1. PUBLIC PETITION NO. 037 OF 2021 BY HON. SARAH KORERE, MP ON BEHALF OF RESIDENTS OF KIRIMUN REGARDING RESTORATION OF KIRIMUN COMMUNITY LAND

Honourable Chair,

The petitioners state that Kirimun community land measuring approximately 55,000 acres located along the Ewaso Nyiro river has since time immemorial been occupied by the Samburu Community.

In 1923, the British colonial government dispossessed the community of its land and handed it to a white settler known as Major Y. It is stated that the land was later transferred to Almo Company owned by a white settler.

The petitioners contend that the post-colonial government of Kenya took control of the land at independence and registered it as L.R No. 8036. It was then placed under the defunct Livestock Marketing Division. In the process, the community members were displaced and have since settled in Parkare area of Kirimun Sub-Location of Sosian Ward in Laikipia North Constituency and around Kirimun water springs.

According to the petitioners, the land is currently being utilised by the National Youth Service for low-scale livestock farming. They claim that they have been issued a notice to vacate the land and that efforts to address the historical injustice have been futile. They have petitioned the Committee to:

- i) Intervene to facilitate restoration of at least 75% of the irregularly occupied land back to members of the Kirimun community
- ii) Recommend the urgent suspension of the vacation notice pending stakeholder consultations
- iii) Make any further order (s) deemed fit in the circumstances of the petition

Response

Honourable Chair, I wish to respond as follows:

According to our records, Kirimun Ranch is located on L.R No. 8036 and measures 16,655 Hectares (41,276 Acres). **Annexure 1** is a copy of Deed Plan No. 325695.

Vide a letter Ref. 36661/59 dated December 22, 1954 (**Annexure 2**), the ranch was reserved for the Veterinary Department as a Livestock Holding ground for a term of 5 years – with effect from January 1, 1956.

In 1958, the Ministry of Agriculture and Livestock Development applied to the Commissioner of Lands for a permanent reservation of the Holding Ground. This request was considered and approved by the Land Board at its meeting on February 25, 1959. A copy of the consent is marked **annexure 3**.

By a letter Ref. OP/CA.1/34A dated April 23, 1982 (**annexure 4**), the then Minister for Regional Development, Science and Technology wrote to the Minister for Lands and settlement to confirm that the National Youth Service was taking over the farm.

While the National Youth Service was taking over and settling on the farm, a delegation of leaders from Laikipia District also visited the then President of the Republic of Kenya (H. E. Daniel Arap Moi) on July 16, 1984, they petitioned the President to consider establishing a Game Reserve at Kirimun Holding Ground, a request which was assented to by the President. Annexure 5 is a copy of a letter from the then Laikipia County Council Ref. LCC/ADM/36/46 dated May 8, 1990 communicating the President's approval.

In 1991, the Laikipia National Reserve was established vide Legal Notice No. 526 of October 16, 1991 (annexure 6) to cover the area previously known as Kirimun Holding Ground. In 1999, the same land (L.R No. 8036) was formally allocated to the National Youth Service despite the fact that it had, in 1991 been Gazetted as a National Reserve. A copy of the Letter of Allotment Ref. 215338/8 dated July 9, 1999 is marked annexure 7.

Upon receipt of the Letter of Allotment, the NYS duly accepted the offer and made the requisite payments and an official receipt No. E.522453 dated March 15, 2000 was issued by the Commissioner of Lands (annexures 8a and 8b).

The decision to allocate the land to the NYS did not go down well with both the County Council of Laikipia and the Kenya Wildlife Service who protested the allocation stating that land was not available for alienation owing to the fact that it had earlier in 1991 been gazetted as a conservation area. Annexures 9a and 9b are copies of the protest letters.

In an effort to resolve the issue of ownership of the land, the Ministry mediated several meetings between the parties (County Council of Laikipia, Kenya Wildlife Service and the NYS) without any success. On April 14, 2004, the Permanent Secretary, Secretary to the Cabinet and Head of Public Service held a meeting in his office, Harambee House, where all the parties to the dispute were invited/present. Present in the meeting were:-

Amb. Francis K. Muthaura	-	Permanent Secretary, Secretary to the Cabinet and Head of the Public Service
Mr. Kiriinya Mukiira	-	Permanent Secretary, Ministry of Lands
Mr. Zachary O. Ogongo	-	Permanent Secretary, Ministry of Local Government

Mr. Sylvester M. Mwaliko	-	Permanent Secretary, Office of the Vice-President and Ministry of Home Affairs
Mr. Daniel M. Mule	-	Permanent Secretary, Ministry of Livestock and Fisheries Development
Mrs. Judith Okungu	-	Commissioner of Lands
Mr. Japheth Mwanja	-	Director, National Youth Service
Mr. H. K. Gitu	-	Clerk, Laikipia County Council
Mr. Daniel Omwemba	-	For Director, Kenya Wildlife Service
Mrs. Rosemarie Kigame	-	Cabinet Office
Mr. Stephen K. Kirogo	-	Recording

From the above meeting, it was resolved that:

- (a) Laikipia County Council retains Kirimun ranch for the establishment of a Game Reserve
- (b) National Youth Service retains the remainder of Marmar Ranch L.R No. 8052 (Now surveyed as L.R 25089) measuring 18,030.65 Hectares.
- (c) Cadastral Survey for both ranches be carried out immediately to facilitate the preparation and issuance of Title Deeds.

Annexure 10 is a copy of minutes of the meeting.

On the basis of the above resolutions, a Letter of Allotment was formally issued to the County Council of Laikipia Ref. 36661/143 dated May 24, 2004 for L.R 8036 measuring 16,738 hectares (41,360 Acres). The letter superseded the Letter of Allotment Ref. 215338/8 dated July 9, 1999, which allocated the land to the NYS. The Letter of Allotment indicates that the land was allocated for Kirimun Game Reserve.

Upon receipt of the Letter of Allotment (annexure 11), Laikipia County Council accepted the offer and made the necessary payments and an official receipt No. F. 827364 dated June 25, 2004 was issued by the Commissioner of Lands. Annexures 12 a and 12 b are copies of the acceptance letter and payment receipt respectively.

Honourable Chair, the interest of the NYS on property was extinguished by the issuance of a letter of allotment to the Laikipia County Council. The gazettment of the land as a National Reserve has not been challenged or vacated through another Legal Notice.

**2. PUBLIC PETITION NO. 004 OF 2021 BY HON. MICHAEL KINGI, MP
ON BEHALF OF MAGARINI COMMUNITY LAND OWNERS
REGARDING IRREGULAR EXTENSION OF GALANA RANCHING
BOUNDARY**

Honourable Chair,

The petitioners state that Galana Game and Ranching community land in Kilifi and Tana River counties was indigenously settled on by the Waata and Giriama communities. They claim that the boundaries of the land were marked in 1961 jointly by Waata and Giriama communities together with representatives of the colonial government.

According to the petitioners, the original boundary points were Kisiki, Tanke, Kore and Didimabul with the upper western part boundary point being allocated to Galana Ranching and the lower eastern land being reserved for the community. In 1972, the Agricultural Development Corporation (ADC) took over the land.

The petitioners claim that in the year 2020, the ADC without due public participation undertook an illegal/irregular boundary extension exercise that resulted in new boundary points at Chain Barrier (Sameta), Kormotho, Dakabuko, Kalaluwe, Gurujo, Bisaadhi, Diririsa, Bibithole, Changoto and Dera which were then gazetted for adjudication.

They claim that efforts to address the issue with the relevant authorities including the National Land Commission and the National Environment Management Authority have been futile. The petitioner thus requests the Committee to:

- i) Inquire into the matter with a view to securing with the assistance of the National Land Commission, the restoration of the original boundary points of the Galana Game and Ranching land so as to safeguard the land originally allocated to the local community
- ii) Cause the Ministry of Lands and Physical Planning to complete the adjudication process in the areas where it had begun and urgently commence the process in the remaining areas with a view to ensuring that members of the community are issued with title deeds
- iii) Make any other order or direction that it deems fit in the circumstances of the matter.

Response

Honourable Chair, I wish to respond as follows:

The alleged “community land” falls within the declared adjudication sections of Adu Kamale and Adu Chamari bordering the ADC land. The adjudication sections were declared on April 11, 2017. 8,100 plots have been surveyed in Adu Kamale while 3,300 parcels have been surveyed in Adu Chamari. What remains is publication of the maps.

The petitioners claim that a portion of the ADC land (measuring approximately 237,643.05 Hectares) from Kisiki beacon through Koromodo, Dera Bure and Didima Bule Beacon shaded in the sketch map marked **annexure 13** has encroached on the “community land” which they seek to have it adjudicated

There are several villages within the contentious portion of the ADC land, which is settled by the local communities. The villages include Changoto, Gabo, Dhambela, Mambruk Mukale, Masa/Mchekenzi, Chanjalo, Kamale, Dera, Matharba, Kori, Kilulu, Ndharako, Kaloleni, Daririsa, Mbuuni ‘B’, Bihole, Chalalu, Bate, and Borani. The local community believe its boundary runs from Kisiki beacon to Didima Bule beacon as shown in the sketch plan, which is not the case.

3. PUBLIC PETITION NO. 004 BY HON. JOSHUA KUTUNY, MP ON BEHALF OF THE FAMILY OF THE LATE HON. ARTHUR KINYANJUI MAGUGU, MP REGARDING ALLEGED FRAUDULENT SUBDIVISION OF LAND REGISTERED AS L.R NO. 12422/9

Honourable Chair,

The petitioner claims that land parcel L.R No.12422/9 measuring approximately 41.133 Hectares was registered in the name of the late Hon. Arthur Kinyanjui. The certificate of title was issued on December 16, 1982. They state that on February 19, 1991, the deceased engaged the firm of Kamwere & Associates Surveyors to carry out subdivision of the land into two (2) parts. The subdivision was carried out to create L.R Nos. 12422/203 & 12422/204.

They claim that the surveyor subsequently fraudulently subdivided parcel L.R No. 12422/204 to create L.R Nos. 12422/318 & 12422/319 vide a Certificate of Subdivision given on October 25, 1993 by the Town Clerk, City Council of Nairobi approving the subdivision. Parcel L.R No. 12422/319 was transferred to Karura Investment Limited on the same day. The Petitioners claim that the subdivision of L.R No. 12422/204 was fraudulent for the following reasons:

- i) The Certificate of Title in respect of L.R No. 12422/204 was issued to the deceased
- ii) The application for consent to transfer parcel L.R No. 12422/319 is not dated nor signed
- iii) The consent to transfer parcel L.R No. 12422/ 319 was made one (1) month before the parcel was created.
- iv) The transfer document dated October 25, 1993 was only executed by the alleged vendor and not the purchaser.

The Petitioners therefore request the Committee to:

- i) Inquire into the issues raised in the petition
- ii) Make recommendations requiring the Registrar of Titles to cancel the fraudulent entries of title registered under L.R 12422/319
- iii) Make any other recommendations, as it may deem appropriate.

Response

Honourable Chair, I wish to respond as follows:

The Ministry submitted its response to the petition vide the reports dated September 14, 2021 and September 22, 2021 (**annexures 14 and 15**). We appeared before the Committee on September 22, 2021 where we requested the Committee to allow the Ministry more time to summon the parties to the petition to provide documentation regarding subdivision of land parcel L.R No. 12422/204 and subsequent transfer of L.R No. 12422/19.

Honourable Chair, we wish to report that we have received relevant documentation from the petitioners and Karura Investments Limited. The Ministry is currently undertaking scrutiny of the documents presented and will forward findings to the committee within one week from the date of this report.

4. PUBLIC PETITION NO. 056 OF 2021 BY HON. KHATIB MWASHETANI, MP ON BEHALF OF RESIDENTS OF WASINI ISLAND REGARDING APPEAL FOR LAND ADJUDICATION IN WASINI ISLAND

Honourable Chair,

The petitioners aver that they occupy land parcel registered as Provincial Plot No. PW33/Wasini Island (approximately 289 acres) located near Shimoni town in the coastal region. They claim that the island was declared an adjudication section on October 31, 1979. It was surveyed, adjudicated and titles issued.

In 1995, one Hassan Nassir and Ahmed Nassir who had approximately 5 acres of land to their name challenged the adjudication process in court by suing one Mohamed Masoud and Hamadi Khalfan. In July 1995, the High Court issued an order directing the Chief Land Registrar to cancel the titles issued and called for the process to be undertaken afresh. This has not been done. The petitioners aver that efforts to have the matter resolved by the relevant authorities have borne no fruits. They therefore request the Committee to:

- i) Intervene to either secure the undertaking of a new adjudication process or to secure the declaration that all title deeds as initially issued remain valid and legal
- ii) Intervene to protect Wasini island which is an ancestral land to local communities from being grabbed or illegally acquired from them on account of the ongoing construction of Shimoni port
- iii) Causes the Ministry of Lands and Physical Planning to explain why it sent over 100 armed police officers to oversee and illegal and irregular surveying of the land without following due process and without meeting numerous legal requirements
- iv) Make any other recommendations it deems appropriate in the circumstances of the petition.

Honourable Chair, I wish to respond as follows:

Wasini Island underwent a land adjudication process in 1979 and a total of 428 titles covering 403.8 Hectares were issued under the Registered Land Act in 1984. Plot No. W/33 was among those adjudicated and titles issued.

The titles falling on Plot No. W/33 were challenged by one Sagaaf bin alawi (heir of Hassan Nassir, Mohammed Nassir and Ahmed Nassir) who claimed to have lodged a claim with the Recorder of titles Ref. No. V/590/20 over ownership of a portion of the plot in 1967.

In 1969, the Recorder of titles in the presence of all the disputing parties determined the case and awarded the land to Hassan Nassir, Mohammed Nassir and Ahmed Nassir (all deceased) under Section 7(1) of the Land Titles Act (Repealed). The Recorder of Titles clearly defined the extent of the four boundaries covering Plot No. W/33. **Annexure 16** is a copy of the proceedings before the Recorder of Titles. The decision can only be challenged through a court of Law.

In 1981, Sagaaf alwy on his own behalf and on behalf of the other heirs Hassan, Mohammed and Ahmed (plaintiffs) filed Civil Suit No. 727 of 1981 at the High Court in Mombasa against the Attorney General, Mohamed Masoud and Hamadi Khalfan challenging the adjudication of land to third parties. He claimed that Plot No. W/33 belongs to the said heirs through the award by the Recorder of Titles.

During the adjudication process, Sagaaf alwy did not raise objection on the area he is raising claim (P/No. 33) as required in the Land Adjudication Act (Cap. 284).

On July 21, 1995, the High Court awarded the land to the plaintiffs and ordered the cancellation of the titles and rectification of the Register within 21 days. The judgment shows that the defendants, Mohamed Masood and did not adduce evidence in their defence although they participated in the suit throughout the hearing. Although the Attorney General was a defendant in the case, the proceedings did not show his participation on the matter. A copy of the judgement is marked **annexure 17**.

The court issued an order on January 15, 1997 (**annexure 18**) to nullify titles falling with Plot No. P.W. 33. It reiterated that the judgement of the Recorder of Titles was valid and therefore the purported adjudication and subsequent creation of plots on the aforesaid plot No. W/33 Wasini Island was null and void. Titles falling on Plot No. P.W. 33 were cancelled vide Gazette Notice No. 1948 of April, 11, 1997. A total of 68 parcels were affected covering approximately 124.7 Ha. **Annexure 19** is a list of the affected titles.

On July 30, 1999, the Environment and Land Court in Mombasa issued an order to the OCPD Msambweni to provide security to enable the Government Surveyor to survey the land for issuance of title to the Plaintiffs in Civil Suit No. 727 of 1981. This was not possible due to hostility from the local community. A copy of the order of court is marked **annexure 20**.

On September 25, 2021, the County Surveyor Kwale managed to secure security and surveyed the land. The total area surveyed was about 124.7 Hactares covering the parcels falling on Plot No. V.33. However, during the Parliamentary Committee on Lands visit to Wasini on November 5, 2021, it was established that the 1999 court order used by the Surveyor and the Police to cause survey of the disputed land was expired. Section 4 (4) of the Limitation of Actions Act (Cap. 22) provides that an action may not be brought upon a judgment after the end of twelve years from the date on which the judgment was delivered.

Honourable Chair, despite the survey being undertaken, the Registry Index Map has not been prepared for registration and issuance of title since the survey was undertaken on the basis of expired court order.



NATIONAL LAND COMMISSION

**RESPONSES TO PETITIONS AND COMPLAINT REFERRED TO THE LANDS
COMMITTEE OF THE NATIONAL ASSEMBLY**

REPORT BY:

**GERSHOM OTACHI BW'OMANWA
CHAIRMAN**

23RD MARCH, 2022

RESPONSES TO THE NATIONAL ASSEMBLY DEPARTMENTAL COMMITTEE ON LANDS

Honourable Chair

Pursuant to a letter Ref: NA/DDC/LANDS/2021 153 dated October 26 2021, the Committee invited the National Land Commission to respond to the following petitions:

1. Public Petition No.056 of 2021 by Hon. Khatib Mwashetani, MP on behalf of residents of Wasini Island regarding appeal for land adjudication in Wasini Island.
2. Public Petition No.063 of 2021 by Hon. Mishi Mboko, MP on behalf of residents of Mwananguvuze Village in Timbwani Ward, Likoni Constituency regarding securing land ownership rights of Mwananguvuze residents.
3. Supplementary response Inquiry to the issues raised in a complaint by the Hon. Owen Yaa Baya, MP on behalf of the family of Fundi Sudi regarding alleged irregular allocation of land parcel Plot No. 11/Kilifi/Mafumbini (claim account no. 984/1958) located in Mafumbini Mnarani, Kilifi North Constituency.

1. PUBLIC PETITION NO. 056 OF 2021 BY HON. KHATIB MWASHETANI, MP ON BEHALF OF RESIDENTS OF WASINI ISLAND REGARDING APPEAL FOR LAND ADJUDICATION IN WASINI ISLAND.

Petition

The petitioners aver that they occupy land parcel registered as Provincial Plot No. PW33/Wasini Island (approximately 289 acres) located near Shimoni town in the Coastal region. They claim that the island was declared an adjudication section on October 31, 1979. It was surveyed, adjudicated and titles issued.

In 1995, one Hassan Nassir and Ahmed Nassir who have approximately 5 acres of land in their names challenged the adjudication process in Court by suing one Mohammed Masoud and Hamadi Khalfan, in July 1995. The High Court issued an order directing the Chief Land Registrar to cancel the titles issued and called for the process to be undertaken afresh. This has not been done. The petitioners further aver that efforts to have the matter resolved by the relevant authorities have borne no fruits. They therefore sought the Committee's intervention to:

1. Either secure the undertaking of a new adjudication process or to secure the declaration that all title deeds as initially issued remain valid and legal.
2. Protect Wasini island which is an ancestral land to local communities from being grabbed or illegally acquired from them on account of the ongoing construction of Shimoni Port
3. Cause the Ministry of Lands and Physical Planning to explain why it sent over 100 armed police officers to oversee an illegal and irregular surveying of the land without following due process and without meeting numerous legal requirements.
 - a. Make any other recommendations it deems appropriate in the circumstances of the petition.

court nullified only 68 parcels that overlapped on petitioner's land. The Court Decision was effected by cancellation of the titles.

From the aforementioned, NLC observes that submits that a new comprehensive adjudication exercise for Wasini Island may not be legally feasible without a Court process seeking reversal of the whole of the initial adjudication and cancellation of the existing titles.

2. On the claim to Protect Wasini island as an ancestral land to local communities from being grabbed or illegally acquired from them on account of the ongoing construction of Shimonzi Port, the Commission wishes to respond as follows; Wasini island being part Coastal land was deemed to be Government land except those areas that were reserved for the Kayas. Upon promulgation of the new constitution, these lands reverted to respective County Government. Essentially, ancestral lands are found in trust land areas where land adjudication has not taken place.

Further, the Commission avers that the ongoing construction of Shimonzi port where it will affect private land, land acquisition process will be undertaken as per law.

3. Cause the Ministry of Lands and Physical Planning to explain why it sent over 100 armed police officers to oversee an illegal and irregular surveying of the land without following due process and without meeting numerous legal requirements;
 - This question is best addressed by the MoLPP as it acted to implement a court order.
4. Make any other recommendations it deems appropriate in the circumstances of the petition.
 - The Commission proposes consideration to settle locals who have settled on part of Plot No. W/33 through the Settlement Fund Trustee Board.

Honourable Chair, I submit.

2. PUBLIC PETITION NO. 063 BY HON. MISHI MBOKO, ONBEHALF OF RESIDENTS OF MWANANGUVUZE VILLAGE IN TIMBWANI WARD, LIKONI CONSTITUENCY REGARDING SECURING LAND OWNERSHIP RIGHTS OF MANANGUVUZE RESIDENTS

Petition,

The petitioners claim that land registered as Plot No. 120 located in Mwananguvuze Village in Timbwani Ward, Likoni Constituency has been their ancestral land for over 150 years as exemplified by ancient gravesites and the Mwananguvuze Mosque whose foundation stone was laid by Hon. Shariff Nassir in 1980.

They sadly aver that when land adjudication commenced in the Constituency, they were assured of securing their land rights but unknown to them, titles were issued to strangers under unclear circumstances. They claim that they are aware that one Mr. Mahesh Jayantialal Haria plans to occupy the entire land and intends to evict them. They claim that efforts to address their concern with the relevant authorities have been futile. The petitioners have therefore filed the petition to request the Committee to:

- i) Conduct a fact-finding mission to Mwananguvuze village to ascertain the situation on the ground
- ii) Urgently intervene to forestall the impending eviction of residents of Mwananguvuze Village
- iii) Investigate the circumstances in which the said Mr. Mahesh Jayantialal Haria seeks to assume ownership of the parcel of land.
- iv) Secure the issuance of title deeds of Plot No. 120 Mwananguvuze/Timbwani to the residents who are the *bonafide* owners of the land, and
- v) Make any other recommendation it deems appropriate in circumstances of the petition.

Honourable Chair, I wish to respond as follows: -

According to available records, the subject land LR. NO. MS/1/120 was initially Government land (GL) measuring approximately 21.992 HA. The following excisions have been effected on MS/1/120 and ownership is as per attached copies of searches marked (**annexure 8a**).

S/NO	PLOT NO	AREA	OWNERS	TERM
1	MS/1/1789	0.1034 HA	Nova Holdings Ltd	99 years from 1/9/1996
2	MS/1/1787	0.0233 HA	Abdalla Chuo Ali	99 years from 1/9/1994
3.	MS/1/1788	0.0534HA	Abdalla Chuo Ali	99 years from 1/9/1994
4.	MS/1/1786	No information	-	-
5.	MS/1/1780	No information	-	-
6.	MS/1/1836	0.400 HA	Mahesh Jayantialal	99 years from 1/7/1997

Mwananguvuze Villages occupy all the above parcels of land and the remainder of Parcel No. 120. This area is densely populated with over 400 permanent structures as per the attached google map (**annexure 8**). On the ground, there are shops, residential houses, mosque, churches, schools and madrassa.

The alleged eviction is on plot No. MS/1/1836 measuring 0.400 hectares owned by Mahesh Jayantialal on a leasehold of 99 years from 1st July 1997. The land heavily squatted and it is evident that Mr. Mahesh Jayantialal Haria seeks ownership by dint of being a bona fide registered owner of the parcel although he has never taken possession of the portion of land

In NLC opinion, the residents can appeal against eviction order although during the hearing conducted during field visit, the NLC was not presented with any proof of eviction order. The petitioners can seek redress in a court of law if the alleged order contravenes eviction procedures as stipulated under the Land Act.

Hon Chair, the current occupiers of the un-alienated part of the original LR. NO. MS/1/120 which is equally heavily squatted as depicted by google image as per annexure 8 can petition for regularization of their settlements through County Government of Mombasa upon planning, survey and subsequent allocation as per sec 14 of the Land Act in collaboration with NLC and Ministry of Lands and Physical Planning.

Honourable Chair, I submit.

3. INQUIRY INTO A COMPLAINT BY HON. OWEN BAYA MP ON BEHALF OF THE FAMILY OF FUNDI SUDI REGARDING ALLEGED IRREGULAR ALLOCATION OF LAND PARCEL NO.11/KILIFI/MAFUMBINI (CLAIM ACCOUNT NO. 984/1958) LOCATED IN MAFUMBINI MNARANI, KILIFI NORTH CONSTITUENCY.

Petition.

The Committee has received a complaint from the Hon. Owen Yaa Baya MP on behalf of the family of Fundi Sudi regarding alleged irregular allocation of land plot No. Group V/11/Kilifi/Mafumbini also referred to as claim account No. 984/1958 (under the repealed Land Titles Act CAP 282) in Survey Map FR198/2 located in Mnarani, Kilifi North Constituency (copy attached).

The complaints state that the family of the late Fundi Sudi owned the said parcel of land since 1928. However, the proprietors of Kilifi Plantation Limited claim to hold a Temporary Occupation License for part of land since 1985.

The family of Fundi Sudi has not been able to have the land registered to them, despite the Commission issuing a notice of intention to allocate the said land, plot number 984/1958 Mafumbini Mnarani to the family on 8th February, 2019.

In this regard, the Commission is expected to provide information on the following: -

- 1) The status of the Temporary Occupation License held by Kilifi Plantation Limited indicating the acreage of the land under the said license.
- 2) The implementation status of the notice of intention to allocate plot number 984/58 Mafumbini Mnarani to the family of Fundi Sudi made by the Commission on 8th February, 2019.

Honourable Chair, I wish to respond to respond as follows: -

Land being claimed by Fundi Sudi family at Mnarani Mafumbini in Kilifi North Constituency has a history dating back to 1912 when the first Certificate of Indenture No. 167 dated 15th May 1912 was registered at Malindi in register Vol. 4 folio 313.

The said parcel of land is surveyed as Group V/11 and it measures 478.47 acres.

According to Indenture dated 2nd September, 1926 the said parcel of land was sold by the proprietor Esmail Jeevanjee and Company to Kilifi Plantation at Kenya Shs. 3,492/20. This transfer was entered on 2nd September 1926 and was registered by Registrar of Coast Land Titles on 10th September, 1949 in day Book No. 76 Vol. IV folio 314/4 file No. 150. See **(annexure 9)**.

Land reference No. Group V/II has been subdivided into several portions, including Group V/117, 118, 122, 119, 120, 121 among others, that were done in 1985.

List all subdivisions as per annexures (see annexure 10).

The Temporary Occupation License held by Kilifi Plantation Ltd is for the portion of land fronting the creek in front of Land Reference Group V/11, meaning it is not part of land Ref. Group V/11. It measures 6 acres and was issued on 22nd March 1985. See **annexure 11 (T.O.L Land)**. The T.O.L has not been upgraded to a lease as applied for as it falls within mangrove/wetland that is fragile and ecologically sensitive and hence un-allocatable.

However, in records there is a likely misrepresentation of a T.O.L (note that the inscription is handwritten hence cannot be authenticated) through a land rent demand note on plot No. 122 as indicated in receipt of payment see **(annexure 12)**. There are no records of registration of Group V/122 which is supposedly a subdivision from original land Group V/11.

The Sudi family made a claim of land under Land Titles Act to recorder of tittles for No. Ac. 984/58 dated 5th October 1986 and allocated claim No. 950/1828 which they claim relate to land No. Group V/11 **(annexure 13)**.

Hon Chair, the NLC observes that should the recorder of title action be implemented as sought by Fundi Sudi family (assuming the claim by Fundi Sudi family relates directly to LR No Group V/11), it will result in overlap in allocation because of existence of a prior title in favour of Kilifi Plantations limited for LR No group V/11 in Kilifi/ Mafumbuni through an indenture (title) dating back to 1928- **Refer to Annex 9**

Hon Chair, regarding the intention by NLC to allocate land as advertised in February 2019, the NLC wishes to state that the intention to allocate land as advertised in February 2019 appears faulty due to the following reasons;

- I. the land referred to in the advertisement does not appear to exist in Survey records and
- II. the subject land referred was apparently private land by time of advertisement, in which case as per the law NLC does not have the mandate to allocate.

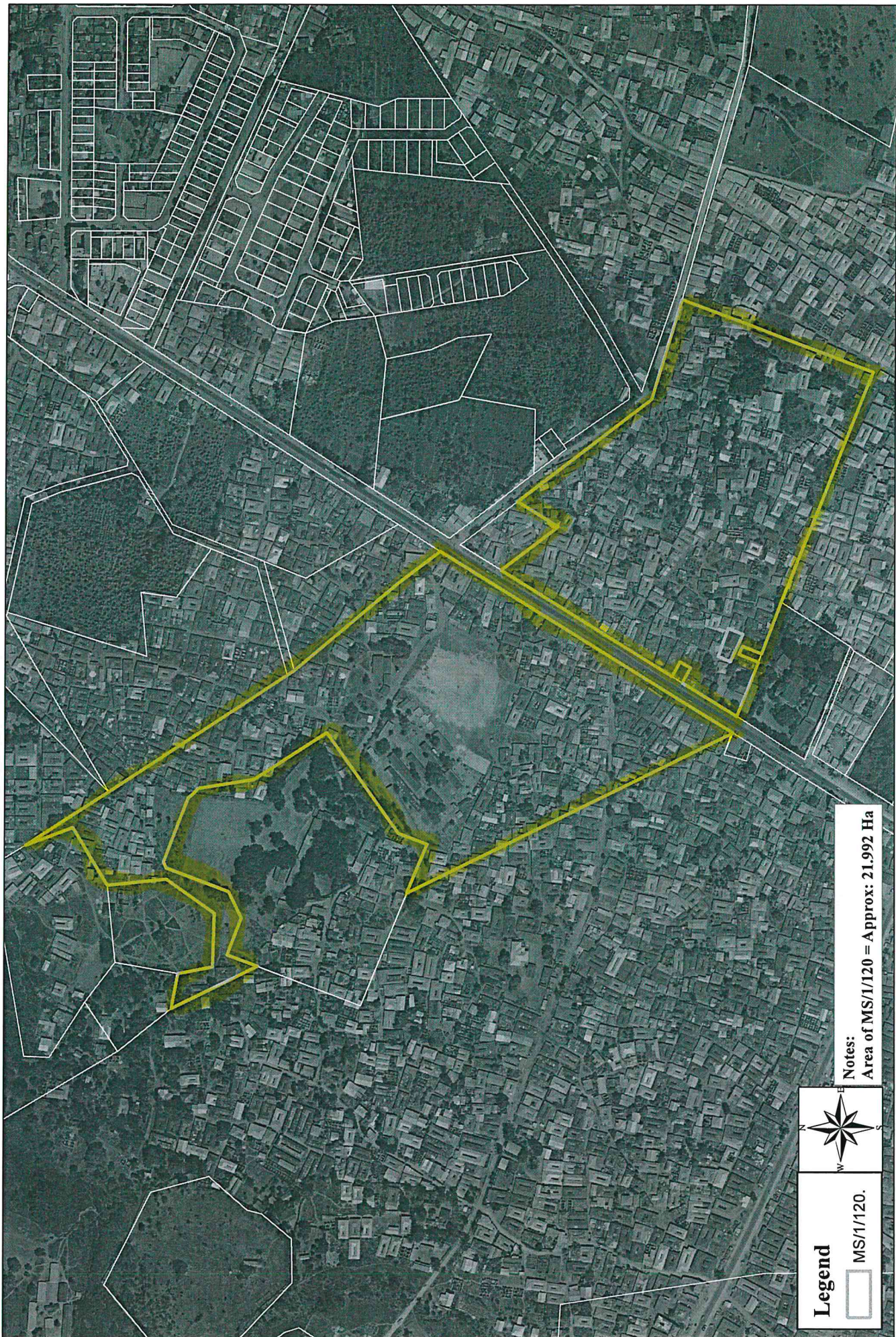
The above facts notwithstanding, the Commission notes that Fundi Sudi family have submitted records of follow up of the title without success from the Ministry of Lands, Provincial Administration and the National Land Commission leading to a demarcation notice by recorder of titles, calling for deed plan from the Registrar of Titles land and public notice by the **Commission**. See (**annexure 14 ,15 and 16**).

NLC proposes that a Clear history on subdivision of LR. No Group V/11 should be provided by the Ministry of Lands and Physical Planning as the subdivision and other records mentioned by the land owners are confusing.

Honourable Chair, I submit.



GERSHOM OTACHI BW'OMANWA
CHAIRMAN



Legend

MS/1/120.

Notes:
Area of MS/1/120 = Approx: 21.992 Ha

ANNEX 2

K P 42.

Annexure 4.

9152



THIS INDENTURE made the Second day of September One thousand nine hundred and twenty six BETWEEN Taibali Esmailji, Yusufali Esmailji and Fazalabbas Esmailji carrying on business in co-partnership under the style or firm of ESMAILJI JEEVANJEE AND COMPANY of Mombasa in the Kenya Protectorate, Merchants (hereinafter called the Vendors, which expression where the context so admits shall be deemed to include their and each of their heirs Executors administrators and assigns) of the First part, the said Taibali Esmailji and Yusufali Esmailji as Executors of the Will of Hassanali Esmailji late of Mombasa aforesaid, Merchant, deceased of the Second part, the said Taibali Esmailji and Yusufali Esmailji as Administrators of the Estate of Abdulhusein Esmailji late of Mombasa, aforesaid, Merchant, deceased of the Third part AND KILIFI PLANTATIONS LIMITED, a limited liability Company having its registered office at 54 Great St. Helens in the City of London (hereinafter called the Purchaser which expression where the context so admits shall be deemed to include its assigns) of the Fourth part WHEREAS by a Certificate of Ownership numbered 167 dated the Fifteenth day of May one thousand nine hundred and twelve and registered at Malindi in Volume No. 4, Folio 313, the firm of Esmailjee Jeewanjee and Company were certified to be the proprietors of the fee simple and in ALL THAT piece of land situate in the Province of Seyidie at Takaungu-Kilifi and which is demarcated and delineated on the plan Group V deposited in the office of the Recorder of Titles at Mombasa and thereon numbered eleven and containing Four hundred seventy eight point forty seven acre or thereabouts AND WHEREAS the firm of Esmailjee Jeewanjee and Company at the date of the hereinbefore recited certificate of Ownership consisted of five members, that is to say the Vendors and Hassanali Esmailji and Abdulhusein Esmailji AND WHEREAS the said Hassanali Esmailji died at Zanzibar on the eleventh day of September one thousand nine hundred and ten and Probate of the Will of the said Hassanali Esmailji was on the twentieth day of October one thousand nine hundred and eleven granted forth to His Majesty's High Court of East Africa to the parties of the Second part in Probate and Administration Cause No. 109 of 1911 AND WHEREAS the said Abdulhusein Esmailji died at Mombasa on the thirtieth day of March One thousand nine hundred and ten and Letters of Administration of the Estate and effects of the said Abdulhusein Esmailji were on the Seventeenth day of December One thousand nine hundred and ten, granted for th of His Majesty's High Court of East Africa to the parties of the Third part in Probate and Administration Cause No. 94 of 1910 AND WHEREAS the Vendors have agreed to sell and the parties of the second and third parts have agreed to sell and confirm for all such Estate right title and interest as they may have in the premises the fee simple in possession free from incumbrances of ALL THAT the lands hereditaments and premises described in the hereinbefore recited certificate of Ownership together with all trees and shrubs thereon for the sum of Thirty three thousand four hundred ninety two shillings and ninety cents AND WHEREAS by an order of His Majesty's Supreme Court of Kenya Colony and Protectorate dated the thirtieth day of July one thousand nine hundred and twenty six made in Probate and Administration Cause No. 94 of 1910 the said Court consented to the parties of the Third part joining in the sale of all the hereditaments intended to be hereby conveyed to the Purchaser NOW THIS INDENTURE WITNESSETH that in pursuance of the said agreement and in consideration

of thirty