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THE NATIONAL ASSEMBLY

THIRTEENTH PARLIAMENT - THIRD SESSION - 2024
PUBLIC PETITIONS COMMITTEE

REPORT ON-

CONSIDERATION OF PUBLIC PETITION NO. 45 OF 2023 REGARDING DELAYED
ADJUDICATION AND SETTLEMENT OF RESIDENTS OF KIDOMAYA/MIUNGONI VILLAGE
IN VANGA WARD, KIVWEGU SUB LOCATION, LUNGA LUNGA CONSTITUENCY BY THE
HON. CHIFOROMODO MANGALE, M.P.

NOVEMBER 2024

 THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 27 NOV 2024	DAY: Wednesday
TABLED BY:	Hon. Ninsiro M. Mbu (Chairperson)
CLERK AT THE TABLE:	Lomale

Directorate of Legislative & Procedural Services
Clerk's Chambers
Main Parliament Buildings
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TABLE OF CONTENTS

CHAIRPERSON'S FOREWORD.....	2
PART ONE	3
1. PREFACE.....	3
1.1 Establishment and Mandate of the Committee.....	3
1.2 Committee Membership	4
1.3 Committee Secretariat	5
2. BACKGROUND TO THE PETITION	6
2.1 Introduction	6
2.2 Prayers	6
3. STAKEHOLDERS' SUBMISSIONS ON THE PETITION	8
3.1 Petitioners	8
3.2 Haki Yetu Organisation.....	11
3.3 County Government of Kwale.....	14
3.4 National Lands Commission	15
3.5 Ministry of Lands, Public Works, Housing and Urban Development.....	15
4. COMMITTEE OBSERVATIONS	18
5. ANALYSIS OF ISSUES FOR DETERMINATION.....	19
6. COMMITTEE RECOMMENDATIONS.....	21
ANNEXURES.....	22

CHAIRPERSON'S FOREWORD

On behalf of the Public Petitions Committee and pursuant to the provisions of Standing Order 227, it is my pleasant privilege and honour to present to this House the Report of the Public Petitions Committee regarding Public Petition No. 45 of 2023 on Delayed Adjudication and Settlement of Residents of Kidomaya/Miungoni Village in Vanga Ward, Kiwegu sublocation, Lunga Lunga Constituency. The Petition was presented to the House pursuant to Standing Order No. 225 (2) (a) by the Hon. Chiforomodo Mangale, MP. on behalf the residents of Lunga Lunga Constituency.

The Petitioners prayed that the Committee inquires into the ownership of the land occupied by the residents of Kidomaya/Miungoni Village in Vanga Ward, Kiwegu Sub-Location - Lungalunga Sub-County, Plot No. 12224, and investigates the cause of the continued delayed in carrying out the adjudication and settlement of the residents.

The Committee observed that, while records at the Ministry of Lands indicate that the parcels of land are owned privately and that the process of further subdivision can only be initiated by the registered owner, the NLC has previously acted on the premise that the land reverted to the County Government of Kwale upon expiry of the lease.

The Committee undertook an inquiry by listening to the various stakeholders and state agencies and established that the land was subdivided in compliance with a court ruling and now registered under the names Karsan V. Velani & Manji V. Velani (L.R. No. 12224/6), County Government of Kwale (L.R. No. 12224/5) and Muungano Self Help Group (LR. No. 12224/1). The land is privately owned by three parties being Karsan V. Velani & Manji V. Velani (L.R. No. 12224/6), County Government of Kwale (L.R. No. 12224/5) and Muungano Self Help Group (LR. No. 12224/1), hence the adjudication can only be initiated by the registered owners if necessary.

The Committee recommends that County Government of Kwale resettles the squatters on the land L.R. No. 12224/5 as planned and budgeted.

The Committee expresses appreciation to the Offices of the Speaker and Clerk of the National Assembly for providing guidance and necessary technical support during the discharge of its duties. The Chairperson extends gratitude to the Committee Members for their devotion and commitment to duty throughout the consideration of the petition.

On behalf of the Committee and pursuant to the provisions of Standing Order 199, I now wish to lay the Report on the Table of the House.


HON. NIMROD MBITHUKA MBAI, M.P.

CHAIRPERSON, PUBLIC PETITIONS COMMITTEE

Date: 

PART ONE

1. PREFACE

1.1 Establishment and Mandate of the Committee

The Public Petitions Committee is established under the provisions of Standing Order 208A with the following terms of reference:

- a) Considering all public petitions tabled in the House;
- b) Making such recommendations as may be appropriate with respect to the prayers sought in the petitions;
- c) Recommending whether the findings arising from consideration of a petition should be debated; and
- d) Advising the House and reporting on all public petitions committed to it.

1.2 Committee Membership

The Public Petitions Committee was constituted in October 2022 and comprises the following Members:

Chairperson

Hon. Nimrod Mbithuka Mbai, M.P.
Kitui East Constituency

United Democratic Alliance (UDA)

Vice Chairperson

Hon. Janet Jepkemboi Sitienei, M.P.
Turbo Constituency

United Democratic Alliance (UDA)

Hon. Patrick Makau King'ola, M.P.
Mavoko Constituency

**Wiper Democratic Movement-Kenya
(WDM-K)**

Hon. Edith Vethi Nyenze, M.P.
Kitui West Constituency

**Wiper Democratic Movement-Kenya
(WDM-K)**

Hon. Ernest Kivai Ogesi Kagesi, M.P.
Vihiga Constituency

Amani National Congress (ANC)

Hon. Maisori Marwa Kitayama, M.P.
Kuria East Constituency

United Democratic Alliance (UDA)

Hon. Joshua Chepyegon Kandie, M.P.
Baringo Central Constituency

United Democratic Alliance (UDA)

Hon. John Walter Owino, M.P.
Awendo Constituency

Orange Democratic Movement (ODM)

Hon. Bernard Muriuki Nebart, M.P.
Mbeere South Constituency

Independent

Hon. Bidu Mohamed Tubi, M.P.
Isiolo South

Jubilee Party (JP)

Hon. Caleb Mutiso Mule, M.P.
Machakos Town Constituency

Maendeleo Chap Chap Party (MCCP)

Hon. John Bwire Okano, M.P.
Taveta Constituency

**Wiper Democratic Movement-Kenya
(WDM-K)**

Hon. Peter Mbogho Shake, M.P.
Mwatate Constituency

Jubilee Party (JP)

Hon. Sloya Clement Logova, M.P.
Sabatia Constituency

United Democratic Alliance (UDA)

Hon. Suzanne Ndunge Kiamba, M.P.
Makueni Constituency

**Wiper Democratic Movement-Kenya
(WDM-K)**

1.3 Committee Secretariat

The Public Petitions Committee was facilitated members of the secretariat:

**Lead Clerk
Mr. Ahmed Kadhi
Principal Clerk Assistant II**

**Ms. Anne Shibuko
First Clerk Assistant**

**Ms. Miriam Modo
First Clerk Assistant**

**Mr. Willis Obiero
Clerk Assistant III**

**Ms. Isaac Nabiswa
Legal Counsel II**

**Ms. Patricia Gichane
Legal Counsel II**

**Mr. Martin Sigei
Research Officer III**

**Ms. Roselyne Njuki
Senior Serjeant-at-Arms**

**Mr. Paul Shana
Serjeant-at-Arms**

**Mr. Calvin Karungo
Media Relations Officer III**

**Mr. Peter Mutethia
Audio Officer**

PART TWO

2. BACKGROUND TO THE PETITION

2.1 Introduction

1. Public Petition No. 45 of 2023 regarding delayed adjudication and settlement of residents of Kidomaya/Miungoni Village in Vanga Ward, Kiwegu sublocation in Kwale County was presented to the House on 15th August 2023 by the Member for Lungalunga Constituency, Hon. Chiforomodo Mangale, M.P. on behalf of the residents of Lungalunga.
2. The Petitioners stated that residents of Kidomaya/Miungoni Village in Vanga Ward of Kiwegu sublocation in Lungalunga Constituency have occupied the parcel of land registered as Plot No. 12224 for more than 35 years.
3. The parcel of land of 1,506.5 acres of Conservation Restrictions (CR.) 15083 and was granted to one Mr. Velji Parabat, now deceased, under a lease for 33 years running from December 1973. Upon application, to the Kwale County Council, for lease extension on 1st June, 1980, Mr. Velji Parabat was granted 27 years and 6 months that was to lapse on 1st June, 2007.
4. Currently, the lessee has control management of around 600 acres of the total land on the said plot while the locals are settled on the remaining land and are worried of impending evictions.
5. A budget of Kshs. 3 million was allocated by the County Government of Kwale during the 2017/2018 Financial Year for the purposes of demarcation and survey of the area considering that the lease was not renewed. The community had the expectation that the area would be adjudicated, formally recognized and settled, however up to date, adjudication is yet to commence.
6. Several attempts by the community to resolve the dispute by involving Mr. Velji's son, the leadership of the County Government of Kwale and relevant government agencies via its leaders such as Dr. Swazuri (former chair of National Land Commission proved futile.

2.2 Prayers

7. The Petitioners prayed that the National Assembly through the Public Petitions Committee—

- (i) Inquires into the ownership of the land, Plot No. 12224, occupied by the residents of Kidomaya/Miungoni Village in Vanga Ward of Kiwegu Sub-Location in Lungalunga Sub County;
- (ii) Investigates the cause of continued delay in carrying out the adjudication and settlement of the residents of Kidomaya/Miungoni Village in Vanga Ward of Kiwegu Sub-Location in Lungalunga Sub County;
- (iii) Recommends that the Government under the one million-acre Compulsory Land Acquisition Programme, acquires the land for the local residents and that the land be adjudicated so as to ensure that residents acquire Title Deeds; and
- (iv) Makes any other recommendation or action it deems fit in addressing the plight of the Petitioners.

PART THREE

3. STAKEHOLDERS' SUBMISSIONS ON THE PETITION

3.1 Petitioners

On Tuesday, 12th March, 2024, the Member for Lunga Lunga Constituency, Hon. Chiforomodo Mangale, M.P. appeared before the Committee and submitted as follows—

8. The petitioners are citizens of Kenya living in Miungoni village specifically Vanga Ward, Kiwegu Sub-location, Lungalunga Sub county.
9. Vide CR No.15083, one Velji Parbat, the leasee (now deceased) was granted a lease over 609.9 hectares, approximately 1,506.5 acres, of land for 33 years running from 1st December 1973.
10. On 1st June, 1980, Mr. Parbat applied for an extension of the lease through the Kwale County Council. He was granted 27.5 years, meaning it would have lapsed on 1st June, 2007.
11. While the lease of 27 years and 6 months was still subsisting, Mr. Parbat applied for the renewal of the lease and in a full council meeting held on 21st July 1993, the County Council of Kwale passed a resolution extending the lease for a period of 66 years commencing 1st January 2009 subject to Mr. Parbat giving out 115 acres to the council for its development agenda and 185 acres for settlement of squatters. The total acres given out being 300 acres. Mr Parbat remained with 1200 acres. Mr. Parbat accepted the conditions and implemented them.
12. On 20th December, 2010, the Town Planning, Trade and Market Committee which is a subcommittee of the council met and resolved that Velji Parbat be given 400 acres for a lease of 33 years, County Council of Kwale to get 200 acres for planning of Public Utilities and 903 acres be granted to squatters.
13. On 6th August, 2012, Parbat's son went to court and filed Miscellaneous Civil Application No.19 of 2012 to protest the committee's resolutions.
14. On 14th February, 2014, the Court ruled that the decision to extend the lease by 66 more years was valid since the committee was a creation of the Kwale County Council which authorized the extension.
15. On 19th September 2014, the National Land Commission through a public notice in the print media stated that the 99-year leases for Kidomaya, among other blocks in Tiwi, had expired in 2013. It further averred that the leases have never been extended or renewed and that they have in fact reverted to the County Government of Kwale.

16. Consequently, the owners of the leased properties moved to the High Court which issued temporary orders ahead of inter-parties hearings. The former chair of the National Land Commission however affirmed that all the court battles were inconsequential and the county government would proceed with the reallocation to its logical conclusion.
17. The leasee had managed to use just slightly 600 acres of the total land.
18. Some of the locals had already settled in the underutilized land but are worried that they will be evicted sooner or later.
19. In the County Budget of 2017/2018, a budget of Kshs. 3 million was set aside for demarcation and survey of the area. This was a clear indication that the lease was not renewed.
20. The community therefore had legitimate expectation that the area would be adjudicated and their land interests formally recognised. However, in unclear circumstances the funds were reallocated. To date, adjudication is yet to commence in the area.
21. The matter was presented before the Deputy Governor and Governor Kwale County in 2019 who cited that the delayed adjudication was as a result of existing conflicts at the community level and tasked Haki Yetu Organisation to reconcile existing differences which Haki Yetu did.
22. The County Government of Kwale had not made a successful implementation of the Survey and squatter settlement activity as initially budgeted or allocated for as shown in their Annual Development Plan FY 2017/2018.
23. The petitioners were anxious about the ongoing evictions that had been witnessed in the country.
24. For a long period, the petitioners had sought audience from the relevant government agencies but their efforts to resolve the issues raised in the petition with the relevant organs of the government have proved futile.
25. The petitioners pray that the parliament through its relevant committee to—
 - (i) Conduct a fact-finding mission in Miungoni village, vanga ward, Kiwegu Sub-location, Lungalunga Sub-County on Plot No. 12224 to ascertain and verify the facts as highlighted in the petition.
 - (ii) Find out accurate information on the ownership status of the land in question, the actual acreage of entire land that is to be allocated to the petitioners and

the status of the pending adjudication of the area and subsequent resettlement of the squatters.

- (iii) Investigate the cause of the continued delay, sidelining of resettlement of the, petitioners and solutions being applied to address the delays.
- (iv) Intervene to have the petitioners' resettlement process fast tracked.

During a public participation meeting conducted on 27th April 2024 at Miungoni Village in Vanga Ward, the Petitioners further submitted as follows:

- 26. A certificate of postal search conducted on 4th September 2007 for Plot No. 12224 in Kwale under the Title No. CR. 15766 and measuring 609.9 Hectares with a leasehold term of 27 years and 6 months under the names Karsan V. Velani & Manji V. Velani and was found to have nil encumbrances.
- 27. Vide a letter dated 10th May, 2011, the Clerk to the County Council of Kwale wrote to the Commissioner of Lands transmitting the Council resolution recommending the renewal of the lease of 400 acres of land to Mr. Velji Parabat, 200 acres for public amenities and 905 acres be for the settlement of squatters. The lease for Mr. Velji Parabat would be renewed for a maximum of 33 years. The resolution was intended to solve the conflict between the local community and Mr. Velji Parabat.
- 28. In a consultative meeting that took place in 2014, the then chairperson of the National Lands Commission Chairman announced that there would be no renewal of license of four plots that had been in the hands of private developers, among which was the plot at Vanga (Plot No. 12224). The plots would be converted to settlement schemes.
- 29. In the Financial Year 2017/2018, Kwale County allocated a sum of Kshs. 3 million in its County Annual Development Plan, for the survey and settlement of the Veji Parabat Farm slotted for July- Sept 2017. However, this was not implemented.
- 30. On 15th October 2020, a certificate postal search was conducted for Plot No. 12224 in Kwale under the Title No. CR. 15766 and measuring 609.9 Hectares with a leasehold term of 27 years and 6 months under the names Karsan V. Velani & Manji V. Velani and was found to have nil encumbrances.

3.2 Haki Yetu Organisation

During a site visit conducted on 27th April 2024 at Miungoni Village in Vanga Ward, the Petitioners further submitted as follows—

31. Haki Yetu, a human rights organization, was founded in 2008 in Mombasa's Bangladesh Slums. The organization is registered as a Trust and its mandate covers the areas of Access to Justice, Governance and Accountability as well as Land and Urban Development.
32. To this end, the organization has been advocating for the rights of the Kidomaya Vanga community for nine years.
33. Haki Yetu's engagement in the matter began in 2014 when the organization learnt through a public notice dated 19 September 2014, that the National Land Commission indicated that the 99-year leases for Kidomaya among other blocks in Tiwi had expired in 2013. It further indicated that those leases had never been extended or renewed and that the land had reverted to the County Government of Kwale.
34. This position is justifiable with the conduct of several searches confirming that the lease has not been renewed.
35. A series of meetings with the community followed in the following months and years with a view of establishing an amicable resolution to the matter.

Ownership of the land in question- L.R No. 1224

36. The official search records indicate that the land in question is registered as 12224-Kwale measuring 1,506.5 acres of land on a 27-year lease to Velji Parbat.
37. Vide CR No.15083, Mr. Velji Parbat, the lessee (now deceased) was granted a lease over 609.9 hectares approximately 1,506.5 acres of land for 33 years running from 1st December 1973.
38. On 1st June 1980, Mr. Parbat applied for an extension of the lease through the Kwale County Council and was granted 27 ½ years, meaning it would have lapsed on 1st June, 2007.
39. While the lease of 27 years and 6 months was still subsisting, Mr. Parbat applied for the renewal of the lease and in a full council meeting held on 21st July 1993, the County Council of Kwale passed a resolution extending the lease for a period of 66 years commencing on 1 January 2009 subject to Mr. Parbat hiving out 115 acres to the council for its development agenda and 185 acres for settlement of

squatters. The total acres hived out being 300 acres. Mr. Parbat remained with 1,200 acres.

40. However, on 20th December, 2010, the Town Planning, Trade and Market Committee which is a sub-committee of the Kwale Council met and resolved that Velji Parbat be given 400 acres for a lease of 33 years, County Council of Kwale to get 200 acres for planning of Public Utilities and 903 acres be granted to the community of Miungoni.

Litigation

41. On 6th August 2012, the son of the late Velji Parbat went to court and filed Miscellaneous Civil Application No.19 of 2012 to protest the committee's resolutions. On 14th February, 2014, the Court ruled that the decision to extend the lease by 66 more years was valid since the committee was a creation of the Kwale County Council which had authorized the same.

National Land Commission position in 2014

42. On 19th September 2014, the National Land Commission through a public notice stated that the 99-year leases for Kidomaya, among other blocks in Tiwi, had expired in 2013. It further averred that the leases were never extended or renewed and that they have infact reverted to the County Government of Kwale.
43. The family of the Velji Parbat moved to the High Court where the court issued temporary orders quashing the public notice published in the East African Standard Newspaper of 19th September 2014 revoking the lessee's lease over Plot No. L. R.12224.

Enumeration by Haki Yetu

44. In 2023, the organization facilitated the enumeration of residents within the land to establish the extent of emerging interest in the land. This was made possible through a committee, chosen by the community to represent their interests. In the enumeration exercise conducted in 2023, it was established that 315 households claimed recognition of their interests on the land.
45. The enumeration report conducted by Haki Yetu earlier, provided a guide on how many families had discernable interest in the land. The numbers stated may have increased over time and therefore the Kwale County Government in conjunction with the County Commissioner's office must conduct its due diligence to establish the number of families residing and farming on the land.

Mediation conducted by Haki Yetu

46. The matter was presented before the former Governor of Kwale and his Deputy Governor in 2019 who cited that the delayed adjudication was as a result of existing conflicts at the community level and tasked Haki Yetu to reconcile the existing differences which Haki Yetu did.

County Budget Allocation of Kshs. 3 Million (FY 2017/2018)

47. There was a County Budget allocation of Kshs. 3 Million which was set aside for demarcation and Survey of the area (FY 2017/2018). Therefore, the community had legitimate expectation that the area would be adjudicated and their land interests formally recognised.
48. The County Government of Kwale did not make a productive follow up in the implementation of the Survey and Squatter settlement activity as was initially budgeted or allocated as shown in their Annual Development Plan FY 2017/2018.

Stalemate in Resolution

49. For a better part of 2021, at Haki Yetu, felt that they had reached a stalemate. On various occasions, the organisation sought audience with the then Member of Parliament, and the County Government of Kwale to resolve the issues raised in the petition but our efforts proved futile.
50. Vide a letter dated 3rd May 2021 by Haki Yetu Organisation to the then Member for Lungalunga Constituency, communicating that the community had resorted to present a petition before the Lands Parliamentary Committee as well as engage the County Government of Kwale.
51. Vide a letter dated 7th May 2021 to the County Executive Committee Member of Lands, Environment and Natural Resources in the County of Kwale, Haki Yetu Organisation explained that they have been advocating for the Kidomaya-Vanga community and wished to engage the County Government in resolving the matter.
52. Vide a letter dated 24th October 2022 by Haki Yetu Organisation to the Governor of the County Government of Kwale, the organisation had made several efforts to engage the previous administration in resolving the Kidomaya-Vanga matter and requested to pay a courtesy visit to the Governor to discuss the matter.
53. The organisation prays that—
 - (i) Since the lessee" (currently the son to the late Velyi Parbat) was only able to develop a section of the land, with the larger section developed by the

community, the Committee to recommend an offer for sale to the "lessee" must be guided by this reality.

- (ii) The County Government and the National Land Commission must conduct a fresh survey to establish the proportion of the land occupied by the lessee *vis-à-vis* that occupied by the community with a view to establishing the competing interests on the land between the community and the "lessee".
- (iii) The adjudication should be in favour of the community.

3.3 County Government of Kwale

Vide a letter dated 22nd April 2024, the County Executive Member of Environment, Physical Planning and Urban Development, County Government of Kwale, Ms. Saumu Beja made submissions as follows—

- 54. The County Government acknowledges that the land situated in Kidomaya & Mungoni Village in Vanga ward, Lunga Lunga Sub-County Kwale County has had a long standing dispute between the former leaseholder and the local community who have squatted within the land for many years.
- 55. The land LR.NO 12224 measuring approximately 609.9 Hectares belongs to the County Council of Kwale which was leased to one Velji Parbat of P.O.Box 81027, Mombasa for a term of twenty seven (27) years and six (6) months from 1st June 1980.
- 56. The Lessee was granted the land to undertake agriculture activities, going by these terms the lease ought to have expired by the mid year of year 2007.
- 57. Around the year 1993, the County Council of Kwale deliberated a proposal to extend the lease by sixty six (66) years after expiry of the original term.
- 58. Records of the Council meeting in which the proposal was discussed indicate that the Council resolved to approve the application for the extension of the lease for a period of 66 years. This came with the condition that the lease would surrender a total of 300 Acres with 185 Acres being land to be used to settle squatters and 115 Acres being land for Council for future development.
- 59. On 4th September 2008, the County Council of Kwale wrote to the Commissioner of Lands to affirm the Council's decision of 1993.
- 60. At the time of coming into existence of the County Government, nothing had progressed with regards to the extension of the lease of the land.
- 61. Subsequently, on 19th September 2014, NLC published a notice for intended review of expired leases and reversion of land to the County Government of Kwale.

62. The land of Kidomaya was identified as one of those leases which had expired and which ought to have reverted to the County Government. Consequently the County Government cognisant of the squatter problem in the area allocated budget in the FY 2017/2018 for the settlement of all the squatter residing within LR. NO. 12224.
63. However, the implementation of the project was halted when it became apparent that there was an active legal suit under Misc. Civil Application No. 19 of 2012 in which Karsam Velji Velani, the administrator of the Estate of Velji Parbart had sued the County Council of Kwale, Chief Land Registrar and Commissioner of Lands seeking judicial Review proceedings for an order of Mandamus for the Registration of the said LR. 12224.
64. The awareness of the suit is what halted the plans to go ahead with the settlement project and subsequently the funds were repurposed through the supplementary budget.
65. The County Government is still in court on the matter seeking adverse possession over the land and did not give any comments or approval for extension of the lease.

3.4 National Lands Commission

66. During a site visit conducted on 27th April 2024 at Miungoni Village in Vanga Ward, the National Lands Commission submitted that the matter was still pending in court and no action could be taken, pending a ruling by the courts.

3.5 Ministry of Lands, Public Works, Housing and Urban Development

On 12th September 2024, the Cabinet Secretary, Ministry of Lands, Public Works , Housing and Urban Development, Hon. Alice Wahome appeared before the Committee and submitted as follows—

67. L.R. No. 12224 situated in Kwale was allocated to Mr. Velji Parbat vide a letter of allotment Ref. LND/3/1/4/22/122 dated December 24, 1973 for agricultural purposes. The lease term was 33 years with effect from December 1, 1973. Upon survey, the land measured 609.9 Hectares. A title was registered in favour of Velji Parbat on May 12, 1977.
68. Mr. Velji Parbat applied for change of user from agricultural to ranching purposes vide a letter dated October 16, 1979. The request was granted by the then County Council of Kwale subject to excision of 100 Acres for purposes of settling squatters in a letter Ref. CC/KWL/LND. 16/18/81 dated October 25, 1979. Mr. Velji Parbat accepted the condition vide a letter dated January 9, 1980.

69. The County Council of Kwale however noted that the number of squatters on the land was 47 and not 13 as alleged by the registered owner and recommended surrender of 420 Acres vide a letter Ref. CC/KWL/LND.16/18/97 dated January 24, 1980. At this point, Mr. Velji Parbat had taken the squatters to court and the case was ongoing. After the change of user, a new title was issued with an enhanced rent and the remainder of the term of 27.5 years with effect from June 1, 1980, vide the Commissioner of Lands letter Ref.88881/114 dated April 23 1986.
70. Pursuant to Civil Suit No. 630 of 1979 at the High Court in Mombasa, orders were issued that 185 Acres of land be subdivided equally in portions of 5 acres among 37 squatter families, while the remaining portion of land be given in vacant possession to Mr. Velji.
71. An application for extension of lease to secure a loan to expand the farming business by Mr. Velji was made to the Commissioner of Lands on May 5, 1992. The Commissioner of Lands vide a letter Ref. 88881/1 18 dated June 24, 1992 circulated the proposal to the relevant offices.
72. The County Council of Kwale approved the extension of lease subject to the land being reduced to exclude a total of 300 Acres; 185 Acres for settlement of squatters and 115 Acres for the Council's future plans. The lease was extended for 50 years with effect from December 1, 1995.
73. Mr. Velji Parbat passed on leaving Karsan V. Velani and Manji V. Velani as the administrators of the estate. The advocate for the estate in a letter Ref. KKK/KCCMVV/4132/CNK dated June 6, 2008 confirmed subdivision of the land to enable the required surrenders. The County Council of Kwale in its letter Ref. CC/KWL/LND.16/18/ (140) dated September 4, 2008 confirmed compliance.
74. L.R. No. 12224 was initially subdivided into L.R. No. 12224/ 1 and L.R. No. 12224/2. LR. No. 12224/2 was further subdivided into two portions, L.R. No. 12224/5 and L.R No, 12224/6. This resulted into the following scenario:
 - (i) LR. No. 12224/1 measuring 75.14 Hectares set aside for squatter settlement;
 - (ii) L.R. No. 12224/5 measuring 65.83 Hectares for public use by the County Council of Kwale; and
 - (iii) L.R. No. 12224/6 measuring 468.9 Hectares to be retained by the estate of Mr. Velji Parbat for farming activities
75. The lease for L.R. 12224 expired in 2007 before the new lease in favor of the Estate of Velji Parbat was prepared.

76. In a judicial review application MISC, CIVIL, APPL. NO. 327 of 2010 in the High Court of Kenya at Mombasa by James M. Katinga & Others as trustees of Mungano Farmers Self Help Group, it was ordered that titles for LR. No's 12224/1 & 5 be issued in favour of the group. It was also ordered that the title for L.R. No. 12224/6 be issued in favour of Velji Parbat.
77. In compliance with the court order, the Ministry prepared leases for the parcels as ordered and therefore the parcels of land are private. The process of further subdivision can only be initiated by the registered owner.

PART FOUR

4. COMMITTEE OBSERVATIONS

78. Upon hearing from the Petitioners, Haki Yetu Organisation, County Government of Kwale, Ministry of Lands, Public Works, Housing and Urban Development, the Committee observed that—

- (i) While records at the Ministry of Lands indicate that the parcels of land are owned privately and that the process of further subdivision can only be initiated by the registered owner, the National Lands Commission has previously acted on the premise that the land reverted to the County Government of Kwale upon expiry of the lease.
- (ii) A court ruling declared that the Public Notice by the National Land Commission (Respondent) was irregular, unreasonable and procedurally unfair as the land belonged to the petitioner in the case, Karsan Velji Velani.
- (iii) The conflicting interpretations have resulted in the County Government of Kwale seeking adverse possession of the land.

PART FIVE

5. ANALYSIS OF ISSUES FOR DETERMINATION

79. Upon hearing from the Petitioners and other witnesses, the Committee makes determination on prayers sought in the Petition as follows—

(i) Ownership of Land Reference Number 12224 comprised in the Grant registered as C.R. 15766/1

(a) The land in the Grant was at first registered to Valji Parbat, the leasee, for a term of 27 years and six months from 1st June, 1980. Therefore, the term of the lease was expiring in 2008.

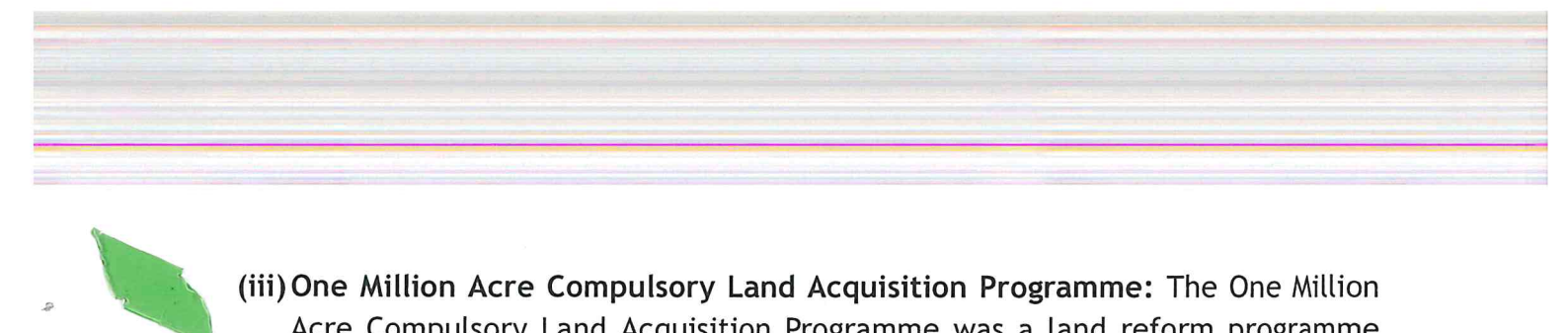
(b) In 1993, the leasee applied to the County Council of Kwale for an extension of lease. The County Council of Kwale agreed to extend the term of the lease for a term of 66 years commencing on 1st January, 2009 on condition that the leasee shall surrender 300 acres out of which 185 acres was to be used to settle squatters, and 115 acres was to be used by the Council for future development. As a result, the land was subdivided but the issuance of new leases was not effected.

(c) In 2010, the Trade, Planning and Markets Committee of the County Government of Kwale resolved to renew the term of the lease for 33 years which granted the leasee 400 acres. Through a judicial review application, the decision was quashed.

(d) In 2014, the National Land Commission published a notice of the expiry of the lease and the reversion of the land to the County Government of Kwale. In a judgement of the High Court delivered in 2015, the notice was quashed in respect to the land LR. No. 12224.

(e) Based on the foregoing, the land measuring 1200 acres as contained in the Deed Plan No. 884111 belongs to the Administrators of the Estate of Valji Parbat for a term of 66 years commencing 1st January 2009.

(ii) Adjudication and settlement of the residents of Kidomaya, Miungoni Village in Vanga Ward: By virtue of the decision made in 1993 by the County Council of Kwale to extend the term of the lease for a term of 66 years commencing on 1st January, 2009, the squatters were to be settled on the land measuring 185 acres contained in Deed Plan No. 189817.



(iii) One Million Acre Compulsory Land Acquisition Programme: The One Million Acre Compulsory Land Acquisition Programme was a land reform programme that run between 1962 and 1966 whose main objective was to acquire land from Europeans and allocating the land to Kenyans. Therefore, the programme ended once its objectives were achieved.

PART SIX

6. COMMITTEE RECOMMENDATIONS

80. Pursuant to the provisions of Standing Order 227, the Committee responds to the prayers in the Petition as follows—

Prayer 1: Inquires into the ownership of the land, Plot No. 12224, occupied by the residents of Kidomaya/Miungoni Village in Vanga Ward of Kiwegu Sub-Location in Lungalunga Sub County

(i) The Committee undertook this inquiry by listening to the various stakeholders and state agencies and established that the land was subdivided in compliance with a court ruling and now registered under the names Karsan V. Velani & Manji V. Velani (L.R. No. 12224/6), County Government of Kwale (L.R. No. 12224/5) and Muungano Self Help Group (L.R. No. 12224/1).

Prayer 2: Investigates the cause of continue delay in carrying out the adjudication and settlement of the residents of Kidomaya/Miuongoni Village in Vanga Ward of Kiwegu Sub-Location in Lungalunga Sub County

(ii) The land is privately owned by three parties being Karsan V. Velani & Manji V. Velani (L.R. No. 12224/6), County Government of Kwale (L.R. No. 12224/5) and Muungano Self Help Group (L.R. No. 12224/1), hence the adjudication can only be initiated by the registered owners if necessary.

Prayer 3: Recommends that the Government under the one-million-acre Compulsory Land Acquisition Programme, acquires the land for the local residents and that the land be adjudicated so as to ensure that residents acquire title deeds.

(iii) The Committee recommends that County Government of Kwale resettles the squatters on the land L.R. No. 12224/5 as planned and budgeted.

Signed: _____ Date: 27/11/2024

THE HON. NIMROD MITHUKA MBAI, M.P.
CHAIRPERSON, PUBLIC PETITIONS COMMITTEE

THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 27 NOV 2024	
DAY: Wednesday	
TABLED BY:	Hon. Nimrod Mthai (Chairperson)
CLERK AT THE TABLE:	Lomale