

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

CIVIL SUIT NUMBER E101 OF 2020

MOHAMED HUSEIN JAFFER

PLAINTIFF

VERSUS

THE STANDARD MEDIA GROUP LIMITED  
WILLIS OKETCH

1<sup>ST</sup> DEFENDANT  
2<sup>ND</sup> DEFENDANT

PLAINT

FAST TRACK

1. The Plaintiff is a male adult of sound mind residing and working for gain in Mombasa town within Mombasa County. The plaintiff's address of service for purposes of this suit shall be Marende & Nyaundi Advocates ACK Garden House 6<sup>th</sup> floor, 1<sup>st</sup> Ngong Avenue P.O. Box 7619-00100 Nairobi
2. The 1<sup>st</sup> Defendant is a limited liability company duly incorporated under the Companies Act 2015, and whose registered address is P.O. Box 30080-00100 Nairobi. The 1<sup>st</sup> Defendant undertakes Media Communication, news publication, distribution and dissemination. Service of court process upon the 1<sup>st</sup> Defendant shall be effected through the Plaintiff's Advocates' offices.
3. The 2<sup>nd</sup> Defendant is a male adult of sound mind working for gain in Nairobi. He is a news reporter, servant and agent employed by the 1<sup>st</sup> Defendant. Service of summons upon the 2<sup>nd</sup> Defendant shall be effected through the Plaintiff's advocates' offices.
4. At all material times to this suit, the 1<sup>st</sup> Defendant owned, managed, printed and distributed *The Standard Newspaper* with a nationwide and global readership while the 2<sup>nd</sup> Defendant was in the service of the 1<sup>st</sup> Defendant as a writer and or reporter of the 1<sup>st</sup> Defendant contributing articles in the said Standard Newspaper.
5. The Plaintiff is a well-respected, educated and professional business man who has, through pure hard work and industry, built a solid global reputation in various

commercial undertakings within the coastal region of Kenya and the whole country as well. In his business undertakings the plaintiff has local and international commercial associates and partners.

6. On 11<sup>th</sup> August 2020, the Defendants, acting maliciously and without any justifiable cause, published of and concerning the Plaintiff and caused to be circulated, malevolent allegations in their publication - *The Standard Newspaper*. The said publication was also posted online on the World Wide Web on [www.standardmedia.co.ke](http://www.standardmedia.co.ke) where it remains available as at 1<sup>st</sup> September 2020.
7. The publication complained of, appearing in a large caption on the FrontPage of the Standard Newspaper of 11<sup>th</sup> August 2020 alleged that:

**Coast tycoon ordered to repay Sh. 1.8b he got for SGR land.**

*Compensation. High Court directs Mohamed Jaffer to return the money he was paid by the National Land Commission in 2014 after it found that he illegally evicted squatters and registered the property in his name. P. 20*

8. The Plaintiff avers that the said article was further elaborately and extensively published at Page 20 of the same Newspaper Issue under the heading: - **Court orders tycoon to repay Sh.1.8b in shady SGR deal.**
9. In the said article, the Defendants published, amongst other writings, the following defamatory words of the Plaintiff: -

*Court orders tycoon to repay Sh.1.8b in shady SGR deal.*

*The NLC paid money to a firm as compensation for building the SGR in 2015.*

*A tycoon has been ordered to pay back Sh. 1.8 billion that his company received as compensation for the compulsory acquisition of land in Mombasa.*

*On Thursday the High Court in Mombasa revealed how the National Land Commission bungled land pay claims during the construction of the Standard Gauge Railway.*

*The Court found that a firm owned by Mohamed Jaffar- Miritini Free Port Ltd- irregularly received the money in December 2015.*

10. Beside the offensive article, on the Front page and page 20 of the said Standard Newspaper, the Defendants posted and or published a photograph of the Plaintiff ensuring that the offensive words published related to and concerned the Plaintiff.
11. The Plaintiff avers that the Defendants spitefully and without any justifiable cause published of and regarding the Plaintiff and caused to be distributed and circulated the said libelous words without cause or justification.
12. By the contents of the said Article, either in its natural and ordinary meaning or by imputation and innuendo, the Defendant meant and were understood to mean that: -
  - a. The Plaintiff is a corrupt person and of unethical behavior.
  - b. The Plaintiff criminally, illegitimately and illegally evicted squatters from their land.
  - c. The Plaintiff unlawfully registered a property in his name.
  - d. The Plaintiff participated in and benefited from a devious and underhand SGR transaction.
  - e. The Plaintiff is a thieving outlaw and a dishonesty person and who has no regard for the rule of law.
  - f. The Plaintiff is engaged in the unsavory business of land grabbing and dispossessing deserving owners of their parcels.
  - g. The Plaintiff is engaged in dishonest land deals that have led to Kenyan tax payers losing money through illegal compensation for the Standard Gauge Rail land.
  - h. That our client is engaged in a conspiracy to loot public resources dedicated to the construction of the Standard Gauge Rail.

13. Further, beside the article, the use of the plaintiff's photograph was by, innuendo, meant to add emphasis on the false and malicious article and to depict the Plaintiff as the person who illegally evicted squatters from their land, and procured a fraudulent registration of their property in his name.
14. The Plaintiff avers that the said publication is a mischievous and spiteful rendition which clearly and deliberately misquotes the contents of the ruling of Justice Ogola delivered on 30<sup>th</sup> July 2020 in Mombasa HC Petition Number 17 of 2018, for the sole purpose of selling the newspaper and making profits despite the injury and damage to the Plaintiff's character and reputation.
15. The Plaintiff states that the contents of the said article were disparaging, vindictive, false, malicious, a scandalous attack on his personality and status and were, without doubt, defamatory.
16. The Defendants in publishing the said article did so out of extreme malice and spite, calculated to injure the Plaintiff and cause him great embarrassment and exposing him to great ridicule, odium and contempt in the eyes of his family, friends, work colleagues, business partners and the public at large.

#### PARTICULARS OF MALICE

- a. The Defendants deliberately misquoted the contents of the ruling of Justice Ogola delivered on 30<sup>th</sup> July 2020 in Mombasa HC Petition Number 17 of 2018.
- b. The Defendants knowingly, intentionally and prominently state that the Plaintiff was the person against whom a court order was made for the refund of Kshs. 1.8 b even though the Plaintiff was not a party to the suit and no such orders were made against him.
- c. The Defendants failed to give a fair and accurate report of proceedings held before Justice Ogola in Mombasa HC Petition Number 17 of 2018 as required under Section 6 of the Defamation Act.

- d. The Defendants did not ascertain the veracity or truth of the statements before publishing the same
  - e. The Defendants knew or ought to have known the contents of the said article would cause injury to the Plaintiff's image, reputation and standing in the eyes of the society and the Plaintiff continues to be injured to date.
  - f. The Defendant knew or ought to know that by publishing the said article the Plaintiff's image in the eyes of right thinking members of the society would be maligned and discredited.
  - g. The Defendant maliciously and deliberately employed false unfounded facts and used string language calculated to maximize the injury to the Plaintiff and reduce his standing and/or perception of the society.
17. By publication of the said article, the Plaintiff has been greatly injured in reputation as a consequence whereof, the Plaintiff has been brought into grave public ridicule, scandal, odium and contempt in the eyes of right thinking members of the society.
18. The Plaintiffs will rely on the following facts and matters to support their claim for exemplary damages.

#### PARTICULARS

- i. The Defendants knew or ought to have known that the publication of the said article without basis or evidence was malicious and in bad faith.
- ii. The Defendants knew or ought to have known that the publication of the said news report would result in irreparable damage to the official and special reputation of the Plaintiffs in the minds of right thinking members of society.
- iii. The Defendants failed to prudently discharge their duty of care in ensuring the accuracy of the reports and statements published in its newspaper resulting to the consequence of the Plaintiffs reputation and character suffering damage.
- iv. The said news article was published in a most sensational manner targeting the Plaintiff through an unfounded attack based on falsehoods and grounded in sheer perniciousness.

v. The Defendants have failed to give the Plaintiffs an unqualified apology on account of the negative impression created by the news article which paints a bad picture of the Plaintiff who is a renowned business man with a solid reputation in all his business dealings and transaction in Kenya and globally.

vi. This Honourable Court will be asked to infer that the Defendants published the said news report in the knowledge that they were libellous and or with a reckless disregard as to whether or not they were slanderous and in the hope of benefitting from the sales of the newspaper.

19. The Plaintiff further avers that the Defendant published the said article to audiences not only in Kenya but globally beyond its borders given the wide and extensive readership of the Standard Newspaper.

20. Despite the Plaintiffs having given notice of intention to sue and having demanded of the Defendants to furnish an immediate and unequivocal apology in the same manner and mode with similar prominence to the injurious statements, the Defendants have failed, refused or neglected to meet any of the foregoing demands.

21. That as a consequence to the refusal by the Defendants to render a retraction and apology on the malicious allegations, the Plaintiff has been compelled to incur an expense in procuring a newspaper Press Announcement to correct the malevolent allegations. The Plaintiff shall seek a reimbursement for this expense.

22. That there is no other suit pending and that there have been no previous proceedings in any Court between the Plaintiffs and the Defendants in respect of the subject matter in this suit. An accompanying affidavit is attached to this Plaintiff verifying this fact.

23. This Honourable Court has the jurisdiction to hear and determine this suit.

REASONS WHEREFORE the Plaintiff prays for judgment against the Defendants  
for: -

- i. An unequivocal retraction and an apology, acceptable to the Plaintiff, in such conspicuous manner as the offending publications and in terms to be approved by the Plaintiff
- ii. The deletion and or removal of all posts, publications and broadcasts of the offending statements that are still published in the Defendants' Online portals.
- iii. General damages for defamation
- iv. Special damages in the sum of KS 798,000
- v. Exemplary and Aggravated damages.
- vi. Costs of the suit
- vii. Interest on (iii), (iv), (v) and (vi) above at court rates from date of judgment until payment in full.
- viii. Any other or further relief this court may deem fit to grant in the circumstances.

Dated at NAIROBI this 1<sup>st</sup> day of September 2020

  
**MARENDE & NYAUNDI ADVOCATES**  
**ADVOCATES FOR THE PLAINTIFF**

**DRAWN & FILED BY: -**

Marende & Nyaundi Advocates  
1st Ngong Avenue  
ACK Garden House, 6th Floor  
P.O Box 7619-00100  
**NAIROBI**

**TO BE SERVED UPON**

The Managing Director,  
M/s Standard Media Group Ltd,  
P. O. Box 30080-00100,  
**NAIROBI**

Willis Oketch  
P. O. Box 30080-00100,  
**NAIROBI**

REPUBLIC OF KENYA

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VERSUS

THE STANDARD MEDIA GROUP LIMITED

1<sup>ST</sup> DEFENDANT

WILLIS OKETCH

2<sup>ND</sup> DEFENDANT

VERIFYING AFFIDAVIT

I MOHAMED HUSEIN JAFFER of P.O. Box 80469-80100 Mombasa in the Republic of Kenya do hereby make oath and solemnly state as follows;

1. That I'm the Plaintiff herein duly conversant with the facts of the matter herein and therefore competent to swear this affidavit.
2. That I have read and understood the contents of the Complaint and confirm the facts to be true.
3. That there is no other suit pending and that there have been no previous proceedings in any Court between the Plaintiffs and the Defendants in respect of the subject matter in this suit.
4. That I swear this affidavit in verification that the averments contained in the complaint are correct.
5. That the matters deponed to herein are true to the best of my knowledge information and belief.

SWORN AT NAIROBI

|

By the said MOHAMED HUSEIN JAFFER |

This 15<sup>th</sup> day of September 2020 |

BEFORE ME |

JULIET W. KINITI  
 ADVOCATE &  
 COMMISSIONER FOR OATHS  
 COMMISSIONER FOR OATHS  
 NAIROBI, KENYA.

|

DRAWN AND FILED BY:

Marende & Nyaundi Associates,  
ACK Garden House 6<sup>th</sup> Floor,





P.O Box 7619-00100,  
NAIROBI

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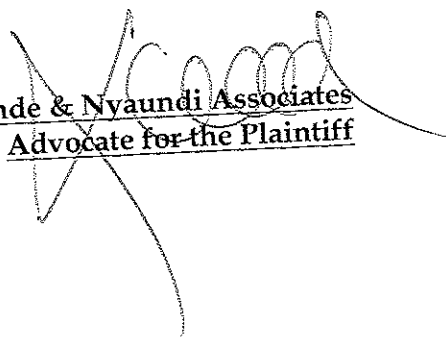
LIST OF DOCUMENTS

(Order 3 Rule 2 (d), Civil Procedure Act and Rules 2010)

The Plaintiff shall rely on the copies of the following documents during trial:

1. Copy of the Article Published in the Standard Newspaper on 11<sup>th</sup> August 2020.
2. Demand Notice to the Defendant
3. Evidence of service of Demand Notice - by email.
4. Press Announcement released in the Nation Newspaper dated 19<sup>th</sup> August 2020.
5. Receipt for the sum of KS 798,000 paid to Nation Newspapers
6. Any other document that may be required during trial

Dated at Nairobi this 1<sup>st</sup> day of September 2020

  
Marende & Nyaundi Associates  
Advocate for the Plaintiff

DRAWN AND FILED BY:  
Marende & Nyaundi Associates,  
1<sup>st</sup> Ngong Avenue,  
ACK Garden House 6<sup>th</sup> Floor,  
P.O Box 7619-00100,  
NAIROBI

# Coast tycoon ordered to repay Sh1.8b he got for SGR land

Compensation. High Court directs Mohamed Jaffer to return the money he was paid by the National Land Commission in 2014 after it found that he illegally evicted squatters and registered the property in his name. P. 20

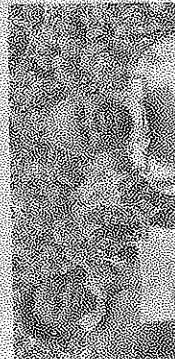
# Standards

Kenya's Best Newspapers

ISSN 2547-7000 | P.O. Box 20000 | Nairobi 00100 | Tel: 020 2717000 | Email: info@standards.org.ke | www.standards.org.ke

National, P. 13

Family that  
only talks  
through  
lawyers



# Kenya's richest counties listed

Rat race. Nairobi, Meru, Nyeri and Kirinyaga lead the pack in jobs, housing,

Court. Squatters have been seeking justice since 2007

# Court orders tycoon to repay Sh1.8b in shady SGR land deal

The NLC paid the money to a firm as compensation for building the SGR in 2015.

By Willis Oketch  
wkodai@standardmedia.co.ke

A tycoon has been ordered to pay back Sh1.8 billion that his company received as compensation for the compulsory acquisition of land in Mombasa.

On Thursday, the High Court in Mombasa revealed how the National Land Commission (NLC) bungled land pay claims during construction of the Standard Gauge Railway.

The court found that a firm owned by Mohamed Jaffer - Miritini Free Port Ltd - irregularly received the money in December 2015.

"It is therefore clear the NLC paid part of the compensation money to a wrong party either knowingly or inadvertently. The amount alleged already paid to interested party is said to be Sh1,475,486,485 plus a further interruption amount of Sh360 million," ruled Justice Eric Ogola.

Justice Ogola said the NLC has powers to issue a notice to recover money erroneously paid for land that does not belong to an individual or a company.

The judge had earlier found that the petitioners, who are squatters, were originally allocated plots number MN/VI/3912 and MN/VI/3913 by the government in 1996 as compensation after being evicted from the Sheikh Sayed Children Centre in Bombolulu.

The Commissioner of Land later cancelled their survey plan without informing them or obtaining their consent, consolidated the two plots into plot number MN/VI/4688 and allocated to Miqdad Enterprises, which sold it to Miritini Free Port Ltd.

The same plot was later consolidated into plot number MN/VI/4805, which the petitioners considered a violation of their rights.

Justice Ogola had also noted that the NLC had been aware of the petitioners' claims to the land yet it went ahead with the acquisition without giving regard to their interests.

"This court is at a loss at the conduct of the National Land Commission. Having unlawfully, and whether by mistake or otherwise, paid Miritini Free Port



Mohamed Jaffer. [File]

Ogola to review his earlier judgement in which he had found that the NLC had deprived the squatters of their right to own the two parcels of land.

The judge found that the Attorney General, and officials from both the Mombasa County Government and Ministry of Land had confirmed in letters filed in court that the land in dispute belonged to the squatters.

#### Property ownership

"The issues raised by the petitioner herein in the current motion filed on February 12 have been in court for a while now, and the contention has revolved around the ownership of the suit property. On September 10, 1996 this court by consent of parties in HC Misc Civil Application No 318 of 1996, having recognised the petitioners as the lawful allottees PDP Nos 32, 110, 112 and 121, ordered and directed that the said allotment be changed from industrial to residential use."

**1996**

■ The year when the petitioners were allocated the land as compensation after being evicted from the Sheikh Sayed Children Centre in Bombolulu

The matter dragged in court until 2018 when they filed a constitutional petition and successfully litigated the case.

Following the judgement that the squatters were the rightful owners of the land, Miritini Free Port applied to have the decision reviewed on grounds that it was *res judicata*, meaning the matter had been previously decided and should not be subject to litigation again between the same parties.

But Justice Ogola found that there was no need to review his judgement because there was enough evidence that the land was acquired by Miritini Free Port fraudulently.

"It is clear that Miqdad Enterprises had no allotment letter in the first place for plot numbers 3912 and 3913 respectively whereas the National Land Commission had earlier acknowledged on September 22, 2014 that the two plots were ready for compensation.

"Interestingly, the NLC in a letter dated December 1, 2015 Reference NLC/Chairman/Vol/XII/275 indicated that 'Miritini Free Port Ltd purchased plot No MN/VI/4688 from Miqdad Enterprises who were in possession of an allotment letter'" said the judge.

The judge said whereas the NLC had earlier acknowledged that compensation for plots number 3912 and 3913 was due, it was illogical and an injustice how plot MN/VI/4805 was due for determination for review without including the petitioners' views.

The judge said in his judgement of November 12, last year, he found that the purported registration of grant to Miqdad Enterprises "was in stark disobedience of court orders that had been issued earlier".

Ogola pointed out that Miritini Free Port was literally fighting against the judgement in question because it knew the end product of the decision made by this court was in favour of the squatters.

He said the application by Miritini Free Port to have the judgement overturned on the grounds of *res judicata* was an attempt to avoid refunding the Sh1.8 billion.

"I have found that the principle of *res judicata* is not available to this applicant in this matter. However, in my view, even if that principle was available, it would not be used to shield what appears to be an illegal or unprocedural

paid to interested party is said to be  
Shi 475 488 497

the judge.

Miritini Free Port joined the lawsuit in February as an interested party after the judge issued a verdict in another petition where he found that the rights of the squatters had been violated by the NLC after it blatantly disobeyed court orders issued by justices David Maraga and Mary Angawa in 2007. Miritini Free Port petitioned Justice

sioner of Land continued to frustrate the squatters and in November 9, 2007 consolidated the two plots in dispute into one plot MN/VI/4638 and allocated it to Miritini Free Port by cancelling the earlier surveys."

The judge said that when the petitioners got wind their plots had been allocated to somebody else, they filed a case against the Commissioner of Land.

legal absurdity where the court process is used to deprive a citizen of accrued property rights under the guise of the *res judicata* principle involving a case where the applicant herein was not a party," said Ogola.

The judge therefore dismissed the application for review of his judgement and ordered the petitioners to pay costs.

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Failure to carry the examination and  
Kits \$42,000



Marende &  
Nyaundi  
Advocates

Ken M. Nyaundi  
Geoffrey Ayuka  
Susan W. Kimani  
Clifton Kegimu  
Faith L. Musundi

Our ref: MNA 006-V

Your ref: TBA

12<sup>th</sup> August 2020

The Managing Director,  
M/s Standard Media Group Ltd,  
P. O. Box 30080-00100,  
NAIROBI

Advance copy by email  
corporate@standardmedia.co.ke

Dear Sir

**Re: Defamation - Mohamed Hussein Jaffer**

We act for and on behalf of Mr. Mohamed Hussein Jaffer who has instructed us to address you as hereunder.

That our client is a well-respected, firmly-established and self-made businessman with vast interests in various sectors of the Kenyan economy.

In his business journey, our client has built a solid reputation that has attracted both local and international investors to partner with him in various business undertakings, and as a result, his corporate footprints are clearly visible and can be counted as factors that have and continue to drive and contribute to the economic growth of the coastal region and the whole county, at large.

That on 11<sup>th</sup> August 2020, in your publication *The Standard Newspaper*, you ran a front page headline with the title 'Coast tycoon ordered to repay Sh. 1.8b he got for SGR land.' Alongside the title was the allegation that:

'High Court directs Mohamed Jaffer to return the money he was paid by the National Land Commission in 2014 after it found that he illegally evicted squatters and registered the property in his name.'

The aforesaid Article is further expensively and elaborately published at Page 20 of the same Newspaper issue under the heading: 'Court orders tycoon to repay Shs. 1.8 b in shady SGR Land deal.'

Your malicious and malevolent story made mention of our client as a person against whom the court ordered a refund of the KS 1.8b, even though our client is not a party to the suit and no order was made against him. Further, you allege that our client, Mr.



Mohamed Hussein Jaffer, illegally evicted squatters and registered the property in his name. These alarming and disturbing statements are made against plain knowledge that the land in question has never been registered in Mr. Jaffer's name nor did he evict any squatters, as claimed. Further, the court did not make any such observations as you assert.

These defamatory statements were published to audiences throughout the country and beyond its borders given the wide and extensive readership of your newspaper.

We observe that even though some of the companies associated with our client have been involved in litigation with other parties with regard to proprietorship interest, as relates to compulsory acquisition of land by the National Land Commission, for the construction of the Standard Gauge Railway, no court has ever issued any verdict, judgment or ruling requiring our said client or any of the companies in which he is a director to refund any sums of money awarded to them by the National Land Commission, including the suit from which your malicious story originates.

We further observe that this publication is a mischievous and spiteful rendition which clearly and deliberately misquotes the contents of the ruling of Justice Eric Ogola delivered on 30<sup>th</sup> July 2020, for the sole purpose of selling your newspapers. Evidently, the publication is a vindictive and scandalous attack on our client's character and reputation.

We are instructed that the above statements made against our client are utterly false, without merit, baseless, unsubstantiated, full of malicious falsehoods and an unjustifiable attack upon our client. The facts are wholly inaccurate and the publication is highly libelous to our client. In the circumstances there is no doubt that the defamatory statements were made of and concerning our client, with the sole intention, on your part, to defame and malign his name by painting a picture of our client as being dishonest, immoral, corrupt and unethical in his dealings, dishonorable, unprofessional, decadent, delinquent, irrational and highly reckless in his business dealings.

The article complained of, in its natural, unadulterated and ordinary meaning, can only be construed and was understood and intended to mean: That our client is -

- a. a thieving outlaw and a dishonest person who has no regard for the laws of the land.
- b. engaged in the unsavoury business of land grabbing and dispossessing deserving owners of their parcels.

- c. absorbed in shady land deals that have led to Kenyan tax payers losing money through fraudulent and illegal claims for compensation for the Standard Gauge Rail land.
- d. involved in a conspiracy to loot public resources dedicated to the construction of the Standard Gauge Rail.

The publication of the defamatory statements has greatly injured our client's character and reputation as a consequence whereof our client has been occasioned substantial and irreparable loss and damage and further subjected to public ridicule, scandal, odium, opprobrium and contempt in the eyes of right thinking members of the society.

Our instructions are to demand from yourselves, which we hereby do:-

1. An immediate, unqualified and unequivocal withdrawal and retraction of all allegations referred to in the story complained of and the publication by yourselves of an appropriate apology to our client to be published in as prominent a manner as the defamatory words complained of. The text of the apology must meet our client's approval;
2. A written assurance and undertaking that no further publications or any similar articles concerning our client will be written and/or circulated by yourselves, representatives, unreservedly and unconditionally retracting them;
3. A written admission of liability for defamation of our client's character;
4. An admission to pay damages amounting to Kenya Shillings Ten Billion (Kshs.10,000,000,000.00/-) to our client being suitable and/or reasonable sum as damages for the injury to our client's local and international reputation and for embarrassment and distress caused; and
5. To indemnify our client in respect of all costs and expenses incurred in this matter.

**TAKE NOTICE** that should you fail to comply with the above demands forthwith and in any event within seven (7) days from the date of service of this letter, we have firm instructions from our client to commence legal proceedings against yourselves at your peril to costs and other appurtenant consequences.

Yours faithfully,

FOR: MARENDE & NYAUNDI ADVOCATES

DR. KEN NYAUNDI



# Press Release

By Dr. Mohamed Hussein Jaffer

Advertiser's Announcement

1. The attention of Dr. Mohamed Hussein Jaffer has been drawn to newspaper articles by the Standard and the Star Newspapers published on 11<sup>th</sup> August 2020 and 12<sup>th</sup> August 2020, respectively.
2. The Standard Newspaper, in a front-line article published on 11<sup>th</sup> August 2020 titled 'Coast tycoon ordered to repay Sh 1.8b he got for SGR' alleges that the High Court directs Mohamed Jaffer to return the money he was paid by the National Land Commission in 2014 after it found that he illegally evicted squatters and registered the property in his name. This Article is further exaggeratedly published at Page 20 of the same Newspaper issue under the heading 'Court orders tycoon to repay Shs. 1.8b in shady SGR Land deal!'
3. This Article is false, misleading, and untrue with regard to Dr. Mohamed Jaffer. The publication alleges the existence of an order in Mombasa High Court Constitutional Petition No 17 of 2018 directing Dr. Mohamed Jaffer to compensate the alleged KS. 1.8bn received under the Standard Gauge Railway (SGR) settlement. This is fabricated, deceitful and untrue.
4. The following are the facts of the matter:
  - a. The land, subject matter of the proceedings before the judge, Plot Number 4688/V/MN, was an amalgamation of Plot Nos 3912 and 3913 which had been allocated to Migdad Company Limited and not Miritini Freeport Ltd as alleged in the newspaper reports. Miritini Freeport Ltd being the registered owner of a parcel of land Plot No. 4688/V/MN, purchased Plot Number 4688/V/MN, in the open market, and consolidated the two parcels and another two parcels so as to create Plot No MN/VI/4805.
  - b. The title to Plot No MN/VI/4805 was, until processing of the claim for compensation, in the name of Miritini Free Port. This title had never been impeached, annulled or cancelled by any court, as alleged. Indeed, the National Land Commission, in its review proceedings which precede all compensation claims, affirmed the title.
5. c. Once the National Land Commission finalized the processing of the compensation claims, the property Plot No MN/VI/4805, was subdivided creating Plot Nos. MN/VI/4805/1, 5267 to 5271.
- d. Plot No. MN/VI/4805/1 is now registered under the Government of Kenya (SGR). Further, Plot Nos. MN/VI/5267 to MN/VI/5271 are under the name of Miritini Freeport Ltd. The legitimacy of these titles is not in doubt. They are legal and legitimate. Indeed, the court did not deal with them and nobody has ever raised any issue with the validity of these titles.
- e. In sum, it is not true that Dr. Mohamed Jaffer was illegally allocated any land. It is also not true, and the judge did not make any finding, that squatters were evicted from the land.
5. It is important to note that, contrary to the claims laid out by the Standard Newspaper, Dr. Mohamed Jaffer was not a party in the suit before Judge Ogola and the judge did not and could not make any positive order demanding that he makes a refund of any money to the National Land Commission. Similarly, the judge did not make an order obliging Miritini Freeport Ltd to refund of any money to the National Land Commission, as alleged in the newspaper report.
6. Dr. Jaffer is an entrepreneur who, in his entire business life, has maintained a firm and upright standing in society and conducts all commercial undertakings with honesty, truth and integrity.
7. Dr. Jaffer has engaged his lawyers to take action to remedy this scandalous attack directed at his impeccable, personal and business reputation and to recover compensatory & punitive damages.

**Dr. Mohamed Hussein Jaffer, FBS, MRS**

THREE SIXTY MEDIA AND  
 MARKETING AGENCY LIMITED  
 P.O BOX 11228-00100 NAIROBI  
 TEL: 0722 451 699  
 PIN: P051610978M  
 KRA/ETP/02000309/011456

01 OPERATOR 798 000.00 A  
 DEPT 01  
 TOTAL 798 000.00  
 V-14.00% 98 000.00  
 TOTAL TAXES 98 000.00  
 CASH 798 000.00  
 01 ARTICLES 0075 00004  
 FISCAL RECEIPT N: 0075 00321  
 RECEIPT N: 10:49  
 27-08-20 FISCAL RECEIPT 20034461  
 SN

INVOICE

|  |  |            |
|--|--|------------|
|  |  | 27/08/2020 |
|  |  | 360-0106   |

Grain Bulk Handlers,  
 P.O BOX 80469-80100  
 MOMBASA KENYA.

Grain Bulk Handlers,  
 P.O BOX 80469-80100  
 MOMBASA KENYA.

Two advertisements published on Daily Nation Newspaper

700,000

V.A.T 14%

98,000

SUBTOTAL KSH 798,000  
 TOTAL KSH 798,000

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

CIVIL SUIT NUMBER E101 OF 2020

MOHAMED HUSEIN JAFFER

PLAINTIFF

VERSUS

THE STANDARD MEDIA GROUP LIMITED

1<sup>ST</sup> DEFENDANT

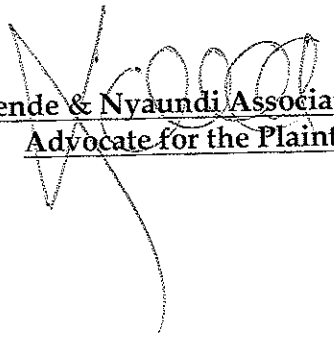
WILLIS OKECTH

2<sup>ND</sup> DEFENDANT

(Order 3 Rule 2 (b), Civil Procedure Act and Rules 2010)

1. Mohamed Husein Jaffer
2. Kungu Gatabaki
3. Michael Turner
4. Any other witness that maybe required during trial;

Dated at NAIROBI this 14<sup>th</sup> day of September 2020

  
Marende & Nyaundi Associates  
Advocate for the Plaintiff

DRAWN AND FILED BY:

Marende & Nyaundi Associates,  
1<sup>st</sup> Ngong Avenue,  
ACK Garden House 6<sup>th</sup> Floor,  
P.O Box 7619-00100,  
NAIROBI

TO BE SERVED UPON

The Managing Director,  
M/s Standard Media Group Ltd,  
P. O. Box 30080-00100,  
NAIROBI

Willis Oketch  
P. O. Box 30080-00100,  
NAIROBI.

REPUBLIC OF KENYA  
IN THE HIGH COURT OF KENYA AT NAIROBI

CIVIL SUIT NUMBER OF 2020

MOHAMED HUSEIN JAFFER

PLAINTIFF

VERSUS

THE STANDARD MEDIA GROUP LIMITED  
WILLIS OKECTH

1<sup>ST</sup> DEFENDANT  
2<sup>ND</sup> DEFENDANT

WITNESS STATEMENT

I, MOHAMED HUSEIN JAFFER, of P.O Box 80469-80100 Mombasa residing and working for gain in Mombasa do state as follows: -

1. I'm the Plaintiff herein duly conversant with the facts of the matter herein.
2. That I have read a copy of the Plaint annexed hereto and confirm the contents to be entirely true.
3. That I am a business man by profession dealing in various commercial undertakings within the coastal region of Kenya, the whole country and globally as well.
4. That in all my business undertakings, I consider myself as an honest, God-fearing, truthful, high moral standards, diligent and hardworking person. That as a result, I have established a solid reputation in the business sector, locally and globally.
5. That I have partnered with various business men, local and international stakeholders with respect to diverse business undertakings which have yielded positive results.
6. It was with shock and consternation that on 11<sup>th</sup> August 2020, while reading a copy of the Standard Newspaper, I found an article published on the Front Page of the newspaper with allegations concerning me. The Article was titled in bold that: -

**Coast tycoon ordered to repay Sh. 1.8b he got for SGR land.**

*Compensation. High Court directs Mohamed Jaffer to return the money he was paid by the National Land Commission in 2014 after it found that he illegally evicted squatters and registered the property in his name. P. 20*

7. This article was further elaborately and extensively published at Page 20 of the same Newspaper Issue under the heading; - **Court orders tycoon to repay Sh.1.8b in shady SGR deal.** The following words were published concerning me:

*Court orders tycoon to repay Sh.1.8b in shady SGR deal.*

*The NLC paid money to a firm as compensation for building the SGR in 2015.*

*A tycoon has been ordered to pay back Sh. 1.8 billion that his company received as compensation for the compulsory acquisition of land in Mombasa.*

*On Thursday the High Court in Mombasa revealed how the National Land Commission bungled land pay claims during the construction of the Standard Gauge Railway.*

*The Court found that a firm owned by Mohamed Jaffar-Miritini Free Port Ltd-irregularly received the money in December 2015.*

8. Further, on the Front page and page 20, my photograph was published alongside the defamatory publication.

9. That I was startled to read the above allegations published by the Defendants.

From the reading of the articles I inferred the following: -

- i. That there is in existence a High Court order directing me to return the money I received from the National Land Commission
- ii. That I illegally evicted squatters from their land.
- iii. That I illegitimately and criminally registered the suit property in my name.
- iv. That I was party in the contested suit in which adverse orders were made against me.
- v. That I engaged in dishonest land deals that have led to Kenyan tax payers losing money through illegal compensation for the Standard Gauge Rail land.

*V/S*

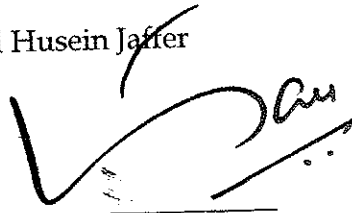
- vi. That I have engaged in a conspiracy to loot public resources dedicated to the construction of the Standard Gauge Rail.
10. The said publication is a mischievous and spiteful rendition which clearly and deliberately misquotes the contents of the ruling of Justice Ogola delivered on 30<sup>th</sup> July 2020 in Mombasa HC Petition Number 17 of 2018.
11. The contents of the article are disparaging, vindictive, false, malicious, a scandalous attack on my character and reputation and defamatory. The Defendants in publishing the said article did so out of extreme malice and spit, calculated to injure me and bring about great embarrassment and exposing me to great ridicule, odium and contempt in the eyes of my family, friends, work colleagues, business partners and the public at large.
12. That as a result of the Defendant's publication, I received telephone calls from my business partners, stakeholders, family and friends who were apprehensive that I had conducted myself dishonestly in my business transactions with them. I have assured them that the article by the Defendants is false, misleading, malicious, untrue and defamatory.
13. That I instructed my advocates on record to issue a notice of intention to sue and demanded of the Defendants to furnish an immediate and unequivocal apology in the same manner and mode with similar prominence to the injurious statements, the Defendants have failed, refused or neglected to meet any of the foregoing demands.
14. That as a consequence to the refusal by the Defendants to render a retraction and apology on the malicious allegations, I was forced to incur an expense in procuring a newspaper Press Announcement in the Daily Nation of 19<sup>th</sup> August 2020 to correct the malevolent allegations. I therefore seek a reimbursement for this expense.
15. I wish to state that I have been greatly injured in reputation as a consequence whereof, have been brought into grave public ridicule, scandal, odium and contempt in the eyes of right thinking members of the society.



16. That I pray that the Defendants to be held accountable for their actions.

Dated at Nairobi this 1st day of September 2020

Signed by Mohamed Husein Jaffer



A handwritten signature in black ink, appearing to read 'Mohamed Husein Jaffer', written over a horizontal line.

REPUBLIC OF KENYA  
IN THE HIGH COURT OF KENYA AT NAIROBI

CIVIL SUIT NUMBER OF 2020

MOHAMED HUSEIN JAFFER

PLAINTIFF

VERSUS

THE STANDARD MEDIA GROUP LIMITED

1<sup>ST</sup> DEFENDANT

WILLIS OKETCH

2<sup>ND</sup> DEFENDANT

WITNESS STATEMENT

I, Mr. Kungu Gatabaki of P.O. Box 55414-00200 residing and working for gain in Nairobi within the Republic of Kenya states as follows:-

That I am an economist by profession working as a corporate director engaged in various commercial assignments.

I have known Mr. Mohamed Husein Jaffer, the Plaintiff herein since the around the year 1993 on both a personal and mostly on a professional level.

The Plaintiff is a well respected, educated and professional businessman who has through pure hard work and industry, built a solid global reputation in various commercial undertakings within the coastal region and the whole country as well. In his business undertakings, the Plaintiff has local and international commercial associates and partners.

That I had an opportunity to partner with the Plaintiff in various business undertakings including the Grain Bulk Handlers, Mbarak Oil Terminal, AGOL and being a director in some of his companies. I have further introduced the Plaintiff to various international financing institutions and funding agencies.



That throughout our interactions I have viewed and held the Plaintiff to be an honest, hardworking, a man with high moral standing and considerate man. The Plaintiff has always acted with diligence in his transactions and abided by the law of the country and observed all regulatory requirements in business.

That I was shocked to find on the FrontPage of the Standard Newspaper of 11<sup>th</sup> August 2020 allegations concerning the Plaintiff inter alia that:

**Coast tycoon ordered to repay Sh. 1.8b he got for SGR land.**

*Compensation. High Court directs Mohamed Jaffer to return the money he was paid by the National Land Commission in 2014 after it found that he illegally evicted squatters and registered the property in his name. P. 20*

This article was further extravagantly and considerably published at Page 20 of the same Newspaper Issue under the heading **Court orders tycoon to repay Sh.1.8b in shady SGR deal**. The following words were published concerning the Plaintiff:-

*Court orders tycoon to repay Sh.1.8b in shady SGR deal.*

*The NLC paid money to a firm as compensation for building the SGR in 2015.*

*A tycoon has been ordered to pay back Sh. 1.8 billion that his company received as compensation for the compulsory acquisition of land in Mombasa.*

*On Thursday the High Court in Mombasa revealed how the National Land Commission bungled land pay claims during the construction of the Standard Gauge Railway.*

*The Court found that a firm owned by Mohamed Jaffar-Miritini Free Port Ltd-irregularly received the money in December 2015.*

That further, on the Front page and page 20, a photograph of the Plaintiff was published and thereby confirming that the article related to Mohamed Jaffer that I had known.

That I was astonished to read such allegations against the Plaintiff who I had on various occasions interacted with and held transactions with, together with other businessmen in the country and on an international level.

I wish to state that I formed the view and understood the said broadcast to mean among other things that:

- a. The Plaintiff is a corrupt person and of unethical behavior.
- b. The Plaintiff criminally, illegitimately and illegally evicted squatters from their land.
- c. The Plaintiff unlawfully registered a property in his name.
- d. The Plaintiff participated in and benefited from a devious and underhand SGR transaction.
- e. The Plaintiff is a thieving outlaw and a dishonesty person and who has no regard for the rule of law.
- f. The Plaintiff is engaged in the unsavory business of land grabbing and dispossessing deserving owners of their parcels.
- g. The Plaintiff is engaged in dishonest land deals that have led to Kenyan tax payers losing money through illegal compensation for the Standard Gauge Rail land.
- h. That the Plaintiff engaged in a conspiracy to loot public resources dedicated to the construction of the Standard Gauge Rail.
- i. That a suit was filed against the Plaintiff to recover Kshs. 1.8billion he illegally obtained from the National Land Commission on reliance of a parcel of land he illegally obtained.

That due to the said broadcast, my perception of the Plaintiff changed and I considered him to be corrupt, dishonest, a thief and a person who had lowered his high moral standards.

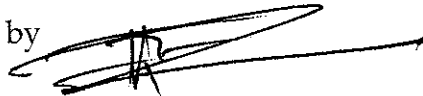
I got apprehensive that the Plaintiff may have acted dishonestly in our various business undertakings.

That I immediately called the Plaintiff to inquire on the veracity of the publication which he stated that the said publication is a mischievous and spiteful rendition which clearly and deliberately misquotes the contents of the ruling of Justice Ogola delivered on 30<sup>th</sup> July 2020 in Mombasa HC Petition Number 17 of 2018, for the sole purpose of selling the newspaper.

That is all I wish to state.

DATED AT NAIROBI THIS 1<sup>st</sup> DAY OF September 2020

Signed by



Mr. Kungu Gatabaki

REPUBLIC OF KENYA  
IN THE HIGH COURT OF KENYA AT NAIROBI  
CIVIL SUIT NUMBER OF 2020  
MOHAMED JAFFER PLAINTIFF  
VERSUS  
THE STANDARD MEDIA GROUP LIMITED 1<sup>ST</sup> DEFENDANT  
WILLIS OKETCH 2<sup>ND</sup> DEFENDANT  
WITNESS STATEMENT

I, Michael Turner of P.O. Box 43233 00100 residing and working for gain in within the Republic of Kenya states as follows: -

That I am a British Citizen and a chartered accountant by profession (ICAEW) with a speciality in Finance.

I have known Mr. Mohammed Jaffer, the Plaintiff herein since the year 1999 both at a personal and mainly on a professional level.

That I have known the Plaintiff herein to be a business man by profession dealing in various commercial undertakings within the coastal region and the whole country as well.

For the years I have known Mr. Jaffer, I have considered him to be a diligent and hardworking person with a good reputation in the business community.

That a certain investor that I represent has successfully done business with Grain Bulk Handlers Limited, of which Mr Jaffer's family are ultimately majority beneficial shareholder.

In the years that I have interacted and conducted business with him I have not seen, heard or witnessed any evidence of him being involved in any illegal or unlawful dealings

That on 11<sup>th</sup> August 2020, whilst engaged in my daily routine of getting acquainted with the nation's news, I found on the FrontPage of the Standard Newspaper of 11<sup>th</sup> August 2020 allegations concerning the Plaintiff inter alia that:

**Coast tycoon ordered to repay Sh. 1.8b he got for SGR land.**

**Compensation.** *High Court directs Mohamed Jaffer to return the money he was paid by the National Land Commission in 2014 after it found that he illegally evicted squatters and registered the property in his name. P. 20*

This article was further elaborately and extensively published at Page 20 of the same Newspaper Issue under the heading **Court orders tycoon to repay Sh.1.8b in shady SGR**

**deal.** The following words were published concerning the Plaintiff: -

**Court orders tycoon to repay Sh.1.8b in shady SGR deal.**

**The NLC paid money to a firm as compensation for building the SGR in 2015.**

*A tycoon has been ordered to pay back Sh. 1.8 billion that his company received as compensation for the compulsory acquisition of land in Mombasa.*

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The Court found that a firm owned by Mohamed Jaffar-Miritini Free Port Ltd-irregularly received the money in December 2015.

That further, on the Front page and page 20, a photograph of the Plaintiff was published and thereby confirming that the article related to Mohamed Jaffer that I have known for many years.

That I was surprised to read such allegations against the Plaintiff who I had on various occasions interacted with.

Despite knowing the Plaintiff as a man of good repute and standing in the business community in Kenya, I was compelled to inquire from the Plaintiff himself concerning the said article in order to satisfy any doubtful thoughts about him arising in my mind.

I immediately called the Plaintiff to inquire on the authenticity of the publication to which he informed me that the contents of the article were disparaging, vindictive, false, malicious, a scandalous attack on his character and reputation and were defamatory. He further informed me that the Defendants in publishing the said article did so out of extreme malice and spite, calculated to injure him and bring about great embarrassment and expose him to great ridicule and contempt in the eyes of his family, friends, work colleagues, business partners and the public at large.

That is all I wish to state

DATED AT NAIROBI THIS DAY OF  
2020

1st September

Signed by Michael Turner

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