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REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY
THIRTEENTH PARLIAMENT - FIFTH SESSION

DIRECTORATE OF DEPARTMENTAL COMMITTEES

DEPARTMENTAL COMMITTEE ON LANDS

REPORT ON:

CONSIDERATION OF PUBLIC PETITION NO. 28 OF 2025 REGARDING THE
STATUS OF OWNERSHIP OF L.R. NO. 7545/3 (I.R. 21038) FORMING THE
NUCLEUS ESTATE OF MIWANI SUGAR MILLS.

 THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 27 AUG 2026 DAY: Thursday	
TABLED BY:	Hon. Joash Ndamako, MP (Chairperson)
CLERK-AT THE TABLE:	hormale



Directorate of Committees
Clerk's Chambers
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August 2026

TABLE OF CONTENTS

LIST OF ABBREVIATIONS AND ACRONYMS.....	4
ANNEXURES	5
CHAIRPERSON'S FOREWORD	6
CHAPTER ONE.....	8
1.0 PREFACE.....	8
1.1 Establishment of the Committee.....	8
1.2 Mandate of the Committee.....	8
1.3 Committee Membership.....	9
1.4 Committee Secretariat	10
CHAPTER TWO	11
2.0 BACKGROUND OF THE PETITION	11
2.1 INTRODUCTION.....	11
2.2 Petitioners' Prayers	13
CHAPTER THREE.....	14
3.0 STAKEHOLDERS' SUBMISSIONS ON THE PETITION	14
3.1 The Petitioners.....	14
3.2 State Department of Lands and Physical Planning.....	15
3.3 Kenya Sugar Board.....	16
3.4 Ministry of Agriculture and Livestock Development.....	18
3.5 Office of the Attorney General and Department of Justice	19
3.6 Ministry of Lands, Public Works, Housing and Urban Development (Further Submissions) 22	
3.7 The Judiciary	24
3.8 National Land Commission	26
3.9 Directors of Crossley Holdings Limited	27
3.10 Analysis of Irregularities Identified during Consideration of the Petition.....	28
CHAPTER FOUR.....	32
4.0 SUBMISSIONS DURING THE COMMITTEE'S FACT-FINDING VISIT	32
4.1 Kenya Sugarcane Growers Association (KESGA) and Representatives of the Miwani Community.....	32
4.2 Miwani Community (Obora Okoth and Eng. Ondis, for and on behalf of the Miwani Community).....	33
4.3 Kenya National Federation of Sugarcane Farmers (Miwani Branch) and Miwani Squatters CBO	34
4.4 Post and Pre-Receivership Miwani Sugar Company (1989) Ltd Workers.....	34

*Report of the Departmental Committee on Lands on Consideration of Public Petition No. 28 of 2025
Regarding the Status of Ownership of L.R. No. 7545/3 (I.R. 21038) Forming the Nucleus Estate of
Miwani Sugar Mills.*

4.5	Former Miwani Sugar Company (1989) Ltd Workers in Receivership.....	35
4.6	Kabar, Sidho, Kamagaga and Miwani Juakali Communities.....	36
CHAPTER FIVE.....		37
5.0	COMMITTEE OBSERVATIONS	37
6.0	COMMITTEE RECOMMENDATIONS.....	47

LIST OF ABBREVIATIONS AND ACRONYMS

AFA	Agriculture and Food Authority
AG	Attorney General
CoA	Court of Appeal
CS	Cabinet Secretary
DCI	Directorate of Criminal Investigations
DPP	Director of Public Prosecutions
EACC	Ethics and Anti-Corruption Commission
ELC	Environment and Land Court
GOK	Government of Kenya
HCCC	High Court Civil Case
IPOA	Independent Policing Oversight Authority
KESGA	Kenya Sugarcane Growers Association
KSB	Kenya Sugar Board
LR	Land Reference
MSM	Miwani Sugar Mills
MSC	Miwani Sugar Company
NLC	National Land Commission
PS	Principal Secretary
RDU	Rapid Deployment Unit
SEZ	Special Economic Zone

ANNEXURES

Annex 1: The Adoption List

Annex 2: Public Petition No. 28 of 2025

Annex 3: Submissions by the Principal Secretary, State Department of Lands and Physical Planning

Annex 4: Submissions by the Principal Secretary, State Department for Agriculture

Annex 5: Submissions by the Solicitor General, Office of the Attorney General and Department of Justice

Annex 6: Submissions by the National Land Commission

Annex 7: Letter from the Chief Registrar of the Judiciary dated 23rd March 2026, including Schedule of Court Cases

Annex 8: Submissions by the Kenya Sugar Board

Annex 9: Memorandum by KESGA and Representatives of the Miwani Community

Annex 10: Memorandum by the Miwani Community (Obora Okoth and Eng. Ondis)

Annex 11: Submission by the Kenya National Federation of Sugarcane Farmers (Miwani Branch) and Miwani Squatters CBO

Annex 12: Submission by the Former Receiver Manager, Eng. Francis Ouko

Annex 13: Workers' Petition by post and pre-receivership Miwani Sugar Company (1989) Ltd Workers

Annex 14: Petition by Former Miwani Sugar Company (1989) Ltd Workers in Receivership

Annex 15: Memorandum by Kabar, Sidho, Kamagaga and Miwani Juakali Communities

Annex 16: Minutes of Sitzings of the Departmental Committee on Lands

CHAIRPERSON'S FOREWORD

On behalf of the Departmental Committee on Lands and pursuant to the provisions of Standing Order 216, it is my privilege and honour to present to this House the Report of the Committee on Public Petition No. 28 of 2025 regarding the Status of ownership of L.R. No. 7545/3 (I.R. 21038), forming the nucleus estate of Miwani Sugar Mills.

The Petition was presented to the House by the Hon. Caroli Omondi, M.P, Suba South Constituency pursuant to Standing Order No. 225(2)(a) on behalf of the Petitioner Mr. Charles Osewe Owino and other concerned residents of Miwani, Kisumu County.

The Petitioners prayed that the National Assembly, through the Departmental Committee on Lands, enquires into the following matters-

- a) Clarification on the classification of the land referred to in the Petition;
- b) Whether the matter has been reviewed or investigated;
- c) The determination or recommendations, if any, made on the matter; and
- d) Any other recommendation or action that may be appropriate in addressing the plight of the Petitioners.

In consideration of the Petition, the Committee engaged with the Petitioner and various stakeholders. Written submissions were received from the Principal Secretary, State Department for Lands and Physical Planning, the Principal Secretary, Ministry of Agriculture and Livestock Development, the Solicitor General, Office of the Attorney General and Department of Justice, the National Land Commission, the Judiciary through the Office of the Chief Registrar of the Judiciary and the Kenya Sugar Board.

The Committee also summoned the Directors of Crossley Holdings Limited, who appeared before the Committee on 25th March 2026 and gave oral evidence.

In addition, the Committee conducted a fact-finding visit to the Miwani Sugar Company land on 10th April 2026, during which it heard from the Kenya Sugarcane Growers Association, the Miwani Community, sugarcane farmers' organizations, Miwani workers, and other community groups.

The Committee's deliberations identified nineteen (19) specific irregularities in the proceedings that led to the purported acquisition of L.R. No. 7545/3 (I.R. 21038) by Crossley Holdings Limited. These include procedural defects in court proceedings, the forgery of a court order, the unlawful issuance of a provisional title, unresolved questions about the very existence of Nagendra Saxena, and serious corporate governance concerns at the Kenya Sugar Board. The Committee was also deeply moved by the plight of workers who have not received

their dues for over twenty-three years, and by reports of three deaths and other injuries arising from the deployment of the RDU in Miwani.

The Committee therefore makes recommendations aimed at protecting public and community interests in the land, addressing the plight of workers, ensuring the expeditious conclusion of the pending appeal and criminal case, and facilitating a just and durable resolution of the dispute.

The Committee appreciates the Offices of the Speaker and Clerk of the National Assembly for the guidance and technical support rendered during the consideration of the Petition.

On behalf of the Departmental Committee on Lands and pursuant to the provisions of Standing Order 227 (2) of the National Assembly Standing Orders, it is now my duty and privilege to present to the House the Report of the Departmental Committee on Lands on **Consideration of Public Petition No. 28 of 2025 Regarding the Status of Ownership of L.R. No. 7545/3 (I.R. 21038) Forming the Nucleus Estate of Miwani Sugar Mills.**

HON. JOASH NYAMACHE NYAMOKO, HSC, MP
CHAIRPERSON, DEPARTMENTAL COMMITTEE ON LANDS

CHAPTER ONE

1.0 PREFACE

1.1 Establishment of the Committee

1. The Departmental Committee on Lands is one of twenty departmental committees of the National Assembly established under **Standing Order 216** whose mandate is provided under Standing Order 216 (5) (g) as follows:
 - (a) To investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned ministries and departments;
 - (b) To study the programme and policy objectives of ministries and departments and the effectiveness of the implementation;
 - (c) To on a quarterly basis, monitor and report on the implementation of the national budget in respect of its mandate;
 - (d) To study and review all legislation referred to it;
 - (e) To study, assess and analyse the relative success of the ministries and departments as measured by the results obtained as compared with their stated objectives;
 - (f) To investigate and inquire into all matters relating to the assigned ministries and departments as they may deem necessary, and as may be referred to them by the House;**
 - (g) To vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order 204 (Committee on Appointments);
 - (h) To examine treaties, agreements and conventions;
 - (i) To make reports and recommendations to the House as often as possible, including recommendation of proposed legislation;
 - (j) To consider reports of Commissions and Independent Offices submitted to the House pursuant to the provisions of Article 254 of the Constitution; and
 - (k) To examine any questions raised by Members on a matter within its mandate.

1.2 Mandate of the Committee

2. In executing its mandate, the Committee on Lands oversees the:
 - (a) State Department of Lands and Physical Planning; and
 - (b) National Land Commission.

1.3 Committee Membership

3. The Committee comprises the following members:

Chairperson

Hon. Joash Nyamache Nyamoko, HSC, MP
North Mugirango Constituency
UDA Party

Vice-Chairperson

Hon. Fatuma Abdi Jehow, MP
Women Representative Wajir County
ODM Party

Hon. Dr. Rachael Kaki Nyamai, CBS, MP
Kitui South Constituency
JUBILEE Party

Hon. Irene Mrembo Njoki, MP
Bahati Constituency
JUBILEE Party

Hon. Dr. Gideon Ochanda, MP
Bondo Constituency
ODM Party

Hon. Leah Sopiato Sankaire, MP
Women Representative Kajiado County
UDA Party

Hon. Mathias Robi Nyambabe, MP
Kuria West Constituency
UDA Party

Hon. Ali Wario Guyo, MP
Garsen Constituency
ODM Party

Hon. Maj. Barrow Dekow, MP
Garissa Township Constituency
UDA Party

Hon. Omar Mwinyi, MP
Changamwe Constituency
ODM Party

Hon. Paul Katana, MP
Kaloleni Constituency
ODM Party

Hon. Thaddeus Nzambia, MP
Kilome Constituency
WIPER Party

Hon. Josses Lelmengit, MP
Emgwen Constituency
UDA Party

Hon. Anthony Kenga Mupe, MP
Rabai Constituency
PAA Party

Hon. Gachoki Gitari, MP
Kirinyaga Central Constituency
UDA Party

*Report of the Departmental Committee on Lands on Consideration of Public Petition No. 28 of 2025
Regarding the Status of Ownership of L.R. No. 7545/3 (I.R. 21038) Forming the Nucleus Estate of
Miwani Sugar Mills.*

I.4 Committee Secretariat

4. The Committee received support in fulfilling its mandate from a Secretariat made up of:

Mr. Joshua Ondari
Clerk Assistant I/Lead Clerk

Mr. Dennis Amunavi
Clerk Assistant III

Mr. Sidney Lugaga
Principal Legal Counsel

Ms. Elizabeth Kibati
Research Officer III

Ms. Judith Kiprop
Fiscal Analyst III

Ms. Rinha Saineye
Media Relations Officer III

Mr. Leonard Nyapere
Public Relations Officer III

Mr. Muchiri Mwangi
Audio Officer

Mr. Albert Atunga
Serjeant- At-Arms

CHAPTER TWO

2.0 BACKGROUND OF THE PETITION

2.1 INTRODUCTION

5. **Public Petition No. 28 of 2025** was presented to the National Assembly on 3rd December 2025 by Hon. Caroli Omondi, M.P., Suba South Constituency, on behalf of Mr. Charles Osewe Owino and other concerned residents of Miwani in Kisumu County. The Petition concerns the status of ownership of L.R. No. 7545/3 (I.R. 21038), which forms the nucleus estate of Miwani Sugar Company (1989) Limited (In Receivership).
6. The land parcel L.R. No. 7545/3 (I.R. 21038) measures approximately 9,394 acres (about 3,802 hectares) and is situated north-east of Kisumu Municipality in Kisumu County. The land was originally alienated from land occupied and owned by local communities for the sole purpose of establishing a nucleus estate for Miwani Sugar Mills, as succeeded by Miwani Sugar Company (1989) Limited (In Receivership).
7. **Miwani Sugar Mills Limited (MSM)** was incorporated in 1922. In June/July 1988, following financial difficulties, MSM was placed under receivership by its secured creditors, namely Chase Manhattan Bank, Bank of Baroda and Cultor Limited (formerly Finnish Sugar Company Limited). On 13th April 1989, through the Treasury (Incorporated), the Government of Kenya acquired 100% shareholding of MSM. On 9th June 1989, the Government incorporated a 100% Government-owned company, **Miwani Sugar Company (1989) Limited (In Receivership)**, which was subsequently placed under receivership by its debenture holders in March 2001.
8. The company's shares are held by the PS National Treasury (1,029,000 shares 49%) and formerly by Vanessa Associates Incorporated (1,071,000 shares 51%), the latter transfer to the National Treasury having never been completed.
9. The dispute over the ownership of L.R. No. 7545/3 (I.R. 21038) has its origins in 1993 when an individual by the name of Mr. Nagendra Saxena commenced proceedings in the High Court at Kisumu (Civil Case No. 225 of 1993) against Miwani Sugar Mills Limited, purportedly seeking to recover a debt of Kshs. 28 million which grew 114 million after calculating interest. The proceedings were highly contested, with questions raised as to whether Mr. Nagendra Saxena actually existed, given that he was never traced in Kenya or abroad despite investigations by the Ethics and Anti-Corruption Commission (EACC), the Directorate of Criminal Investigations (DCI), and the Department of Immigration.

10. On 24th December 2007, a company by the name of Crossley Holdings Limited purportedly purchased L.R. No. 7545/3 (I.R. 21038) at a public auction for Kshs. 752 million, pursuant to a court order arising from the Nagendra Saxena case. No evidence of payment has been produced by the Directors of Crossley Holdings Limited, and no trace of the funds has been found at the High Court, the Registrar of the High Court, or the National Treasury. The validity and authenticity of this auction have been the subject of sustained legal challenge, with multiple courts finding aspects of the proceedings to be fraudulent and null.
11. In 2011, the Court of Appeal (Civil Appeal No. 261 of 2008) nullified the purported public auction conducted on 24th December 2007 and the subsequent transfer of L.R. No. 7545/3 to Crossley Holdings Limited, finding the sale to be void ab initio. The court also found that the court order relied upon in the auction process had been forged, and that the related court file could not be traced.
12. Subsequent to the Court of Appeal decision, criminal charges were preferred against a Deputy Court Registrar and Crossley Holdings Limited and its directors and employees for conspiracy to defraud and fraudulent acquisition of public property vide Kisumu Chief Magistrates Court Criminal Case No. 429 of 2010. These criminal proceedings remain active.
13. In 2020, the Government invited private investors to submit expressions of interest for leasing of public sugar companies, including Miwani Sugar Company. In response, Crossley Holdings Limited filed a Constitutional Petition at the Environment and Land Court (ELC) at Kisumu (Petition No. 6 of 2020) challenging the Government's intended leasing of the land. On 30th September 2021, the ELC issued judgment in favour of Crossley Holdings Limited, granting it a permanent injunction and an order for possession, and directing Miwani Sugar Company (1989) Limited (In Receivership) to vacate the property within sixty (60) days.
14. Miwani Sugar Company (1989) Limited (In Receivership) has since appealed the ELC decision at the Court of Appeal (Civil Appeal No. E207 of 2021). Both the appeal and the application for stay of execution remain pending determination. As a consequence, there are presently two contradictory court decisions on the ownership of the land: the Court of Appeal (2011) declared the purchase by Crossley Holdings Limited null and void, while the ELC (2021) upheld the same purchase.
15. In February 2024, Crossley Holdings Limited filed an application for contempt of court against the Cabinet Secretary for Agriculture, the Attorney General, the

Agriculture and Food Authority, the County Government of Kisumu, and Miwani Sugar Company (1989) Limited, for failure to comply with the ELC orders. Out-of-court settlement negotiations were subsequently initiated by the Principal Secretary, State Department for Agriculture, and several meetings were held.

16. On 17th December 2024, the Cabinet considered a Cabinet Memorandum on the matter and directed, among other things, that: the Government withdraw the pending appeals relating to ownership of LR 7545/3; Crossley Holdings Limited withdraw its cross-petition for Kshs. 6 billion in mesne profits and its claim for costs; Crossley Holdings Limited cede 2,000 acres (approximately 810 Ha) from the western side of the land for establishment of a Special Economic Zone; and Crossley Holdings Limited cede parcels of land on which public facilities such as the Miwani Police Station, Miwani Hospital, Miwani Primary School, Miwani Market, Church and KPLC are situated.
17. As at the time of the Committee's consideration of this Petition, the proposed consent incorporating the Cabinet directive had been drafted and circulated to all parties but had not been executed by all parties. Only Onsongo & Company Advocates (for Crossley Holdings Limited) had endorsed the consent. The law firms acting for Miwani Sugar Company (1989) Limited (In Receivership) declined to sign the consent, citing legal and ethical reasons. Concerns were also raised by the Agriculture and Food Authority and the County Government of Kisumu.

2.2 Petitioners' Prayers

18. The Petitioners prayed that the National Assembly, through the Departmental Committee on Lands, enquires into the following matters and takes appropriate action-
 - a) Clarification on the classification of the land referred to in the Petition;
 - b) Whether the matter has been reviewed or investigated;
 - c) The determination or recommendations, if any, made on the matter; and
 - d) Any other recommendation or action that may be appropriate in addressing the plight of the Petitioners.

CHAPTER THREE

3.0 STAKEHOLDERS' SUBMISSIONS ON THE PETITION

3.1 The Petitioners

19. The Petitioners, who are residents and stakeholders of Miwani in Kisumu County, were represented in the Committee Meeting by Hon. Caroli Omondi, M.P. who submitted as follows-
20. The land parcel L.R. No. 7545/3 (I.R. 21038) was originally alienated from land occupied by local communities specifically and solely for the purpose of establishing a nucleus estate for Miwani Sugar Mills Limited, as succeeded by Miwani Sugar Company (1989) Limited (In Receivership).
21. The land was acquired using public funds, and Miwani Sugar Company (1989) Limited is a state-owned company that has been in continuous possession of the land and has used it for growing sugarcane since its incorporation until July 2025, when Crossley Holdings Limited purported to take over following the contested ELC ruling.
22. In 1993, Mr. Nagendra Saxena commenced fraudulent proceedings in the High Court and obtained ex parte orders for recovery of a Kshs. 114 million debt. The Petitioners question the authenticity and existence of Mr. Nagendra Saxena, who was never found either in Kenya or abroad despite investigations by multiple government agencies.
23. In December 2007, Crossley Holdings Limited purportedly purchased the land at a public auction for Kshs. 752 million. The Petitioners question the validity of this transaction on grounds that there is no credible evidence as to how or to whom the purchase price was paid, and that the court order relied upon for the auction was a forgery.
24. In 2011, the Court of Appeal nullified the auction and the resultant transfer, holding that the land rightfully belonged to Miwani Sugar Mills Limited and its successor company. Lady Justice Olga Sewe testified that the court order on which the auction was based was a forgery, and that the entire case file could not be traced in the court records. Following this, criminal charges were preferred against the Deputy Court Registrar and Crossley Holdings Limited and its directors for conspiracy to defraud and fraudulent acquisition of public property.

25. Despite the Court of Appeal decision, correspondence from the State Department for Agriculture in April 2025 sought to recognize Crossley Holdings Limited as the owner of the land. The legal representatives of Miwani Sugar Company declined to endorse the proposed consent on legal and ethical grounds, and efforts by residents and stakeholders to safeguard the land have not yielded a satisfactory resolution.
26. The Petitioners urged the Committee to take decisive action to protect and preserve L.R. No. 7545/3 (I.R. 21038) as a public asset and to ensure that the fraudulent acquisition of the land is not legitimized through the proposed consent or any other mechanism.

3.2 State Department for Lands and Physical Planning

27. The Principal Secretary, State Department of Lands and Physical Planning, Hon. Nixon Korir, CBS, submitted a written response dated 16th February 2026 pursuant to the Committee's letter Ref. NA/DDC/LANDS/2026/006 dated 12th February 2026, as follows-
28. According to the records of the State Department, L.R. No. 7545/3 (I.R. No. 21038) was initially registered in favour of Miwani Sugar Mills Limited on 30th December 1965 for a term of 971 years from 1st September 1948. The land is situated North East of Kisumu Municipality in the Central Nyanza District measuring approximately 9,394 acres as delineated on land survey plan number 82003. Upon registration, a charge was registered in favour of Bank of Baroda which was subsequently discharged on 4th August 1970.
29. The property has been charged and discharged severally in favour of different financial institutions over the years. On 27th October 2000 a caveat was registered in favour of Delphis Bank Limited claiming charge's interest. This was followed by a prohibitory order restricting any dealings within the written land. In the year 2007, the caveat by Delphis Bank Limited was withdrawn. On 29th August 2008 all the previous court orders were raised vide Court Order in Civil Suit No. 225 of 1993 dated 24th December 2007.
30. The property was vested to Crossley Holdings Limited vide the same Court Order where it was freed and discharged from all encumbrances. A provisional certificate of title was issued in favour of Crossley Holdings Limited on the same day, being 29th January 2008. The Nyando Land Control Board sanctioned the transfer through a land board consent dated 24th December 2007.

31. A Court Order dated 13th June 2008 was issued maintaining the status quo for 21 days. A decree issued on 15th October 2021 in ELC Kisumu granted an order of permanent injunction stopping all of the respondents from transacting on the land.
32. In response to the question on actions taken by the Ministry in respect of the matter, the PS stated that on 18th September 2008, the Ministry registered a Government caveat under Section 65 Cap 281 restricting further dealings with the land.
33. The PS stated that the other prayers by the petitioner fall outside the purview of the Ministry.
34. The Committee noted the following significant details arising from the submission by the PS Lands-
 - i. The submission confirms that the provisional certificate of title was issued to Crossley Holdings Limited on 29th January 2008, which is only 36 days after the purported auction date of 24th December 2007. This directly corroborates the irregularity identified in the Committee's analysis that the provisional title was issued in 37 days, in violation of the 60-day gazette requirement under Section 71 of the Registration of Titles Act (Cap 281).
 - ii. The submission confirms that the court order relied upon to vest the property in Crossley Holdings Limited and to discharge all encumbrances was the Court Order in Civil Suit No. 225 of 1993 dated 24th December 2007 the very order that the Court of Appeal in 2011 declared to have been founded on void proceedings and that the Court of Appeal further found to have been issued by a Deputy Registrar without jurisdiction.
 - iii. Notwithstanding the Government caveat registered by the Ministry on 18th September 2008 restricting further dealings with the land, the land was subsequently the subject of the ELC proceedings in 2020 which ultimately resulted in an order in favour of Crossley Holdings Limited. The Government caveat does not appear to have been effective in preventing further dealings.

3.3 Kenya Sugar Board

35. The Kenya Sugar Board (KSB) appeared before the Committee pursuant to invitation letters dated 24th February 2026 and 17th March 2026. The Board submitted written responses and made oral presentations addressing the issues raised in the Petition and the Committee's subsequent resolutions.
 36. The Board stated that its interest in the disputed land arises from loans advanced to Miwani Sugar Company (1989) Limited, which were secured through a series of
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- Report of the Departmental Committee on Lands on Consideration of Public Petition No. 28 of 2025 Regarding the Status of Ownership of L.R. No. 7545/3 (I.R. 21038) Forming the Nucleus Estate of Miwani Sugar Mills.*

- debentures registered between 1994 and 2001. Following default by the company, the Board placed the company under receivership in 2001 and appointed a Receiver Manager to safeguard the secured assets, including L.R. No. 7545/3.
37. The Board emphasized that its involvement was therefore strictly tied to its statutory mandate as a secured creditor.
 38. The Board placed the company under receivership and appointed a Receiver Manager to run operations and protect the Board's financial interests.
 39. KSB confirmed that Miwani Sugar Company (1989) Limited (In Receivership) was the registered owner of the land and produced a copy of the original title. However, the Board acknowledged that ownership is **contested**, following the judgment in ELC Petition No. 6 of 2020, which declared Crossley Holdings Limited the owner.
 40. The Board, together with the Ministry of Agriculture, the Receiver Manager and the Attorney General, has filed **Civil Appeal No. E207 of 2021**, which was pending.
 41. Following Justice Ombwayo's ruling of 9th February 2022, the property was **handed over to Crossley Holdings Limited** to purge contempt proceedings.
 42. The Board confirmed that it had **actively participated** in the appeal process challenging the ELC judgment, and that both the appeal and the application for stay remain undetermined.
 43. KSB highlighted the 2011 Court of Appeal decision which condemned the fraudulent auction process and declared the ex parte judgment **void ab initio**. The Board wrote to the Principal Registrar of Titles on **22nd August 2011** requesting cancellation of the provisional title issued to Crossley Holdings Limited. This led to the Chief Land Registrar publishing a **gazette notice of intention to cancel the provisional title**.
 44. Upon receiving the directive to pursue an out-of-court settlement, the Board sought legal advice from its external counsel, Kale Maina & Bundotich Advocates. The advocates recommended a **joint meeting** involving the Attorney General, the Ministry, the Receiver Manager's lawyers and the County Government of Kisumu. Several meetings were held, but the Attorney General's representatives requested **additional time** to deliberate on the proposals.

45. The Board reported that the Receiver Manager's lawyers declined to sign the proposed consent on **legal and ethical grounds**. These concerns were escalated and discussed in subsequent inter-agency meetings and remain unresolved.
46. The Board expressed the view that a Receiver Manager must **seek legal advice** and act in accordance with the law when executive directives conflict with statutory obligations. In this case, the Attorney General was brought in to provide overarching guidance.
47. The Board informed the Committee that the Receiver Manager had obtained all necessary documents to transfer the shares formerly held by Vanessa Associates to the Principal Secretary, National Treasury. However, the transfer has **not been completed** due to ongoing litigation affecting the company.

3.4 Ministry of Agriculture and Livestock Development

48. The Principal Secretary, Ministry of Agriculture and Livestock Development, Dr. Kipronoh Ronoh, PhD, CBS, appeared before the Committee on 24th March 2026 and responded to the Petition as follows-
49. The Government alienated the land for the purpose of establishing a nucleus estate for Miwani Sugar Mills Limited as succeeded by Miwani Sugar Company (1989) Limited (In Receivership). Miwani Sugar Mills ran into financial difficulties in the 1980s and was placed under receivership by its lenders, namely Chase Manhattan Bank and Somen Sokeri.
50. Mr. Nagendra Saxena filed the suit against Miwani Sugar Mills only. However, Miwani Sugar Company (1989) Limited (In Receivership) applied to be enjoined as an interested party and successfully set aside the orders that had attached to the land. Both the High Court (HCC 225 of 1993) and the Court of Appeal (Civil Appeal No. 261 of 2008) declared the proceedings leading to the purchase of the land a nullity.
51. The Court of Appeal declared all proceedings carried out to purchase and acquire the land to be void and a nullity. The criminal case instituted by the Director of Public Prosecutions and the Ethics and Anti-Corruption Commission against Crossley Holdings Limited, its directors and the Deputy Registrar was pursuant to investigations carried out after the purported auction and sale had taken place.
52. Justice A.O. Ombwayo, in a judgment delivered on 30th September 2021, ruled that the land belonged to Crossley Holdings Limited, issued a permanent injunction

Report of the Departmental Committee on Lands on Consideration of Public Petition No. 28 of 2025 Regarding the Status of Ownership of L.R. No. 7545/3 (I.R. 21038) Forming the Nucleus Estate of Miwani Sugar Mills.

stopping the Ministry and Kenya Sugar Board from leasing the land to private entities, and further directed Miwani Sugar Company (1989) Limited (In Receivership) to vacate the property within 60 days. Crossley Holdings Limited subsequently obtained warrants of eviction and filed an application to commit principal officers of the Ministry, Kenya Sugar Board and the State Law Office to civil jail for contempt of court. The Ministry acted in compliance with the court orders to purge the contempt.

53. Miwani Sugar Company (1989) Limited (In Receivership) is the registered owner of L.R. No. 7545/3 (copy of title attached). However, the ownership of the land is in dispute and is subject to a court case, Civil Appeal No. E207 of 2021, which challenges the decision in Kisumu ELC Petition No. 006 of 2020 wherein the Court declared Crossley Holdings Limited as the owner of the property. The said appeal is pending hearing and determination.
54. Regarding the Petitioners' prayer to investigate the existence of Mr. Nagendra Saxena, the Ministry noted that this issue can be well responded to by the Registrar of Persons and the Department of Immigration. Regarding investigations into alleged forgery and fraud, the Ministry noted that this matter can best be addressed by the EACC and the DPP.

3.5 Office of the Attorney General and Department of Justice

55. The Solicitor General, Hon. Shadrack J. Mose, CBS, on behalf of the Office of the Attorney General, submitted a written response to the Committee as follows-
56. Crossley Holdings Limited acquired the disputed land through a highly disputed and contested public auction in 2007. The said public auction was subsequently set aside by the High Court and the Court of Appeal in Civil Suit HCCC 225 of 1993 (Nagendra Saxena vs Miwani Sugar Mills) and Kisumu Civil Appeal No. 261 of 2008 respectively.
57. In or about 2020, the Government invited private investors to submit expressions of interest for leasing of public sugar companies. Miwani Sugar Company was one of the companies placed on advertisement for leasing by the Agriculture and Food Authority. Crossley Holdings Limited petitioned the Environment and Land Court in Kisumu Petition No. 6 of 2020, opposing the inclusion of Miwani Sugar Company in the list of companies placed in the advertisement for leasing.

58. On 30th September 2021, the court issued a permanent injunction in favour of Crossley Holdings Limited, stopping all respondents from selling, leasing, transferring, charging, mortgaging and granting licenses/easements or in any way dealing with the suit property to the detriment of Crossley Holdings Limited. The court further ordered possession of the land to be granted to Crossley Holdings Limited and directed Miwani Sugar Company (1989) Limited (In Receivership) and all the Respondents to vacate the suit property within 60 days.
59. Consequent to this order, Sparknet Auctioneers Services obtained possession of the suit property for Crossley Holdings Limited on 2nd March 2022. It is alleged that goons subsequently caused breach of peace, and political leadership, the Kenya Sugar Cane Growers Association, and the Receiver Managers were adversely mentioned for inciting local communities to resist the eviction.
60. Following instructions from the then State Department for Crops Development and Research, the Office of the Attorney General filed an appeal and an application seeking stay of execution of the ELC judgment. Both the appeal (Civil Appeal No. E207 of 2021) and the application for stay of execution are pending hearing and determination.
61. Since there are no orders of stay, the ELC judgment stands and ought to be complied with in the meantime. The ELC orders include, in part: an order of possession of the land enforceable against all the Respondents; and an order that all the Respondents do vacate the suit property within 60 days.
62. On 20th February 2024, Crossley Holdings Limited filed an application seeking to cite and commit the Cabinet Secretary, Ministry of Agriculture, Livestock & Fisheries, the receiver managers of Miwani Sugar, and other respondents for contempt of court for refusing to implement the ELC judgment.
63. The Permanent Secretary, Ministry of Agriculture, initiated out-of-court settlement negotiations where the principal parties held several meetings and agreed to have a consent recorded settling the matter. Subsequently, a Cabinet Memorandum was prepared and considered by Cabinet on 17th December 2024, which directed as follows-
 - a) That the Government withdraws the pending appeals in relation to the ownership of LR7545/3 (IR.21038) arising from the Judgement of the High Court rendered on 30th September 2021;
 - b) Crossley Holdings Limited withdraws its cross-petition in respect of Ksh. 6 billion in Mesne Profits claim;

- c) Crossley Holdings to abandon its claim against the Government in respect of costs amounting to Kshs. 480,137,610;
 - d) Each party to bear its own costs of litigation in all the various matters in the dispute;
 - e) M/S Crossley Holdings to cede 2,000 acres (approximately 810 Ha) from L.R. 7545/3 (I.R.21038) to be excised from the western side of the land for establishment of a Special Economic Zone (SEZ) and for any other purpose of a public nature as the Government may deem fit, with such portion to be surveyed and registered in favour of the Government;
 - f) Crossley Holdings to further cede all the parcels of land being part of LR 7545/3 (I.R.21038) on which the following public facilities currently stand: Miwani Police Station, Miwani Hospital, Miwani Primary School, Miwani Market, Church and KPLC;
 - g) The Government to meet the cost of survey, submission, registration and issuance of the resultant title deeds to the respective beneficiaries; and
 - h) The Cabinet directed the Cabinet Secretary for Agriculture & Livestock Development, the Cabinet Secretary for the National Treasury & Economic Planning, the Cabinet Secretary for Lands, Public Works, Housing & Urban Development and the Attorney-General to take necessary action.
64. The Office of the Attorney General drafted the Consent along the lines set out in the Cabinet directive and circulated it to all the parties to the suit for their consideration, input and endorsement. The parties are represented as follows: Owiti, Otieno & Ragot Advocates (for the Appellant, Miwani Sugar Company (1989) Limited (In Receivership)); Onsongo & Company Advocates (for the 1st Respondent, Crossley Holdings Limited); Kale Maina & Bundotich, Advocates (for the 3rd Respondent, the Agriculture and Food Authority); Sala & Mudany Advocates (for the 4th Respondent, the County Government of Kisumu); Olendo, Orare & Samba Advocates (for the 5th and 6th Respondents); and the Attorney General (for the 2nd Respondent, the Cabinet Secretary, Ministry of Agriculture, Livestock & Fisheries).
65. As at the date of the submission, only Onsongo & Company Advocates, for Crossley Holdings Limited, had endorsed the consent. The law firm of Owiti, Otieno & Ragot, for Miwani Sugar Company (1989) Limited (In Receivership), indicated they had sought instructions and were awaiting a response from their client. The Attorney General has no problem with the consent if the concerns raised by the respective parties are addressed. The Agriculture and Food Authority indicated concerns and questions on the proposed consent and requested a meeting to discuss the matter further. The County Government of Kisumu and the advocates for the 5th and 6th Respondents had also not yet endorsed the consent, with the 5th Respondent's

advocates indicating the proposed consent did not adequately cater for the community interest being advanced.

66. On 27th May 2025, the Office wrote a letter to the Cabinet Secretary, Ministry of Agriculture, Livestock & Fisheries, impressing upon him the need to reach out to the respective parties to execute the consent and to have the matter resolved amicably.

3.6 Ministry of Lands, Public Works, Housing and Urban Development (Further Submissions)

67. The Principal Secretary, Ministry of Lands, Public Works, Housing and Urban Development, submitted further written responses dated 11th March 2026, addressing three specific questions raised by the Committee. The submission was as follows-
68. **The Court of Appeal Ruling in Civil Case No. 261 of 2008** - The Court of Appeal at Kisumu ruled that the decisions by the Deputy Registrar authorizing the public auction and transfer of Miwani Sugar Mills land to Crossley Holdings Limited were null and void ab initio. However, this judgment was never presented to the Ministry for registration. A later judgment from Constitutional Petition No. 6 of 2020 in the Environment and Land Court (ELC), registered in October 2021, vested the land in Crossley Holdings Limited. The Ministry acknowledged being at a crossroads having registered the more recent ELC decision while the earlier, contrary Court of Appeal ruling, which is superior in judicial hierarchy, was never acted upon. The Ministry stated it is seeking further judicial guidance on how to proceed.
69. **The Existence of Both an Original and a Provisional Title** - The property was vested in Crossley Holdings Limited via a court order in Civil Suit No. 225 of 1993, which directed the issuance of a certificate of title. Since the original title was not surrendered by Miwani Sugar Mills Limited, a provisional certificate of title was issued to Crossley Holdings Limited, resulting in two titles existing simultaneously for the same property. The original deed file (IR 21038) subsequently went missing, necessitating a reconstruction process under the Land Registration Act, supported by a Deed of Indemnity from Crossley Holdings Limited. The Ministry also noted that it could not establish whether any payments were made during the original auction and transfer of the property.

70. **Letter Ref. MOALD/SDCD/LEGAL/18C (April 2025)** - The letter from the Principal Secretary for Agriculture to the Kenya Sugar Board CEO, which sought to

Report of the Departmental Committee on Lands on Consideration of Public Petition No. 28 of 2025 Regarding the Status of Ownership of L.R. No. 7545/3 (I.R. 21038) Forming the Nucleus Estate of Miwani Sugar Mills.

recognize Crossley Holdings Limited as the owner of the land, was not shared with or copied to the Ministry of Lands. The Ministry stated it only became aware of this letter after its previous appearance before the Committee.

71. On the Cabinet settlement of December 2024, the PS stated that the Cabinet, at its 10th Meeting held on 17th December 2024, approved an out-of-court settlement on the following key terms: the Government withdraws its pending appeals; Crossley Holdings withdraws its Kshs. 6 billion Mesne Profits cross-petition and abandons its Kshs. 480 million costs claim; Crossley Holdings cedes 2,000 acres for a Special Economic Zone (SEZ) and Crossley Holdings further cedes land occupied by public facilities including Miwani Police Station, Hospital, Primary School, Market, Church, and KPLC.
72. The PS further stated that pursuant to the settlement, the land was subdivided into L.R. No. 7545/4 (approximately 2,503 Ha) for Crossley Holdings Limited and L.R. No. 7545/5 (approximately 1,215 Ha) for the National Treasury for an industrial park. However, this subdivision was not registered due to ongoing court proceedings, which were ultimately resolved by the ELC constitutional petition decided on 15th October 2021 vesting the entire parcel in Crossley Holdings Limited.
73. The Committee noted the following significant matters arising from this further submission
 - a) The Ministry's frank admission that it registered the ELC judgment of October 2021 while the earlier, superior Court of Appeal judgment of 2011 which declared the acquisition a nullity was never acted upon was of the utmost concern. The Committee noted that this amounts to an admission that the land registration system gave effect to a lower court decision that directly contradicted a binding superior court determination, without any legal basis for doing so.
 - b) The Ministry's confirmation that the original deed file (IR 21038) went missing and had to be reconstructed using a Deed of Indemnity from Crossley Holdings Limited, the same party whose acquisition is under criminal investigation, raises serious questions about the integrity of the land registration process and the custody of public land records.
 - c) The Ministry's admission that it could not establish whether any payments were made during the original auction and transfer further corroborates the

irregularity already identified in the Committee's analysis that no evidence of payment of the Kshs. 752 million has ever been produced.

The Committee is concerned that the letter from the PS Agriculture to the Kenya Sugar Board CEO (April 2025) seeking to recognize Crossley Holdings as the land owner was not shared with the Ministry of Lands, the primary custodian of land registration records. This lack of inter-agency coordination on a matter of such national significance is unacceptable.

3.7 The Judiciary

74. The Chief Registrar of the Judiciary, Hon. Winfridah B. Mokaya, CBS, wrote to the Committee on 23rd March 2026 and submitted as follows-
75. The Judiciary forwarded copies of proceedings, rulings and judgments in the cases listed in the annexed schedule, which relate to the dispute over the land forming the nucleus estate of Miwani Sugar Mills.
76. As is evident in the schedule and the attachments, there are active criminal cases against persons suspected of fraud in the sale of the land in question, as well as an active appeal touching on the ownership of the land. In the circumstances, and in accordance with the sub judice rule, the Judiciary is not able to comment further on the matter.
77. The cases touching on Miwani Sugar Nucleus Estate as submitted by the Judiciary are summarized below-

No.	Case	Summary	Status / Outcome
1.	Kisumu HCCC No. 225 of 1993 – Nagendra Saxena v Miwani Sugar Mills Limited et al	Claim by Nagendra Saxena arising from a consultancy agreement. Application by Miwani Sugar Mills to set aside ex parte judgment.	Ex parte judgment delivered 20 th June 2007. Application to set aside allowed. Court of Appeal (2011) declared proceedings a nullity.
2.	Kisumu Court of Appeal Civil Appeal No. 261 of 2008 – Nagendra Saxena	Appeal against High Court ruling dismissing the ex parte judgment and the auction.	Judgment dated 29th July 2011 – Appeal dismissed. Court of Appeal holds Crossley was not

Report of the Departmental Committee on Lands on Consideration of Public Petition No. 28 of 2025 Regarding the Status of Ownership of L.R. No. 7545/3 (I.R. 21038) Forming the Nucleus Estate of Miwani Sugar Mills.

	v Miwani Sugar Co. (1989) Ltd et al	Application for stay pending appeal.	the rightful owner; the auction was void.
3.	Kisumu Civil Appeal No. 112 of 2015 – Miwani Sugar Mills Ltd v Crossley Holdings Ltd et al	Appeal from ruling on 15th October 2015 dismissing application seeking cancellation of titles.	Judgment dated 3rd April 2020 – Appeal dismissed. CoA directs Miwani to file matter at the ELC.
4.	Kisumu ELC Constitutional Petition No. 6 of 2020 – Crossley Holdings Ltd v CS Agriculture et al	Constitutional petition opposing Government leasing of Miwani Sugar Company. Claim for possession and orders against respondents.	Judgment dated 30th September 2021 – Court finds Crossley is the rightful owner; orders possession and eviction within 60 days. Appeal pending.
5.	Kisumu Civil Appeal Application E207 of 2021 – Miwani Sugar Co. (1989) Ltd v Crossley Holdings Ltd et al	Appeal against ELC judgment (Petition No. 6 of 2020). Application for stay of execution pending appeal.	Appeal still pending. Application for stay – Ruling dated 29th September 2008 – Declined to transfer to Nairobi.
6.	Milimani High Court Commercial Case 459 of 2008 – Crossley Holdings Ltd v Nagendra Saxena et al	Suit sought declaration that it was a bonafide purchaser and orders of possession.	Ruling dated 19th February 2016 – The suit was dismissed for want of prosecution.
7.	Kisumu CM's Criminal Case No. 429 of 2010 – DPP/EACC v Crossley Holdings et al	Charges of conspiracy to defraud and fraudulent acquisition of public property against Crossley Holdings Limited, its directors and the Deputy Court Registrar.	Case pending. Charged on 22nd September 2010. Prosecution ongoing.
8.	Kisumu High Court Misc. Application No. 12 of 2010 – Crossley Holdings Ltd v DPP et al	Judicial review challenging decision to charge the respondents. Sought certiorari orders.	Judgment dated 18th May 2012 – High Court quashed the charges. Court of Appeal (Civil Appeal Nos. 1 & 2 of 2013) allowed appeal on 21st April 2016 – charges to continue.
9.	Kisumu Civil Appeal Nos. 1 & 2 of 2013 –	Appeal by DPP and EACC against High	Judgment dated 21st April 2016 – Court allowed appeal, thereby

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|-----|--|--|--|
| | KACC/DPP v Crossley Holdings et al | Court quashing of criminal charges. | allowing the charges against Crossley Holdings to continue. |
| 10. | Milimani Constitutional Petition 181 of 2016 – Abdulkadir Athman Salim Elkindy v DPP et al | Petition challenging prosecution, together with 8 others in Kisumu Chief Magistrates Case No. 429 of 2010. | Judgment dated 25th July 2017 – Petition dismissed. Charges to continue. |

3.8 National Land Commission

78. The National Land Commission (NLC), through its Secretary/CEO, Ms. Kabale Tache Arero, MBS, submitted a written response to the Committee dated 25th March 2026 as follows-
79. The Commission's position is that the land was initially classified as private land and was owned by Miwani Sugar Mills Limited. However, the current ownership status and registration particulars can best be confirmed by the State Department for Lands and Physical Planning, being the custodian of land registration records.
80. The Commission makes reference to the submission by the Principal Secretary, State Department for Lands and Physical Planning, which indicated that Crossley Holdings Limited secured a provisional title pursuant to a court order issued in Civil Suit No. 225 of 1993, on account of the original title for the property being untraceable at the time. The submission further confirmed that Miwani Sugar Mills Limited is in possession of the original title.
81. In light of the foregoing, it is the Commission's position that, where the original title is available, the provisional title ought to be surrendered to the Chief Land Registrar for appropriate action. Any liability arising in relation to the provisional title should be borne by Crossley Holdings Limited.
82. On whether the matter has been reviewed or investigated, the Commission drew the Committee's attention to a matter that had been previously considered by the Commission as a historical land injustice under file reference number NLC/HLI/076/2017. The claimant, Nandi Royal Trust, claimed that British Colonialists had invaded their land at Emet of Soin, Tinderet, Ketbarak and Keben, displacing them and bringing in Europeans and Indian Settlers, and had created a

Report of the Departmental Committee on Lands on Consideration of Public Petition No. 28 of 2025 Regarding the Status of Ownership of L.R. No. 7545/3 (I.R. 21038) Forming the Nucleus Estate of Miwani Sugar Mills.

district known as Kisumu/Londiani in 1921. They claimed compensation from the British Government for loss of land, livestock and human life.

83. The Commission, after reviewing the case, made a finding that the claim is premised on a boundary dispute between Nandi and Kisumu Counties and proceeded to recommend that the claim be dismissed and that the claimants await the establishment of the Independent County Boundaries Commission as was then proposed under the County Boundaries Bill, 2015. The determination was gazetted on 1st March 2019. The Commission noted that Parliament is yet to pass the County Boundaries Bill into an Act of Parliament.

3.9 Directors of Crossley Holdings Limited

84. The Directors of Crossley Holdings Limited, Mr. S.S. Chatte and Mr. Buggar Singh, appeared before the Committee on 25th March 2026. Mr. Chatte made submissions on behalf of the Directors as follows-
85. He and Mr. Buggar Singh are directors of Crossley Holdings Limited and were directors in the year 2007. He further disclosed that he is also a director in Kibos Sugar and Allied Industries.
86. His company acquired the parcel of land at a public auction in Kisumu in 2007 for a total sum of Kshs. 752 million. He submitted a copy of the advertisement for the auction and the provisional land title.
87. His company had borrowed money from other companies to pay for the land and later repaid all the loans. He submitted that the payment for the auction was paid to the lawyer who represented Nagendra Saxena in court and that the money was also paid to Nagendra Saxena in India.
88. Nagendra Saxena is personally known to him. He stated that Mr. Saxena was a financial advisor to Miwani Sugar Mills and is from India.
89. He could not explain the anomalies on the entries on the gazette notice for reconstruction of land records, the provisional title of the land, and documents from the Nyando Land Control Board, since as a land owner he is not directly involved in the preparation of government documents.

90. As a patriotic citizen, he was willing to give part of the land for the establishment of a Special Economic Zone and to continue hosting all government infrastructure that were on the land, provided that the process was done procedurally as per the law.
91. His company had invested heavily in agricultural activities on the land and had cultivated 4,000 acres of the land and employed 700 local residents. He invited the Committee to visit the land to witness the development and interact with staff.
92. His life and property have been threatened previously by local communities.
93. The Committee made the following observations following the appearance of the Directors of Crossley Holdings Limited-
 - a) The written response submitted by Crossley Holdings Limited was not comprehensive and was signed by the Company's advocates as opposed to the directors themselves.
 - b) The land in question was subject to multiple court cases and pending appeals, illustrating the complexity and prolonged litigation surrounding its ownership.
 - c) One of the brothers of the Director of Crossley Holdings Limited worked at Miwani Sugar Company (1989) Limited (In Receivership) and is a director of Kibos Sugar and Allied Industries. This connection raises concerns about conflicts of interest in the acquisition and subsequent litigation.
 - d) The provisional title of land issued to Crossley Holdings Limited was obtained through falsification of the records for reconstruction and was issued before the expiry of the legally required notice period. This is corroborated by the submissions of the PS Lands confirming the title was issued on 29th January 2008, only 36 days after the auction date of 24th December 2007, in violation of the 90-day statutory requirement.
 - e) Crossley Holdings Limited did not provide evidence of the auction and payment to either Nagendra Saxena or the Government, despite being directed by the Committee to do so.
94. The Committee resolved that the Directors of Crossley Holdings Limited submit evidence of the transaction of the auction, including bidding details and evidence of payment to either Mr. Nagendra Saxena or the Government which was not provided.

3.10 Analysis of Irregularities Identified during Consideration of the Petition

Report of the Departmental Committee on Lands on Consideration of Public Petition No. 28 of 2025 Regarding the Status of Ownership of L.R. No. 7545/3 (I.R. 21038) Forming the Nucleus Estate of Miwani Sugar Mills.

95. During the Committee's consideration of the Petition, a comprehensive analysis of the irregularities were identified across the proceedings relating to the ownership of L.R. No. 7545/3 (I.R. 21038).
96. The analysis identified nineteen (19) specific irregularities spanning the period from 1989 to 2026, as set out in the matrix below.

No.	Year	Issue	Irregularity Identified
1	1989 to date	Shareholding of Miwani Sugar (1989) Limited	The transfer of 1,071,000 shares of Vanessa Associates Incorporated to the National Treasury has never taken place, meaning the company cannot be termed a fully public company from 9th June 1989. On BRS records, the PS National Treasury owns only 1,029,000 shares that translates to 49%.
2	2007	Date of Auction	The auction purportedly took place on 24 th December 2007 on Christmas Eve.
3	2007	Kshs. 752 Million Payment	No evidence of payment produced by the Directors of Crossley Holdings Limited. No trace of funds from the High Court, the Registrar of the High Court, or the National Treasury.
4	2010	Kisumu CM's Criminal Case No. 429 of 2010	Directors of Crossley Holdings are facing charges for fraud arising from the sale by auction of Miwani Sugar Land at the conclusion of Kisumu High Court Civil Case No. 225 of 1993.
5	2011	Kisumu HCCC No. 225 of 1993 – Procedural Irregularities	The plaintiff did not pay the required court fee when first filing the case in 1993. Court summons expired after 24 months and were not renewed for 14 years. The plaintiff asked a Deputy Registrar (without jurisdiction) to extend the summons without notifying the other side. A default judgment was entered on the same day it was requested. The plaintiff confirmed the auction sale on the very day of the auction. The plaintiff's lawyer sent a threatening notice to the Land Registrar to comply with orders that were themselves void. The Deputy Registrar made several

Report of the Departmental Committee on Lands on Consideration of Public Petition No. 28 of 2025 Regarding the Status of Ownership of L.R. No. 7545/3 (I.R. 21038) Forming the Nucleus Estate of Miwani Sugar Mills.

No.	Year	Issue	Irregularity Identified
			consequential decisions (extending time, entering judgment, approving costs, confirming sale) that he had no power to make.
6	2011	Finality of Court of Appeal Judgment	The 2011 Court of Appeal judgment is binding and has never been appealed to the Supreme Court.
7	2011	Forged Court Order Allegations	Lady Justice Olga Sewe testified that the original case file was missing and the order was forged.
8	2011	Deputy Registrar's Jurisdiction	The Deputy Registrar re-issued summons without jurisdiction. Proceedings for the auction were declared irregular by Hon. Mrima J.
9	2011	Provisional Title Irregularities	The provisional title was issued in 37 days, yet Section 71 of the Land Registration Act requires a 90-day gazette notice period.
10	2011 to date	Nagendra Saxena's Existence	EACC, DCI and the Department of Immigration were unable to trace the person either in Kenya or India.
11	2013	Kisumu Civil Appeal Nos. 1 & 2 of 2013	Directors of Crossley Holdings are facing charges for fraud. The Court of Appeal held that the judge had no basis for quashing the DPP's decision to charge the respondents, thereby allowing the charges to continue.
12	2017	Milimani Constitutional Petition 181 of 2016	The petition to halt the prosecution was dismissed. Charges to continue.
13	2020	Kisumu ELC Constitutional Petition No. 6 of 2020	The Environment and Land Court (High Court) overturned the 2011 Court of Appeal finding. The ELC ignored submissions from AFA Corporation stating it was in possession of the title to the land. The ELC declared the Directors of Crossley Holdings as the rightful owners notwithstanding the pending fraud charges.

No.	Year	Issue	Irregularity Identified
14	2022	Letter from Attorney General to State Dept of Interior	The AG recommended compliance with the ELC court order (Petition No. 6 of 2020) notwithstanding that the Directors of Crossley Holdings are facing fraud charges. The AG filed an application to set aside the judgment but did not certify the application as urgent.
15	2022	Kisumu Civil Application E207 of 2021	Ruling dated 18th March 2022 referred the application for amendment of the Notice of Appeal to a single Judge for determination. Appeal is still pending.
16	2026	Submission from State Dept of Lands and Physical Planning	No records of court proceedings from 2007 to 2020 were available, despite the digitization of judiciary records.
17	2026	Submission from State Dept of Agriculture	The PS Agriculture had the title to the land and requested advice from the Attorney General on that basis. The AG advised the PS to enter into a consent even though the PS asserted ownership of the land and possession of the title. The PS was also advising the Kenya Sugar Board to enter into a consent on behalf of Miwani Sugar (1989) Limited.
18	2026	Submission from Kenya Sugar Board	The Board is not fully constituted. The Acting MD was making unilateral decisions on behalf of the Board; has suspended one of the Receiver Managers of Miwani Sugar; holds the title to the land; and was proceeding to enter into a consent on behalf of Miwani Sugar (1989) Limited.
19	2025	Cabinet Memorandum v. Court Order	The Executive attempted to settle the matter through a Cabinet directive contrary to the judicial determination by the Court of Appeal in 2011, which declared the purported purchase a nullity.

CHAPTER FOUR

4.0 SUBMISSIONS DURING THE FACT-FINDING VISIT BY THE COMMITTEE

97. The Committee conducted a fact-finding visit to the Miwani Sugar Company premises, Miwani, Kisumu County, on 10th April 2026. The Committee was accompanied by the host Member, Hon. James Onyango Koyoo, MP, Muhoroni Constituency, Kisumu County.
98. During the visit, the Committee received oral and written submissions from a number of stakeholders as set out hereunder.

4.1 Kenya Sugarcane Growers Association (KESGA) and Representatives of the Miwani Community

99. The Kenya Sugarcane Growers Association (KESGA), through its Secretary, Mr. Richard Ogendo, submitted on behalf of KESGA and Representatives of the Miwani Community as follows-
100. The Miwani Sugar land dispute represents a clear case of judicial determination being undermined, community land rights being threatened, and legal processes being abused. Despite the dismissal of the purported purchase of Miwani land by Crossley Holdings through court proceedings, Crossley has continued to re-litigate the matter and has forcefully occupied the land under a questionable consent order to which the community was not a party. KESGA called for urgent parliamentary intervention to restore the rule of law and protect the Miwani people from dispossession.
101. On the litigation position, KESGA submitted that the courts dismissed and/or nullified the Crossley claim, effectively invalidating the alleged purchase, such that no lawful proprietary interest accrued to Crossley Holdings. Notwithstanding this, Crossley has continued filing fresh applications and proceedings (forum shopping) relied on an alleged consent order entered without participation or representation of the Miwani community or KESGA; and proceeded to occupy and assert control over the land. KESGA submitted that this constitutes a de facto override of court determinations through procedural maneuvering.
102. On constitutional and statutory violations, KESGA raised concerns under Article 63 (Community Land Rights), Article 60 (National Land Policy Principles), Article 40 (Protection from Arbitrary Deprivation), and the Community Land Act 2016, which requires community participation and consent in any dealings involving community

land. Any agreement, consent, or transaction excluding the community is legally defective and voidable.

103. On key governance and rule of law issues, KESGA identified: the undermining of judicial finality through indirect revival of a dismissed claim; abuse of court process through repetitive litigation and consent orders excluding key stakeholders; illegal occupation through entry and control of land without valid title; and the exclusion of the community from decisions affecting Miwani land.
104. KESGA submitted that the Miwani Sugar belt supports thousands of farmers and households. The dispute has stalled agricultural productivity, increased poverty and insecurity, and created tension and risk of conflict. KESGA warned that failure to resolve this matter fairly will be seen as state-sanctioned dispossession of a vulnerable rural community.

4.2 Miwani Community (Obora Okoth and Eng. Ondis, for and on behalf of the Miwani Community)

105. Obora Okoth and Eng. Ondis submitted a memorandum on behalf of the Miwani Community dated 10th April 2026 as follows-
106. The Miwani Community's claim to the land is rooted in history and heritage. The community has occupied the Kano Plains area since time immemorial. In 1906, Paramount Chief Kitoto Obuon Chama of Sidho Clan entered into an agreement with the British East Africa Protectorate extending white settlement areas, and the community was required to give way for white settlers. In 1909, the Kavirondo Nyanza PC ruled that the local community below the escarpment had the right to occupy that land. The Community's efforts to have the British Colonial Empire return the land after the expiry of the 99-year lease did not succeed; the British High Commission responded in August 2013 that all colonial liabilities passed to the Kenyan Government on independence and that any concerns regarding land ownership should be directed to the Kenyan authorities.
107. The Community has sought interventions through the IIEBC, the Kibunja Commission, the Obwocha Commission, and the National Land Commission on various occasions, without tangible redress. The Community submitted ten specific demands, including: that the NLC return to Miwani and subdivide the land to the rightful owners; that the community be allowed immediate use of ancestral land; that

*Report of the Departmental Committee on Lands on Consideration of Public Petition No. 28 of 2025
Regarding the Status of Ownership of L.R. No. 7545/3 (I.R. 21038) Forming the Nucleus Estate of
Miwani Sugar Mills.*

communities whose crops have been destroyed be compensated; that an investigation be undertaken into who handed Miwani Sugar Mills to Kibos Sugar Mills; that the structure symbolising the SEZ location be removed immediately; that the Ministry of Agriculture withdraw the allocation of Miwani land to Crossley Holdings Limited; that the deployment of the RDU in Miwani nucleus be investigated; that arbitrary arrests in Chemursoi be stopped; and that those who have persecuted community members be prosecuted.

108. The Community concluded by urging the Committee to resolve the matter once and for all, noting that they had seen for themselves the carcass of what was once a giant lifeline for the Miwani Community. The Community expressed gratitude to Hon. James Onyango Koyoo for facilitating the visit.

4.3 Kenya National Federation of Sugarcane Farmers (Miwani Branch) and Miwani Squatters CBO

109. The Kenya National Federation of Sugarcane Farmers (Miwani Branch) Secretary and the Chairman of Miwani Squatters CBO (Serial No. 04166), Mr. Kimnetich Chepkwony, submitted as follows-

110. The farmers raised serious concerns about the deployment of the Rapid Deployment Unit (RDU) in Miwani, questioning whether the RDU was deployed to protect the private interests of Crossley Holdings Limited or to ensure public order. They reported that in Chemursoi five farmers were arrested and are in court, while in Kimwani-Chemelil three people were killed and many others were injured by the RDU.

111. The farmers demanded that Crossley Holdings Limited stop its operations within the Miwani nucleus farm until the truth is fully revealed; that the Government return the land to the community as originally intended; that all activities be halted pending full and truthful resolution; that an explanation be provided for why Miwani workers have not been paid their salaries since February 2025; and that justice be delivered for the Miwani farmers without further delay.

4.4 Post and Pre-Receivership Miwani Sugar Company (1989) Ltd Workers

112. The post and pre-receivership Miwani Sugar Company (1989) Ltd workers submitted a petition dated 10th April 2026 as follows-

Report of the Departmental Committee on Lands on Consideration of Public Petition No. 28 of 2025 Regarding the Status of Ownership of L.R. No. 7545/3 (I.R. 21038) Forming the Nucleus Estate of Miwani Sugar Mills.

113. The employees who worked in the receivership until the forceful take-over by Crossley Holdings Limited in June 2025 submitted that the take-over was un-procedural and contravened the Labour Laws. The employees' union was not served with any redundancy notice and neither was the Labour Officer served with any notice of intended redundancy not less than a month prior to the date of the intended termination, in violation of Section 40 of the Employment Act.

114. The employees' claims arising from the unlawful termination of ninety-three (93) employees are as follows-

- a) Damages for unlawful termination: Kshs. 49,465,900.08;
- b) Severance pay: Kshs. 55,103,451;
- c) Arrears on salary increment: Kshs. 5,777,976;
- d) Payment in lieu of notice: Kshs. 4,122,164.34;
- e) Claim on leave days: Kshs. 2,214,914; and
- f) Salary arrears for March, April, May and June 2025: Kshs. 5,500,242.

115. The total claim by the ninety-three (93) employees amounts to Kshs. 116,193,647.42. The pre-receivership workers also raised the plight of former workers who suffered without payments from as far back as 1988, with some having since died without compensation.

4.5 Former Miwani Sugar Company (1989) Ltd Workers in Receivership

116. Former Miwani Sugar Company (1989) Ltd workers in receivership submitted a petition as follows—

117. The workers submitted that Miwani Sugar Company (1989) Ltd went into receivership together with Muhoroni Sugar Company under one receiver. While farmers and transporters who delivered cane to the factory were paid, the workers were completely sidelined with no arrangement for payment of their dues. The receivers decided to operationalize Muhoroni Sugar at the expense of Miwani, taking machinery from Miwani to Muhoroni.

118. The workers documented a lengthy history of efforts to obtain their dues spanning from December 2007 to August 2024, including correspondence through the Kenya Union of Sugar Plantation and Allied Workers, the Kenya Sugar Directorate, and the

AFA, all without any tangible response. The tabulated figure of dues from the workers union as at 18th December 2007 alone amounted to Kshs. 87 million. The workers appealed to the Committee for assistance in getting their final dues, noting that the ninety days' unpaid leave provision has been running for almost twenty-three years.

4.6 Kabar, Sidho, Kamagaga and Miwani Juakali Communities

119. Representatives of the Kabar, Sidho, Kamagaga and Miwani Juakali communities within Kisumu County submitted a memorandum dated 10th April 2026 as follows-

120. The communities noted that when Miwani Sugar Mills was put under receivership in 1989, this led to the loss of employment for employees and other service providers, the collapse of the local business economy, and increased insecurity in the area.

121. On achievements by Crossley Holdings Limited since assuming operational control, the communities noted: the establishment of a weighbridge at the factory, resulting in reduction of transport costs, increased productivity, and improved cane delivery efficiency; provision of agricultural inputs and other cane development services to farmers; and prompt weekly payments to farmers for cane delivered.

122. The communities submitted that, regardless of the ownership dispute, the revival of sugarcane milling operations at Miwani was critical for the livelihoods of thousands of farmers in the surrounding communities. They urged the Committee to find a way forward that ensures the revival of the Miwani Sugar factory and the restoration of livelihoods for the affected communities.

CHAPTER FIVE

5.0 COMMITTEE OBSERVATIONS

123. The Committee considered and analysed the submissions that were tabled and made the following observations relating to the prayers in the Petition.

Prayer (i) Establish ownership status of LR No. 7545/3 and protect the public assets

124. The land parcel L.R. No. 7545/3 (I.R. 21038) comprising approximately 9,394 acres, was originally alienated from land owned and occupied by local communities solely for the purpose of establishing a nucleus estate for Miwani Sugar Mills Limited, as succeeded by Miwani Sugar Company (1989) Limited (In Receivership). The land was acquired using public funds for a public purpose, and Miwani Sugar Company (1989) Limited (In Receivership) is the registered owner of the original title.

125. Miwani Sugar Mills Limited was incorporated in **1922** as a sugar milling company operating in Kisumu County. The company was registered as a private limited company on **29th March 1965**. In **1988**, the company experienced financial difficulties, and its secured creditors placed it under receivership. The secured creditors included Chase Manhattan Bank, Bank of Baroda and Cultor Limited, formerly known as Finnish Sugar Company Limited. The Kenya Sugar Board advanced a loan to Miwani Sugar Company Limited. Miwani Sugar Mills Limited defaulted on repayment of the loan and Kenya Sugar Board appointed a receiver manager to run the operations of the Company.

126. On **13th April 1989**, the Government of Kenya, through Treasury (Incorporated), acquired one hundred per cent shareholding in Miwani Sugar Mills Limited. On **9th June 1989**, the Government incorporated Miwani Sugar Company (1989) Limited as a public entity. The land parcel L.R. No. 7545/3 (I.R. 21038), comprising approximately 9,394 acres was part of the property owned incorporated Miwani Sugar Company (1989) Limited and was secured by the Kenya Sugar Board through the issue of debentures of Kshs. 40 million on 28th June 1994, Kshs. 20 million on 2nd January 1996, Kshs. 130 million on 19th November 1997 and Kshs. 140 million on 22nd January 2001. Information presented to the Committee indicated that the transfer of 1,071,000 shares held by Vanessa Associates Incorporated to the National Treasury was never completed. The records placed before the Committee indicated that the Principal Secretary to the National Treasury remained reflected as holding 1,029,000 shares. In March 2001, the company was again placed under receivership.

127. On **28th June 1993**, in the case of Kisumu High Court Civil Case No. 225 of 1993, Nagendra Saxena v Miwani Sugar Mills Limited & Others, the Committee observed that Nagendra Saxena filed a claim arising from a consultancy agreement with Miwani Sugar Mills Limited. The Committee observed that Nagendra Saxena alleged that he had completed the consultancy assignment and submitted his report in November 1987 but payment of the agreed contractual sum of USD 400,000 was not made. The Committee observed that Nagendra Saxena filed suit seeking payment of USD 400,000 together with interest at twenty per cent commercial rates. The Committee

also observed that Nagendra Saxena obtained an award to recover a debt amounting to Kshs. 114 million against Miwani Sugar Company (1989) Limited.

128. On **20th June 2007**, in the case of Kisumu High Court Civil Case No. 225 of 1993, Nagendra Saxena v Miwani Sugar Mills Limited & Others, the Committee observed that the High Court:

- (a) entered an ex parte judgment in favour of Nagendra Saxena.
- (b) awarded Nagendra Saxena USD 400,000 together with interest at twenty per cent per annum.

129. On **24th December 2007**, in the case of Kisumu High Court Civil Case No. 225 of 1993, Nagendra Saxena v Miwani Sugar Mills Limited & Others, the Committee observed that

- (a) a public auction of the disputed land was conducted pursuant to the ex parte judgment.
- (b) the High Court issued an order directing the Registrar of Titles to transfer the title to Crossley Holdings Limited following the sale by auction in execution of the decree.
- (c) the auction took place on Christmas Eve and that Crossley Holdings Limited paid Kshs. 752 million for the property.

125. On **13th June 2008**, in the case of Kisumu High Court Civil Case No. 225 of 1993, Nagendra Saxena v Miwani Sugar Mills Limited & Others, the Committee observed that Miwani Sugar Company filed an application seeking to set aside the ex parte judgment and Mwera J ruled that the ex parte judgment was void because it had been founded on expired summons that a Deputy Registrar had extended without jurisdiction.

126. On **22nd September 2010**, in the case of Kisumu Chief Magistrate's Criminal Case No. 429 of 2010, the Director of Public Prosecutions and Ethics and Anti-Corruption Commission v Crossley Holdings Limited & Others, the Committee observed that Crossley Holdings Limited, its directors, and other persons were charged with conspiracy to defraud and fraudulent acquisition of property arising from the sale by auction of Miwani Sugar land following the conclusion of Kisumu High Court Civil Case No. 225 of 1993.

127. On **29th September 2010**, in the case of Kisumu High Court Miscellaneous Application No. 12 of 2010, the Committee observed that Crossley Holdings Limited filed a judicial review application challenging the criminal charges in Kisumu Chief Magistrate's Criminal Case No. 429 of 2010 and the High Court granted orders quashing the decision of the Director of Public Prosecutions to charge Crossley Holdings Limited and prohibiting the prosecution.

128. On **29th July 2011**, in the case of Kisumu Civil Appeal No. 261 of 2008, Nagendra Saxena v Miwani Sugar Company (1989) Limited & Others, the Committee observed that the Court of Appeal dismissed the appeal and held that the proceedings leading to the auction and transfer of the property were a nullity ab initio, on the grounds that:

- (1) Nagendra Saxena did not pay the required court filing fees when he filed the case in 1993.
- (2) the court summons expired after twenty-four months and were not renewed for fourteen years.
- (3) the Deputy Registrar allowed new summons to be issued in 2007, fourteen years after the commencement of the case.
- (4) the Deputy Registrar extended time, entered judgment, approved costs, and confirmed the sale without jurisdiction.
- (5) the plaintiff obtained a default judgment on the same day he requested it.
- (6) the plaintiff confirmed the auction sale on the same day the auction took place.
- (7) Lady Justice Olga Sewe testified that the original court file was missing and that the court order relied upon during the auction process was forged. The Committee observed that the Court of Appeal judgment became final and binding because the Court of Appeal was the final court of adjudication under the previous Constitution.
- (8) no appeal had been filed before the Supreme Court.
- (9) the Supreme Court came into existence on 23rd June 2011 and that the Environment and Land Court came into existence on 30th August 2011.

129. On **21st April 2016**, in the case arising from Kisumu High Court Miscellaneous Application No. 12 of 2010 concerning the quashing of charges against Crossley Holdings Limited and its directors, the Committee observed that the Director of Public Prosecutions and the Ethics and Anti-Corruption Commission filed an appeal against the decision of the High Court. The Committee observed that the Court of Appeal

- (1) held that the High Court had no basis for quashing the decision of the Director of Public Prosecutions to charge the respondents.
- (2) allowed the appeal and directed that the criminal charges should proceed.

130. On **25th July 2017**, in the case of Milimani Constitutional Petition No. 181 of 2016, Abdulkadir Athman Salim ElKindy v Director of Public Prosecutions & another [2017] KEHC 9125 (KLR), the Committee observed that

- (1) Hon. Abdulkadir Athman Salim El Kindy filed a petition challenging his prosecution together with eight other persons in Kisumu Chief Magistrates Criminal Case No. 429 of 2010.
- (2) the charges related to conspiracy to defraud contrary to section 317 of the Penal Code and arose from the reinstatement of summons to enter appearance and the issuance of the ex parte judgment.
- (3) the High Court dismissed the petition and directed that the criminal proceedings should continue.

131. In **2020**, in the case of ***Kisumu ELC Constitutional Petition No. 6 of 2020, Crossley Holdings Limited v Cabinet Secretary Ministry of Agriculture, Livestock and***

Fisheries & Others, the Committee observed that Crossley Holdings Limited filed a constitutional petition challenging the proposed leasing of Miwani Sugar Company following an invitation for expressions of interest issued by the Government for the leasing of public sugar companies. on **30th September 2021** the Environment and Land Court delivered judgment in favour of Crossley Holdings Limited in which it declared Crossley Holdings Limited the rightful owner of the suit property, restrained further dealings with the land, and directed Miwani Sugar Company (1989) Limited (In Receivership) and other respondents to vacate the property within sixty days. **The Committee observed that the 2021 High Court judgment differed from the earlier 2011 Court of Appeal judgment which had declared the auction and transfer null and void ab initio.**

132. In **2021**, in the case of Kisumu Civil Appeal Application E207 of 2021 and **Miwani Sugar Company (1989) Limited (In Receivership) v Crossley Holdings Limited & 6 Others**, the Committee observed that Miwani Sugar Company (1989) Limited filed proceedings to challenge the judgment of the Environment and Land Court delivered on **30th September 2021** and that the appeal remained pending at the time the Committee considered the matter.
133. On **30th May 2022**, the Committee observed that the Director of Public Prosecutions withdrew the criminal charges against Ian Gikoi Maina, John Gitau Maina Kimani, Odongo Phillips Kabata, Moses Nyabura Osewe, Abdul Salim ElKindly and Crossley Holdings Limited and its directors in Kisumu Chief Magistrate's Criminal Case No. 429 of 2010.
134. In **February 2024** Crossley Holdings Limited filed contempt proceedings against Government officials and other parties on allegations of non-compliance with the Environment and Land Court judgment.
135. The Ministry of Agriculture and Livestock Development initiated out of court settlement discussions which culminated in a Cabinet Memorandum that was considered on **17th December 2024**. The Cabinet directed the withdrawal of pending appeals relating to the ownership dispute and also directed Crossley Holdings Limited to withdraw claims relating to mesne profits and costs. The Committee further observed that the Cabinet approved the ceding of portions of the land for the establishment of a Special Economic Zone and other public facilities.
136. The Committee also observed that it received submissions from the State Department for Lands and Physical Planning, the State Department for Agriculture, the Kenya Sugar Board, and the Office of the Attorney General and Department of Justice concerning the pending consent, custody of original title documents, the status of the appeal, and governance arrangements at the Kenya Sugar Board.
137. The Committee noted with concern that the submissions raised issues regarding the availability of records relating to court proceedings conducted between **2007 and 2020** within the State Department for Lands and Physical Planning and the administration of Miwani Sugar Company (1989) Limited (In Receivership) pending determination of the ongoing court proceedings.

136. There are two court decisions on the ownership of L.R. No. 7545/3 (I.R. 21038) with findings that cannot be reconciled. The two judgments are **contradictory** on the validity of the auction and title. The Court of Appeal (2011) declared the *ex parte judgment* that was the basis of the auction was null and void. The ELC judgment (2021) held that Crossley Holdings Limited had title to L.R. No. 7545/3 (I.R. 21038), confirmed payment of Kshs. 752 million to the decree holder, and declared Crossley a bona fide purchaser for value.

137. The Committee identified **fourteen (14)** specific irregularities in the proceedings relating to the purported acquisition of the land by Crossley Holdings Limited, spanning the period 1989 to 2026, that are reproduced below:

- I. On **29th July 2011**, in the case of Kisumu Civil Appeal No. 261 of 2008, Nagendra Saxena v Miwani Sugar Company (1989) Limited & Others, the Committee observed that the Court of Appeal dismissed the appeal and held that the proceedings leading to the auction and transfer of the property were a nullity ab initio, on the grounds that:
 - (a) Nagendra Saxena did not pay the required court filing fees when he filed the case in 1993.
 - (b) the court summons expired after twenty-four months and were not renewed for fourteen years.
 - (c) the Deputy Registrar allowed new summons to be issued in 2007, fourteen years after the commencement of the case.
 - (d) the Deputy Registrar extended time, entered judgment, approved costs, and confirmed the sale without jurisdiction.
 - (e) the plaintiff obtained a default judgment on the same day he requested it.
 - (f) the plaintiff confirmed the auction sale on the same day the auction took place.
 - (g) Lady Justice Olga Sewe testified that the original court file was missing and that the court order relied upon during the auction process was forged. The Committee observed that the Court of Appeal judgment became final and binding because the Court of Appeal was the final court of adjudication under the previous Constitution.
 - (h) no appeal had been filed before the Supreme Court.
 - (i) the Supreme Court came into existence on 23rd June 2011, and the Environment and Land Court came into existence on 30th August 2011.

138. The Committee examined the chronological sequence of events surrounding the purported auction, court orders, and the issuance of the provisional certificate of title for L.R. No. 7545/3 (I.R. 21038) and observed five irregularities relating to the court order, the auction, and the land board consent.

- a) **On the matter of the auction conducted on Christmas Eve, that is, on 24th December 2007**, the Committee observed that the public auction at

*Report of the Departmental Committee on Lands on Consideration of Public Petition No. 28 of 2025
Regarding the Status of Ownership of L.R. No. 7545/3 (I.R. 21038) Forming the Nucleus Estate of
Miwani Sugar Mills.*

which Crossley Holdings Limited purportedly purchased the land took place on **24th December 2007**. The Committee observed that this date is Christmas Eve, a public holiday when normal court and government business is not ordinarily conducted. No explanation was provided as to why the auction was scheduled on this date. (see Paragraphs 92(2), 125).

- b) **On the matter of the Land Control Board consent dated same day as auction, that is, on 24th December 2007**, the Committee observed that the Nyando Land Control Board sanctioned the transfer through a land board consent also dated **24th December 2007**. The Committee observes that this consent bears the same date as the auction. It is irregular for a Land Control Board to convene, deliberate, and issue a consent on a public holiday, and on the very same day the auction took place. No explanation was provided as to why explain the anomalies on the entries of the documents from the Nyando Land Control Board. (see Paragraphs 65, 85)
- c) **On the matter of the Provisional Certificate of Title Issued in 37 Days in violation of statutory notice period**, the Committee examined the date of issue of the provisional certificate of title. According to the submission by the Principal Secretary, State Department for Lands and Physical Planning, the provisional certificate was issued to Crossley Holdings Limited on **29th January 2008**. The auction date was **24th December 2007**. The period between these two dates is 36 days (or 37 days depending on inclusive counting). The Committee observed that **Section 71 of the Registration of Titles Act (Cap 281)** requires a 90 day gazette notice period before a provisional certificate can be issued when the original title is not available. (Paragraphs 30(i), 89(d), 92(9), 174)
- d) **On the matter of the Court Order relied upon dated 24th December 2007 being the same as auction date**, the Committee noted that the court order used to vest the property in Crossley Holdings Limited and to discharge all encumbrances was the court order in Civil Suit No. 225 of 1993 dated **24th December 2007**. This is the same date as the auction. The Committee further observed that the Court of Appeal in 2011 declared that this very order was founded on void proceedings and that the Deputy Registrar who issued it had no jurisdiction. The fact that the court order, the auction, and the land board consent all bear the same date, that is 24th December 2007, is, in the view of the Committee, a significant irregularity that points to a coordinated and expedited process outside the normal legal framework. (Paragraphs 30(ii), 65, 92(5))
- e) **On the matter of the same day confirmation of auction sale**, the Committee observed that the plaintiff (Nagendra Saxena) confirmed the auction sale on the **same day the auction took place** on 24th December 2007. Normal practice requires a period between the auction and the confirmation of sale to allow for objections or higher bids. The confirmation on the same day is irregular and was cited by the Court of Appeal as one of the grounds for declaring the entire proceedings a nullity ab initio. (see Paragraph 92(5))

139. The Committee observed that the prolonged uncertainty over the ownership of L.R. No. 7545/3 (I.R. 21038) has had serious adverse socio-economic consequences on the residents and sugarcane farmers of Miwani and the surrounding areas, including the disruption of sugarcane farming activities and the livelihoods of thousands of small-scale farmers who depend on the Miwani Sugar Company nucleus estate.

140. The Committee observed that several public utilities including Miwani Police Station, Miwani Hospital, Miwani Primary School, Miwani Market, Church and KPLC installations were situated on parcels forming part of L.R. No. 7545/3 (I.R. 21038). The status and continued operation of these public facilities needed to be preserved through the determination of the ownership dispute.

Prayer (ii) Investigate existence of Mr. Nagendra Saxena

141. The State Department for immigration and services does not have any records of person named Mr. Nagendra Saxena,

Prayer (iii) Provide record of outcome of investigations into forgery and fraud in Criminal Case No. 429 of 2010

142. On **22nd September 2010**, in the case of Kisumu Chief Magistrate's Criminal Case No. 429 of 2010, the Director of Public Prosecutions and Ethics and Anti-Corruption Commission v Crossley Holdings Limited & Others, the Committee observed that Crossley Holdings Limited, its directors, and other persons were charged with conspiracy to defraud and fraudulent acquisition of property arising from the sale by auction of Miwani Sugar land following the conclusion of Kisumu High Court Civil Case No. 225 of 1993.

143. On **29th September 2010**, in the case of Kisumu High Court Miscellaneous Application No. 12 of 2010, the Committee observed that Crossley Holdings Limited filed a judicial review application challenging the criminal charges in Kisumu Chief Magistrate's Criminal Case No. 429 of 2010 and the High Court granted orders quashing the decision of the Director of Public Prosecutions to charge Crossley Holdings Limited and prohibiting the prosecution.

144. On **21st April 2016**, in the case arising from Kisumu High Court Miscellaneous Application No. 12 of 2010 concerning the quashing of charges against Crossley Holdings Limited and its directors, the Committee observed that the Director of Public Prosecutions and the Ethics and Anti-Corruption Commission filed an appeal against the decision of the High Court. The Committee observed that the Court of Appeal: -

- a) held that the High Court had no basis for quashing the decision of the Director of Public Prosecutions to charge the respondents.
- b) allowed the appeal and directed that the criminal charges should proceed.

145. On **25th July 2017**, in the case of Milimani Constitutional Petition No. 181 of 2016, Abdulkadir Athman Salim ElKindy v Director of Public Prosecutions & another [2017] KEHC 9125 (KLR), the Committee observed that-

- a) Hon. Abdulkadir Athman Salim El Kindy filed a petition challenging his prosecution together with eight other persons in Kisumu Chief Magistrates Criminal Case No. 429 of 2010.
- b) the charges related to conspiracy to defraud contrary to section 317 of the Penal Code and arose from the reinstatement of summons to enter appearance and the issuance of the ex parte judgment.
- c) the High Court dismissed the petition and directed that the criminal proceedings should continue.

146. On **30th May 2022**, the Committee observed that the Director of Public Prosecutions withdrew the criminal charges against Ian Gikoi Maina, John Gitau Maina Kimani, Odongo Phillips Kabata, Moses Nyabura Osewe, Abdul Salim ElKindy and Crossley Holdings Limited and its directors in Kisumu Chief Magistrate's Criminal Case No. 429 of 2010.

Prayer (iv) Attorney General to provide legal opinion on status of court cases and actions to protect public property

147. On **23rd March 2026**, the Attorney General addressed its submission to the Committee through the Clerk of the National Assembly by way of a letter Referenced **AG/L&E/MOA/276/20**. On **27th October 2021**, the Principal Secretary to the State Department for Crops Development and Research addressed a letter to the Attorney General referenced **MOALFC/MIN/15/3/VOL.XII/97**. The letter notified the AG of the judgment in **Kisumu ELC Constitutional Petition No. 6 of 2020** and submitted that the position of the Ministry is that the Government of Kenya is the owner of **L.R. No. 7545/3** as it was acquired using public funds and that **Miwani Sugar Company (1989) Ltd** is a state company that has been in possession of **L.R. No. 7545/3**.

148. The AG filed an appeal and stay of execution of the said judgment, pending the hearing and determination of the appeal. The appeal and stay of execution are yet to be heard. The AG did not certify the application as urgent. The Committee noted that the procedure was irregular considering the application was to protect public land.

149. On **7th February 2022** and on **20th February 2024**, Crossley holdings Ltd filed applications to commit the Cabinet Secretary to the Ministry of Agriculture, Livestock and Fisheries for contempt of court for refusing to implement the judgment in Kisumu ELC Constitutional Petition No. 6 of 2020.

150. On **17th November 2024**, the Cabinet adopted a memorandum directing that: (a) the Government and Crossley Holdings Ltd withdraw all matters in court initiated pursuant to decision of **30th September 2021** in Constitutional Petition No. 6 of 2020 at ELC Kisumu, and (b) Crossley Holdings Ltd surrenders approximately **810 hectares** for the Special Economic Zone and any public utilities

from the approximately **9,394 acres** registered under L.R. No. 7545/3. The AG has drafted a consent in accordance with the Cabinet Memorandum.

- 151.** On **27th May 2025**, the AG wrote a letter to the Cabinet Secretary to the Ministry of Agriculture, Livestock and Fisheries impressing upon him the need to reach out to the executive parties to execute the consent and to have the matter resolved amicably.

Prayer (v) Investigate beneficial ownership of Crossley Holdings Limited and Kibos Sugar and Allied Industries Limited

- 152.** The Committee observed as follows from evidence tabled before it.

- a) The Directors and shareholders of Crossley Holdings Limited are **Buggar Singh and Sukhwinder Singh Chatte**. **Sukhwinder Singh Chatte** owns 999 shares of **Crossley Holdings Limited**.
- b) The Directors of **Kibos Sugar and Allied Industries Limited** are John Arunga and Vipchandra Pragjibhai Sedani.

Prayer (vi) Investigate official conduct of public servants for dereliction of duty or conspiracy

- 140.** On **30th May 2022**, the Committee observed that the Director of Public Prosecutions withdrew the criminal charges against Ian Gikoi Maina, John Gitau Maina Kimani, Odongo Phillips Kabata, Moses Nyabura Osewe, Abdul Salim ElKindly and Crossley Holdings Limited and its directors in Kisumu Chief Magistrate's Criminal Case No. 429 of 2010.

Prayer (vii) Any other recommendation to address plight of petitioners

- 153.** The Committee received submissions tabled before it, that disclosed that the Kenya Sugar Board is not fully constituted, and the Acting MD has been making unilateral decisions including the suspension of one of the Receiver Managers of Miwani Sugar and proceeding to enter into a consent on behalf of Miwani Sugar (1989) Limited without proper board authority. The Committee is concerned that these governance failures at the Kenya Sugar Board are undermining the protection of public assets.
- 154.** The Committee received submissions tabled before it, that disclosed that there were ninety-three (93) workers who were unlawfully terminated following the forceful take-over by Crossley Holdings Limited in June 2025, in violation of Section 40 of the Employment Act. Their total claims amount to Kshs. 116,193,647.42.
- 155.** The Committee received submissions tabled before it, that disclosed the plight of former workers in receivership who have been awaiting terminal dues for almost twenty-three years, with dues estimated at Kshs. 87 million as at 2007.
- 156.** The Committee received submissions tabled before it, that disclosed that there were reports of the deployment of the Rapid Deployment Unit (RDU) in Miwani, resulting in the deaths of three people in Kimwani-Chemelil, injuries to others, and

the arrest of five farmers in Chemusrsoi. The deployment of state security forces to facilitate the interests of a private entity whose claim to ownership of the land remains deeply contested and not an appropriate use of public resources.

- 157.** The Committee received submissions tabled before it, that disclosed that there was concern raised by KESGA and the Miwani community that the proposed consent order was entered without their participation or representation, in potential violation of community land rights under Article 63 of the Constitution and the Community Land Act, 2016.

CHAPTER SIX

6.0 COMMITTEE FINDINGS

- 158.** The Committee considered and analysed the submissions that were tabled and made the following findings relating to the prayers in the Petition.
- 159.** There are two court decisions on the ownership of L.R. No. 7545/3 (I.R. 21038) with findings that cannot be reconciled. The two judgments are **contradictory** on the validity of the auction and title. The Court of Appeal (2011) declared the *ex parte judgment* that was the basis of the auction was null and void. The ELC judgment (2021) held that Crossley Holdings Limited had title to L.R. No. 7545/3 (I.R. 21038), confirmed payment of Kshs. 752 million to the decree holder and declared Crossley a bona fide purchaser for value.
- 160.** The Court of Appeal held that the proceedings leading to the auction and transfer of the property were a nullity ab initio, on the grounds that:
- a) Nagendra Saxena did not pay the required court filing fees when he filed the case in 1993.
 - b) the court summons expired after twenty-four months and were not renewed for fourteen years.
 - c) the Deputy Registrar allowed new summons to issue in 2007, fourteen years after the commencement of the case.
 - d) the Deputy Registrar extended time, entered judgment, approved costs, and confirmed the sale without jurisdiction.
 - e) the plaintiff obtained a default judgment on the same day he requested it.
 - f) the plaintiff confirmed the auction sale on the same day the auction took place.
 - g) Lady Justice Olga Sewe testified that the original court file was missing and that the court order relied upon during the auction process was forged. The Committee observed that the Court of Appeal judgment became final and binding because the Court of Appeal was the final court of adjudication under the previous Constitution.
- 161.** The Court of Appeal delivered its ruling on 29th July 2011.
- 162.** The Supreme Court came into existence on 23rd June 2011.
- 163.** No appeal has ever been filed before the Supreme Court to challenge the decision of the Court of Appeal delivered its ruling on 29th July 2011.
- 164.** The Environment and Land Court came into existence on 30th August 2011.
- 165.** There is a Cabinet memorandum dated 17th December 2024, which was intended to bring an amicable resolution to the protracted dispute. The directive in the memorandum is yet to be implemented as Miwani Sugar Company (1989) Limited is yet to endorse the proposed consent.

166. The **State Department for Agriculture (through the Joint Receiver Manager)** and the **Kenya Sugar Board** are in possession of the **original certificate** of title for L.R. No. 7545/3 (I.R. 21038) in its original form.
167. Crossley Holdings Limited are in possession of the **provisional certificate** of title for L.R. No. 7545/3 (I.R. 21038)
168. The State Department for immigration and services does not have any records of person named Mr. Nagendra Saxena,
169. On **30th May 2022**, the Committee observed that, the Director of Public Prosecutions withdrew the criminal charges against Ian Gikoi Maina, John Gitau Maina Kimani, Odongo Phillips Kabata, Moses Nyabura Osewe, Abdul Salim ElKindly and Crossley Holdings Limited and its directors in Kisumu Chief Magistrate's Criminal Case No. 429 of 2010.
170. The Committee found that there were ninety-three (93) workers who were unlawfully terminated following the forceful take-over by Crossley Holdings Limited in June 2025, in violation of Section 40 of the Employment Act. Their total claims amount to Kshs. 116,193,647.42.
171. The Committee found that there are former workers in receivership who have been awaiting terminal dues for almost twenty-three years, with dues estimated at Kshs. 87 million as at 2007.

CHAPTER SEVEN

7.0 COMMITTEE RECOMMENDATIONS

172. The Committee considered and analysed the submissions that were tabled and made the following recommendations relating to the prayers in the Petition.
173. **On matters relating to the Cabinet Memorandum**, the Committee recommends that the Cabinet withdraws Cabinet Memorandum Ref: CAB (24)202 on 17th December 2024 as adopted and resolved at its 10th Meeting, proposing an **Out of Court Settlement** by way of a Consent in the matter of *Kisumu Court of Appeal Civil Appeal No. E207 of 2021 Miwani Sugar Company (1989) Ltd (In Receivership) VS Crossley Holdings Limited & 6 Others* regarding the ownership of LR. No. 7545/3 (IR 21038).
174. **On matters relating to the Cabinet Memorandum**, the Committee recommends that the Cabinet directs the Attorney General, the Cabinet Secretary for National Treasury and Economic Planning and the Kenya Sugar Board to immediately register the signed Share Transfer Forms in respect of 1,071,000 shares of Miwani Sugar Company (1989) Limited representing 51% ownership from *Vanessa Associates Incorporated of Panama* to the Permanent Secretary to the Treasury of Kenya (Incorporated).
175. **On matters relating to the Cabinet Memorandum**, the Committee recommends that the Attorney General immediately rescinds and withdraws the Letter by the then Solicitor General Mr. Kennedy Ogeto dated 25th October 2022 under Reference AG/L&E/MOA/276/20 addressed to the Principal Secretary for the State Department for Interior and Citizen Services, **within ninety days of adoption of this Report**.
176. **On matters relating to judgements delivered in Civil Appeal No.261 of 2008 at Kisumu and Constitutional Petition No. 6 of 2020 at ELC Kisumu**, the Committee recommends that the Chief Justice immediately issues the administrative direction under Articles 159(2)(d) and 161(2)(a) of the Constitution of Kenya on the process to be followed to uphold the decision of the former Court of Appeal, then the apex and final court, delivered on 29th July, 2011 in Civil Appeal No.261 of 2008 at Kisumu from being **OVERTURNED** by the decision of a lower Court delivered on **30th September 2021** in Constitutional Petition No. 6 of 2020 at ELC Kisumu in a case where the matter was res judicata and the lower Court had no jurisdiction to hear and determine the matter by virtue of the fact that the Commencement Date of the Environment and Land Court Act, No. 19 of 2011 is 30th August, 2011, **within ninety days of adoption of this Report**.
177. **On matters relating to judgements delivered in Civil Appeal No.261 of 2008 at Kisumu and Constitutional Petition No. 6 of 2020 at ELC Kisumu**, the Committee recommends that Chief justice to immediately issues the necessary administrative directives under Article 159(2)(b) and 161(2)(a) of the Constitution of Kenya that all pending court matters relating to the subject matter,

*Report of the Departmental Committee on Lands on Consideration of Public Petition No. 28 of 2025
Regarding the Status of Ownership of L.R. No. 7545/3 (I.R. 21038) Forming the Nucleus Estate of
Miwani Sugar Mills.*

in particular Kisumu Civil Appeal E207 of 2021 *Miwani Sugar V. Crossley Holdings and 6 Others* (2022)KECA 465(KLR) **within ninety days of adoption of this Report.**

178. On matters relating to Certificate of Title to LR. No. 7545/3(IR 21038), the Committee recommends that **within ninety days of adoption of this Report, the Registrar of Titles —**

- (a) immediately invokes Section 60 of the Registration of Titles Act, Chapter 281 of the Laws of Kenya,
- (b) acts upon the Letters of 22nd August 2011, 16th June 2021, and 1st March 2021 from Miwani Sugar and
- (c) removes entries Number 30, 31 and 32 on the Certificate of Title to LR. No. 7545/3(IR 21038) purportedly based on the decision of the High Court at Kisumu in HCCC No.25 of 1993 contrary to the decision of the High Court delivered on 13th June 2008 by Justice Mwera,

179. On matters relating to allegations to the suit amount and auction price, the Committee recommends that within ninety days of adoption of this Report, the Principal Secretary of the State Department for Agriculture, shall provide to the Committee, the Attorney General, and the National Treasury sworn statements confirming the following based on official records of the Ministry and the Agriculture and Food Authority (formerly Kenya Sugar Board):

- (a) whether there exists any record of a consultancy agreement, service contract, or other engagement between Nagendra Saxena and Miwani Sugar Mills Ltd or Miwani Sugar Company (1989) Ltd that was ever submitted to the Ministry for approval, and if so, the terms of such agreement;
- (b) whether the Ministry or the Kenya Sugar Board received any payment from Crossley Holdings Ltd or any person acting on its behalf towards the purchase price of L.R. No. 7545/3 (I.R. 21038/1) in connection with the auction of 24th December 2007, and if so, the amount and date of such payment;
- (c) whether Crossley Holdings Ltd or any related entity has at any time made a demand, claim, or commenced legal proceedings against the Ministry or the Kenya Sugar Board for the recovery of Kshs. 752,000,000 or any portion thereof, and if so, the status and outcome of such claim.

180. On the matter relating to the Joint Receiver Managers of Miwani Sugar Company (1989) Limited, the Committee recommends that within ninety days of adoption of this Report, the **Kenya Sugar Board** reinstates Mr. Francis Ooko and appoints another as Joint Receiver Managers of Miwani Sugar Company (1989) Limited.

181. The Committee recommends that the Cabinet Secretary, Ministry of Lands, Public Works, Housing and Urban Development, in consultation with the

Report of the Departmental Committee on Lands on Consideration of Public Petition No. 28 of 2025 Regarding the Status of Ownership of L.R. No. 7545/3 (I.R. 21038) Forming the Nucleus Estate of Miwani Sugar Mills.

National Land Commission, causes a comprehensive audit of all registration particulars relating to L.R. No. 7545/3 (I.R. 21038), including the circumstances under which the provisional certificate of title was issued to Crossley Holdings Limited in 37 days in violation of the statutory 90-day notice requirement, and reports the findings to the National Assembly within ninety (90) days of the adoption of this Report.

- 182. On the expeditious resolution of the ownership dispute**, the Committee recommends that the Attorney General, in consultation with the Cabinet Secretary for Agriculture and Livestock Development, and in compliance with the Cabinet Memorandum dated 17th December 2024, takes immediate steps to facilitate determination and resolution of Civil Appeal No. E207 of 2021 at the Court of Appeal at Kisumu, in order to bring finality to the conflicting court decisions on the ownership of L.R. No. 7545/3 (I.R. 21038).
- 183. On the protection of public facilities and community interests**, the Committee recommends that the Cabinet Secretary for Lands, Public Works, Housing and Urban Development, in coordination with the County Government of Kisumu, takes immediate measures to secure and formally register in public interest the parcels of land within L.R. No. 7545/3 (I.R. 21038) on which Miwani Police Station, Miwani Hospital, Miwani Primary School, Miwani Market, and other public facilities are situated, pending the final determination of the ownership dispute and report on the measures taken to secure the public facilities to the National Assembly within six months of the adoption of this Report.
- 184. On the provisional certificate of title issued to Crossley Holdings Limited**, the Committee recommends that, in accordance with the submission of the National Land Commission that the provisional title ought to be surrendered to the Chief Land Registrar given that the original title remains available, the National Assembly resolves that the Cabinet Secretary for Lands, Public Works, Housing and Urban Development directs the Chief Land Registrar to take appropriate action in accordance with the law.
- 185. On the conduct and determination of Kisumu ELC Constitutional Petition No. 6 of 2020**, the Committee recommend that the Judiciary conduct an audit of the findings in Kisumu ELC Constitutional Petition No. 6 of 2020. The manner the court evaluated evidence tabled before it, dismissed the findings, determination and judgment of the Court of Appeal on the same facts the Court of Appeal delivered its judgment in *Kisumu Civil Appeal No. 261 of 2008 – Nagendra Saxena v Miwani Sugar Company (1989) Limited & Others*, to declare Crossley Holdings Limited the owners of L.R. No. 7545/3.
- 186. On the conduct and determination of Kisumu ELC Constitutional Petition No. 6 of 2020**, the Committee resolves that the Judiciary take steps and adopt a policy to prevent the abuse of court processes to declare persons as owners of land using constitutional petitions in order to defeat past declarations from its own courts and to undermine the principle of precedence of courts in order to enhance public confidence and report compliance with this

recommendation to the National Assembly within ninety (90) days of the adoption of this Report.

187. **On the governance of the Kenya Sugar Board**, the Committee recommends that the Cabinet Secretary for Agriculture and Livestock Development to fully constitute the Kenya Sugar Board by appointing the required Members to the Board, and reports compliance with this recommendation to the National Assembly within thirty (30) days of the adoption of this Report.
188. **On the governance of the Kenya Sugar Board**, the Committee recommends that the Cabinet Secretary for Agriculture and Livestock Development, revokes all unilateral decisions made by the Acting MD without proper board authority, including the suspension of any Receiver Manager and any agreement, consent or contractual obligation entered into on behalf of Miwani Sugar (1989) Limited, and takes appropriate disciplinary action against the Acting MD and reports compliance with this recommendation to the National Assembly within thirty (30) days of the adoption of this Report.
189. **On evidence of payment directed by the Committee**, the Committee recommends that the Directors of Crossley Holdings Limited, Mr. S.S. Chatte and Mr. Buggar Singh, submit to the National Assembly full and verifiable evidence of the auction transaction, including bidding records and evidence of payment of the Kshs. 752 million to either Mr. Nagendra Saxena or the Government, within thirty (30) days of the adoption of this Report.
190. **On the unlawful termination of the ninety-three (93) employees**, the Committee recommends that the Cabinet Secretary for Labour and Social Protection, causes an investigation into the circumstances of the termination of the 93 employees by Crossley Holdings Limited in June 2025 and facilitates the payment of all dues lawfully owed, amounting to Kshs. 116,193,647.42, in accordance with the Employment Act, and reports compliance with this recommendation to the National Assembly within sixty (60) days of the adoption of this Report.
191. **On the former workers of Miwani Sugar Company (1989) Ltd in receivership**, the Committee recommends that the Cabinet Secretary for Agriculture and Livestock Development, in consultation with the Cabinet Secretary for Labour and Social Protection, the Cabinet Secretary of the National Treasury and the Receiver Managers, facilitates the settlement of all outstanding terminal dues owed to the former workers in receivership within ninety (90) days of the adoption of this Report.
192. **On the reported deployment of the RDU and the deaths and injuries in Miwani**, the Committee recommends that the Inspector General of Police and the Independent Policing Oversight Authority (IPOA) immediately investigate the circumstances of the RDU deployment at Miwani, including the reported deaths of three people in Kimwani-Chemelil, injuries to others, and the arrest of five farmers in Chemursroi, and provides a full report to the National Assembly within sixty (60) days of the adoption of this Report.

193. **On the revival of sugarcane milling operations at Miwani**, the Committee recommends that the Cabinet Secretary for Agriculture and Livestock Development, in consultation with the County Government of Kisumu and relevant stakeholders, develops a framework to ensure the continued operation of sugarcane milling activities at Miwani for the benefit of thousands of farmers and the broader community, pending the final determination of the ownership dispute, and that this framework protects the rights of farmers and workers irrespective of the ownership outcome and report compliance with this recommendation to the National Assembly within ninety (90) days of the adoption of this Report.

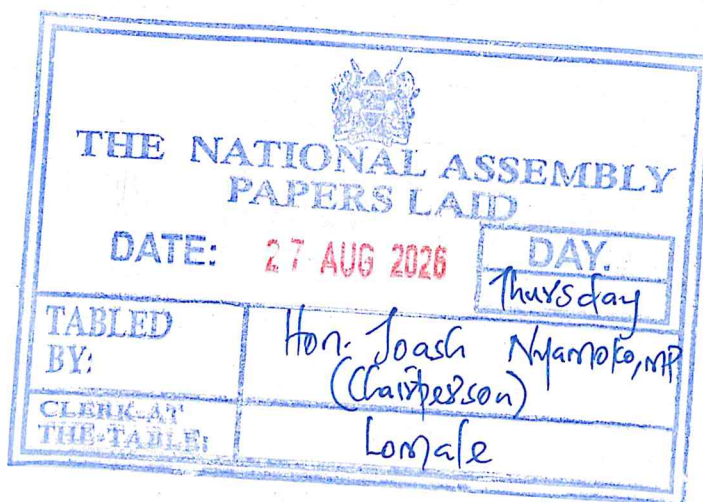
Signed: _____

Date: _____

25/08/2026

HON. JOASH NYAMACHE NYAMOKO, HSC, MP

CHAIRPERSON, DEPARTMENTAL COMMITTEE ON LANDS





REPUBLIC OF KENYA
THE NATIONAL ASSEMBLY
THIRTEENTH PARLIAMENT – FIFTH SESSION – 2026
DEPARTMENTAL COMMITTEE ON LANDS

COMMITTEE ADOPTION SCHEDULE

We the undersigned Members of the National Assembly Departmental Committee on Lands do hereby append our signatures to **Adopt** the Committee Report on its **Consideration of the Public Petition No 28 of 2025 Regarding the Ownership Status of L.R. No. 7545/3 (IR 21038) forming the Nucleus Estate of Miwani Sugar Mills as succeeded by Miwani Sugar Company (1989) Limited (In-receivership)**

Date 23/08/2026

NO.	MEMBER	SIGNATURE
1.	Hon. Nyamoko Joash Nyamache, HSC, MP - Chairperson	
2.	Hon. Jehow Fatuma Abdi, MP - Vice Chairperson	
3.	Hon. (Dr.) Rachael Kaki Nyamai, CBS, MP - Member	
4.	Hon. (Dr.) Ogolla Gideon Ochanda, MP - Member	
5.	Hon. Shimbwa Omar Mwinyi, MP - Member	
6.	Hon. Robi Mathias Nyamabe, MP - Member	
7.	Hon. Gitari Joseph Gachoki, MP - Member	
8.	Hon. Katana Paul Kahindi, MP - Member	
9.	Hon. Guyo Ali Wario, MP - Member	
10.	Hon. (Eng.) Nzambia Thuddeus Kithua, MP - Member	
11.	Hon. Lelmengit Jossess Kiptoo Kosgey, MP - Member	
12.	Hon. Maj. (Rtd) Dekow Barrow Mohamed, MP - Member	
13.	Hon. Sankaire Leah Sopiato, MP - Member	
14.	Hon. Mrembo, Irene Njoki MP - Member	
15.	Hon. Mupe Anthony Kenga, MP - Member	

