

1911

EAST AFR. PROT.

12350

12350

Over no. 120  
Richard

Date

1st March

at previous Paper

LESSING BROTHERS COMPANY'S PETITION

re: land in the vicinity of the Makindu River. The writ memo by the Crown Advocate giving the facts of the case and explaining the case fully, does not admit that the petitioners have any just ground for complaint.

W. R. Cox

It is impossible to get a clear idea of the situation from the petition & the scraps extracts from correspondence which accompany it. But W. Cooke's memorandum (which will be found attached to the petition) remedies this defect, & shows, in my opinion, that Messrs. Premji & Co. have no case.

Request the Govt to inform the petitioners that the B. of B. has received & considered their petition but sees no reason to question the

rightness of the Governor's decision in  
the matter.

Feb

April 2

25/10

Las Lunas

Sopocan

H. 3

2/1

X-2.4  
at once

See 2

GOVERNMENT HOUSE,  
NAIROBI.  
BRITISH EAST AFRICA

EAST AFRICA PROTECTORATE

No. 300

(Incl 35)

RECEIVED 21st, 1911

12 00

Sir,

I have the honor to acknowledge the receipt of your letter of the 14th inst. in relation to the proposed extension of the railway line from Nairobi to the coast.

The Government are pleased to hear that you are satisfied with the arrangements made for the proposed extension of the railway line.

I am, Sir, very glad to hear that you are satisfied with the arrangements made for the proposed extension of the railway line.

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From  
Messrs J. & Co.  
24

Approved by  
John A. Lynch  
17

THE RIGHT HONOURABLE  
LEWIS HARGREAVES, P.C., M.P.,  
SECRETARY OF STATE FOR EAST AFRICA,  
DOWNING STREET,  
LONDON, S.W.

EAST AFRICA PROTECTORATE

GOVERNMENT HOUSE,  
NAIROBI,  
BRITISH EAST AFRICA

No. 120  
(Incls. 2)

MARCH 21ST, 1911

C O  
42350

Sir,

from Messrs.  
Prenji & Co.  
10 - 11 - 110

I have the honour to transmit herewith  
a petition from Messrs. Prenji & Co respecting  
land in the vicinity of the Makindu River.

Memorandum by  
Crown Advocate  
10 - 11 - 110

3. The facts of the case are stated in  
the attached memorandum by the Crown Advocate,  
which explains the position fully.

4. I cannot admit that the petitioners  
have any just claim to the land. It is the  
rule that, when land which has been  
withheld for Government purposes, is thrown open,  
it should invariably be put up to auction, and  
any divergence from this procedure would create  
a dangerous and inconsonant precedent.

5. The insinuation on the part of the  
petitioners that the Land Office differentiated  
against

THE RIGHT HONOURABLE

LEWIS HARCOURT, P.C., M.P.,

SECRETARY OF STATE FOR THE COLONIES,

DOWNING STREET,

LONDON, S.W.



In Dispatch No. 20 of March 20, 1910

Malta Kuu, No. 84

Number 14, October 1910.

MY LORD,

We the undersigned most humbly and respectfully beg to state that we are Indian merchants and land owners doing business in this Protectorate and being not satisfied with the decision of His Excellency the Governor in connection with our claim to certain land at Makindu, we most humbly submit the following few lines for your Lordship's favourable consideration.

2. We enclose herewith the extracts of correspondence taken place in connection with our land at Makindu the perusal of which will show as under:-

(1) That we applied for two miles of land by application dated 1st June 1904 and communicated our selection by the letter of 22nd June 1904 and sent sketch plan on 31st July 1904 showing roughly the position of land applied for piece-wise the schedule marked "B". We were asked to modify our application by selecting land on one side of the river and so selected on the Eastern bank of the river Makindu from Punjaubi's station.

(2) That our application was registered and that we were informed by the Land Officer by letter No. 1617 that "should the land prove available on survey and no objection be raised the land applied for will be allotted to your client". We were granted permit in writing dated the 17th January 1905 to occupy the land applied for provided "that there are no other occupants, either native or otherwise already on the land."

The Principal Secretary of State.

(3)

for the colonies.

(3) That we communicated by letter dated 21st January 1905 "we beg to enclose with the rough sketch showing plots we shall be occupying please vide the plan marked schedule showing what we occupy and which plan was filed in the Land Office."

That we informed directly and through our Solicitors on more than one occasion what we occupied and no objection was been raised till today to our such occupation. While writing to the Land Office we said in our letter of the 12th April 1905 that "we have taken possession of the land running down from Punjabi Huzoor Hussain's shamba to the pu. and started work of improvement"

(5) That we kept on asking Land Office for plan of land and once complained to the Commissioner of Crown Lands re Land Office's delay in supplying draft deeds and pains etc and on getting draft deeds for approval we wrote in our letter to Land Office dated 30th November 1906 that "we shall send the same draft as soon as we receive the plan of our land referred to in the draft deeds". We got reply that we could not get the plan and so we had no alternative but to submit to the arbitrary order of the Land Office and returned the draft deeds by letter of the 20th December 1906 wherein we mentioned that "we note that it is not the practice of your office to furnish plans with the draft deeds, of course this keeps us in dark as to our exact boundaries for the time being. However the enclosed:-"

(6) That Land Office forwarded us the plan and conveyance

-yance by letter No. 173 of the 22nd March 1907  
then only on perusal we learn that the best  
portion of the land: our Free Grant area and  
in our occupation was marked out as Government  
farm and intended to deprive us of almost the  
whole river frontage which is the most valuable  
asset to our farmer in a dry country like Makindu  
and we clearly saw that this created difficulty  
in our way of developing the land because our  
farmers and stock at the other end of the land  
will have to walk nearly two miles to reach the  
watery portion of the land that in every five  
four miles. At that stage we could not do other-  
wise than to receive whatever we could get  
from the Land Office which is in every possible  
way discouraging Indians from acquiring agri-  
cultural land in this country and unfortunately  
our this belief has been confirmed by the treat-  
ment we have obtained in getting land even in  
a dry country like Makindu and accepted the  
conveyance under protest and so we protested in  
our letter to the Land Office of the 30th March  
1907 that "we have the honour to return herewith  
counterpart of our conveyance for our 640 acres  
of Free Grant land duly signed as requested but  
we beg to state that the plan attached thereto  
is not correct as far as it is not in accordance  
with what we actually possess so we accept this  
under protest and subject to our previous corres-  
pondence the details of which we shall go into  
hereafter". Besides writing directly ourselves  
we had instructed our Solicitor Mr. Harrison  
to apply to the Land Office to register our app-  
lication

plus for that land in his own name  
as soon as it became a title for attention  
we should have the first option of the field.

(2) We are still at a loss to understand why Govern-  
ment should have kept two experimental farms in a small  
unhealthy dry place like Makindu and it leads us to  
infer that there was some misunderstanding in the Land  
Office as the Agricultural Department and its Officer  
Mr. Powell did not even know till 1906 the existence of  
so called Government farm because the experimental farm  
No. 1 on the Northern side of the river Makindu Govern-  
ment had to abandon it after working for four years  
and after spending lot of money on account of its un-  
suitability and unhealthiness even though the site  
selected for such farm was the best available in Malindi.

4. In conclusion we most humbly and respectfully  
request that your Lordship will be most graciously  
pleased to consider our application favourably bearing  
in mind that the land identified as second Government  
farm (B) by the Land Office is in our possession for  
the last five years taken under the express permit  
given us in writing to occupy the same by the Land  
Office and in view of the correspondence the important  
extracts of which we beg to append herewith we are  
confident that your Lordship will decide in our favour  
by including the land alleged to be second Government  
farm in our Free Grant area in consideration of which  
we are ready, if called upon to do so, (1) to give up  
our right over the leasehold area beyond railway zone  
amounting to 65 acres the documents of which are not yet  
completed or (2) to allow the Land Office to cut down  
from the back part (western side) of our Free Grant area  
140 acres in lieu of land (B) on river side we may get  
or (3) to purchase that area (B) of 140 acres at ordi-  
nary rate - unless we strongly object to Land Office  
putting

putting in auction the lane which we occupy for the  
last five years.

Hoping to be excused for writing your Lordship  
so rashly and expecting a favourable reply.

We beg to remain,  
Your Lordships most obedient,  
and dutiful servants,

*B B L Trueman & Co*

C O P Y.

Mombasa 1st June 1904.

Sir,

I beg to say that my client Ravji Vishram and Premji Ranchoddas have asked me to say that they are desirous of having two square miles of land from the Government as free grant between Mazaras and Makindu, the particular plot will be selected by my clients after the application has been granted by H.M. Commissioner. In the mean time I beg to inform you that my clients are old residents of Mombasa and East Africa, one of them the first firm being of one hundred years' standing in East Africa and in every good pecuniary circumstances.

I shall be obliged if you will be good enough to send me an early answer.

I remain, Sir,

Your obedient servant,

Sd/- Cawasji Manekji Dalal

Barton Wright Esqr.,

Land Officer,

Nairobi,

No.1050.

The Land Office,

Nairobi, 4th June 1904.

Sir,

They should first of all select the land they are desirous of acquiring and then make formal application for the same. On doing so they should furnish me with proof that they are possessed of a capital of at least £300/-.

I am, Sir,

Your obedient servant,

Sd/- R.B.Wright  
Land Officer,

To,

C.M.Dalal Esqr.,  
Mombasa.

Montana, 22nd June 1904.

Sir,

Since the receipt of your letter my clients have selected a piece of land at Makindu near the river and adjoining the shamba of Punjabi Ghodri &

: : : : : : : : : : :

I remain,

Your obedient servant,

Sd/- Gvasaji Manekji Dalal.

R.B.Wright Esqr.,  
Land Officer,  
Nairobi.

No.1382.

Survey and Land Office,  
Nairobi, 5th July 1904.

Gentlemen,

I enclose application forms which your clients should fill up and return, they should forward a sketch map of their selection showing the locality of the land they wish to acquire.

Plots of not more than 150 acres within the Railway zone between Mazaras and Machakos and Elbingon and Fort Terman can be bought for Rs.2/- per acre, if the Survey shows them to be available. Such plots must:

: : : : : : : : : : :

I am, Gentlemen,

Your obedient servant,

Sd/- T.T.Gilkinson,

Asst. Land Officer

Messrs. C.M.Dalal.

COPY.

L442A

Mombasa

Mombasa, 21st July 1904.

Sir,

: : : : : : : : : :  
in reply my clients ask me to send you the enclosed sketch  
plan shewing roughly the position of the free grant and  
homestead lands that they would like to have if available.  
The sketch plan is made on the spot.

I am, Sir,

Your most obedient servant,  
Sd/- Cavaaji Manekji Dalal.

To,  
T.T.Gilkinson Esqr.,  
Land Officer,  
Nairobi.

No.1617.

Survey and Land Office,  
Nairobi, 26th July 1904.

Sir,

Your letter dated Mombasa 21st July 1904, received.  
The application has been registered and should the land  
prove available on survey and no objections be raised the  
land applied for will be allotted to your clients.

I am, &c.,

Sd/- T.T.Gilkinson,  
Agc. Land Officer.

C.M.Dalal Esqr.,  
Pleaser,  
Mombasa.

East Africa Protectorate.

Survey and Land Office,  
Nairobi/D/ 17th Jan 1905.

Permit to occupy unoccupied crown lands pending  
survey.

Rowji Visram, Bhaji Jetha and Premji Ranchordas,  
having applied for eight hundred acres of land at Makindu  
or near to East Bank Makindu R. and bounded by the River  
and it being impossible to survey the same at present,  
permission is hereby given to R. Visram and two others to  
occupy the land applied for provided that there are no  
other occupants, either native or otherwise already on the  
land.

Sd/- F.B. Wright  
Land Officer.

Mombasa, 4th February 1905

Dear Sirs,

Our application is as follows:-

640 acres free grant beyond Railwa. zone which  
is same like freehold offered to settlers generously by  
Government by notice of 14th May 1903.

I am, etc.,

Sd/- Premji Ranchordas.

Mead & Co.

Mombasa.

Mombasa. 26th January, 1905.

To,

Messrs Co,

Mombasa.

Dear Sirs,

Re: Makindu land for Rowji & two others.

We beg to send herewith the rough sketch showing plots we shall occupy marked red.

The sketch we don't for a moment pretend has been drawn on correct measurement and scale.

We Rowji and two others like to be known as R.S.L.Premji & Co hereafter and so request you to get all the documents drawn in the said name of R.S.L.Premji & Co. In connection with our land at Makindu.

Please remind Mr.Harrison to get a copy of map of the Makindu District and especially of the Makindu river, from the land office and if there is copying fee, we shall be happy to pay.

We are etc.,

Sd/- R.S.L.Premji & Co.,

P.S.

Our man has already proceeded to Makindu, who will erect temporary dwellings for our farmers and stock, until we can build permanent ones and some more men will go by to-morrow's train.

Sd/- R.S.L.Premji & Co.,



Survey and Land Office,  
Nairobi, 24/26 March 1905.

No. 1019.

Gentlemen,

Messrs. Premji & Co : : : : :

Regarding permit to occupy if you will return  
the one you now hold for 800 acres I will send you fresh  
copies for 1280 acres.

I am, etc.,

Sd/- R.B. Wrigat.

Chief Surveyor and Land Officer.

Messrs. Mead, Byron and Harrison,  
Nairobi.

Mombasa, 10th April 1905.

Messrs. Smith, Byron and Harrison,  
Mombasa.

Dear Sirs,

In returning the duplicate and triplicate copies  
of the "Permit" of right of occupation duly signed we have  
the pleasure to thank you for your kindness. We note with  
satisfaction that after all you have been able to persuade  
the Land Office to grant us 1375 acres of land at Makindu  
on the Eastern bank of the river Makindu and bounded by  
that river.

We beg to repeat and tell you that we have already  
taken possession of land running from Punjaubis shamba  
down to the pump and started improvement.

We, etc.,

Sd/- R.B.L. Premji & Co.

C O P Y .

447

Mombasa, 12th April 1905.

34, Ndia Kuu.

Ndia Kuu.

To,  
The Land Officer,  
Nairobi.

Sir,

We respectfully beg to state that we have been granted land measuring 1375 acres at Makindu on the Eastern bank of the river Makindu and bounded by the same river. We have taken possession of the land running down from Panjaubi Mohamed Hussein's shamba to the pump and started work of improvement.

We have, etc.,

Sd/- R.B.L.Premji & Co.

18th August 1906.

To,  
The Commissioner of Crown Lands,  
Nairobi.

Sir,

We beg to inform you that we shall in future correspond with Government directly re our Hansraj farm at Makindu instead of through <sup>our</sup> Solicitors Messrs. Mead, & Co., to avoid unnecessary delay.

We originally applied first on the 1st of June 1904 for two square miles of land at Makindu on the Makindu river, one mile within the Railway zone and one mile without. But subsequently we were asked by the Land Officer to modify our application and it stood thus:-

160	acres	freehold	within	Railway	zone.
480	"	lease hold	"	"	"
640	"	free grant	without	"	"

all our land commencing from the shamba of Panjaubi Ghodri

Mohamed

Moham... set down to the pump House on the Railway zone  
on the left bank of the Makindu river, We are in occupa-  
tion of the land since the 1st date of our temporary  
right of occupation and on more than one occasion we have  
informed the Land Office what we occupy, but unfortunately  
there has been lot of correspondence and misunderstanding  
re our land between our Solicitor and the Land Office  
and between ourselves and the Solicitors.

We have been informed that the pakha survey has  
now been made of the Crown land at Makindu and so we  
humbly request you to send us the copy of the latest plan  
of our land for our perusal; we undertake to return the  
tracing sent to us for perusal.

We would also like to peruse all the draft deeds  
to be passed to us by Government before they are finally  
engrossed.

Sd/- R.S.L.Premji & Co.

30th November 1906.

The Land Officer,  
Nairobi.

Sir,

We have the pleasure to acknowledge the receipt  
of your letter No.482 of the 26th instant requesting us  
to : : : : :  
we shall send the same draft as soon as we receive the  
plan of our land referred to in the draft deeds.

Please find the plans as requested in our  
letter of 19th instant at your convenience.

We have, etc.,

Sd/- R.S.L.Premji & Co.

28th December 1906.

The Land Officer,  
Nairobi.

Sir,

We have the honour to acknowledge receipt of your letter No.5007 of 11th instadt and note that it is not the practice of your office to furnish plans with the draft deeds, of course this keeps us in dark as to our real boundaries for the time being. However, we enclose:-

- 1 Conveyance for 160 acres Freehold
- 2 " " " 640 " Free Grant

: : : : : : : : : : :

We have, etc.,  
Sd/- R.B.L.Premji & Co.

3rd March 1907.

Land Officer,  
Nairobi.

Sir,

With reference to your letter No. 1173 of the 22nd instast we have the honour to return herewith counter-part of conveyance for our 640 acres of Free Grant land duly signed as requested but we beg to state that the plan attached thereto is not correct as far as it is not in accordance with what we actually possess, so we accept this under protest and subject to our previous correspondence the details of which we shall go into hereafter. The sum of Rs.52/- etc fees we shall send by the next train.

We have, etc.,  
Sd/- R.B.L.Premji & Co.

Acting Commissioner of Lands,

I have been through these files. The material facts appear to be as follows:-

In June 1904 Messrs. Premji & Co. applied for land in the district. After the application had been made Messrs. Premji & Co. had been given occupation of some part of the lands applied for it was ascertained that a portion of that land was required by the Government for the purposes of an experimental farm and consequently such land was excluded from the grant to Messrs. Premji and Co.

Messrs. Premji & Co. had been given the land which they have now applied for and they had the original of the title deed.

Messrs. Premji & Co. had been given the land and requested that they should be allowed to use the purposes of the Government farm land. In that connection, they should have the first option to take the land, and they were definitely informed that if such land became available for leasing it would be auctioned.

In 1905 Messrs. Premji & Co. asked for permission to irrigate their land with water from the Main River, and permission was refused. In 1906 it was discovered that in the face of such refusal Messrs. Premji & Co. had cut irrigation trenches and were drawing water from the river for irrigation purposes, and were thereby diminishing the flow of the water to the Railway pipes which supply water for Railway purposes at

After such correspondence and on threats of legal proceedings Messrs. Premji & Co. were induced to discontinue to use the water from the river for irrigation purposes.

The Government have also purchased for the land reserved for the Government farm and have introduced Messrs. Premji & Co. and other applicants that the land will be disposed of by the highest bidder at public auction.

Messrs. Premji & Co. have again lodged an appeal against the decision of the Land Officer to dispose of the land by auction, claiming that in equity they should first be given the option to purchase or lease the land.

I understand from Mr. Barten Wright that they base their claim on the following grounds:

- (1) That they originally applied for this land and would have been granted it had it not then been required for the purpose of the Government farm.
- (2) That they have expended money in cutting channels through the land in question for the purpose of carrying water to the land now occupied by them.

The question to which my opinion is invited is whether Messrs. Premji & Co. have made out a good case in equity for asking that they should have the first option to take the land in question.

In my opinion the principle involved in the first ground



PUBLIC RECORD OFFICE.

1-35

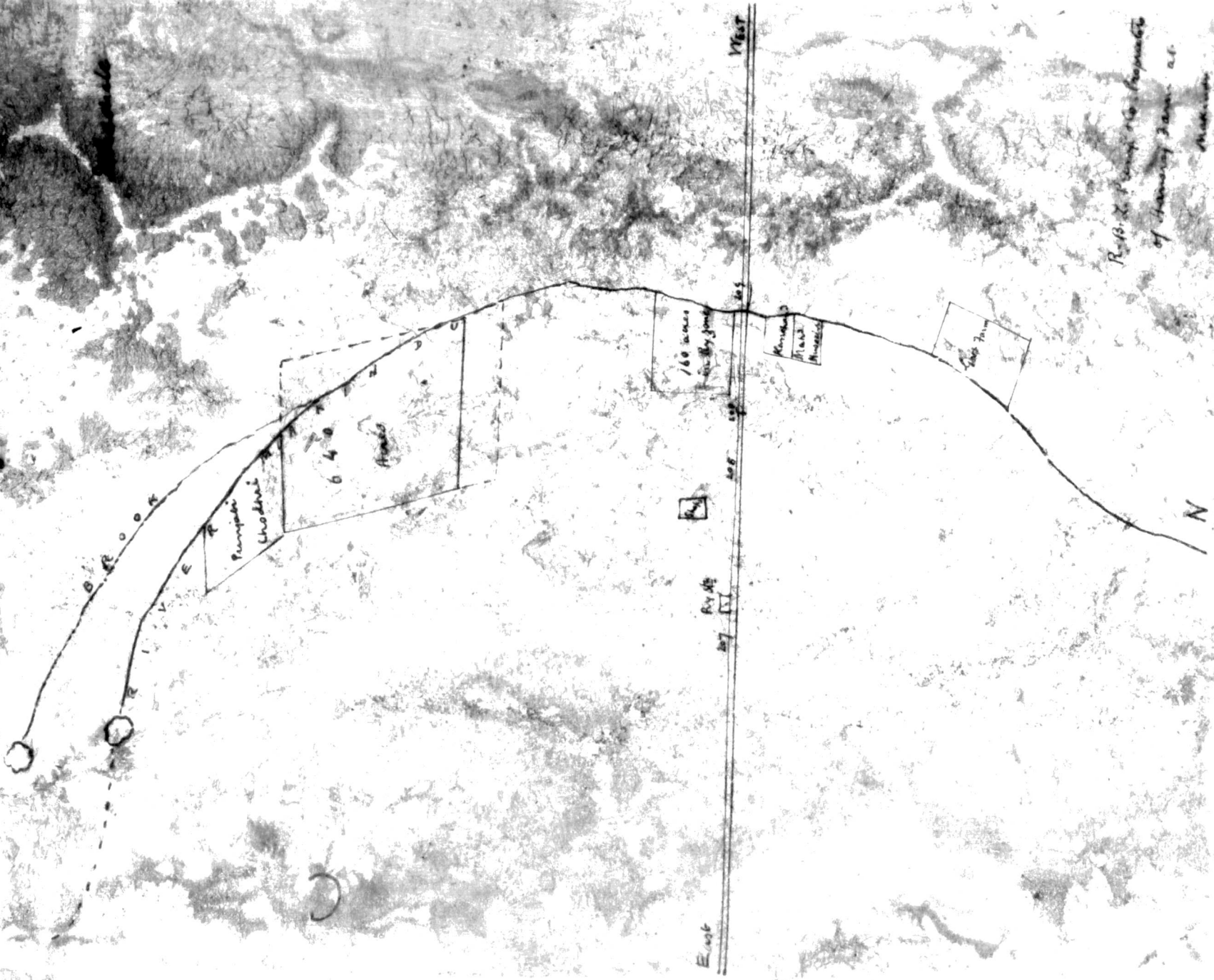
453

~~One~~ <sup>Three</sup> Document, being plans of land near the  
Makindu River.

<sup>is</sup> has been removed to MPG 1046

2:6:69

A.H. Kitching



R-13-2 Pump & fragments  
of chimney Jan. 21  
Museum

PLAN OF LAND  
AT  
MAKINDU

D

SCALE 800 FEET 1 IN



PLAN OF LAND  
AT  
MAKINDU  
SCALE 800 FEET IN

D

RIVER

GOVT FARM NO  
TREES AND BUSHES  
(B)

MULLAH

GRASS

D PEN

TO NAIROBI

WATER ENGINE  
RAILWAY BRIDGE

UGANDA RAILWAY

RAILWAY BOUNDARY  
RAILWAY BOUNDARY

Govt farm  
NO 61(A)  
Experimental  
farm

Zone  
nant

Mah  
Hussain

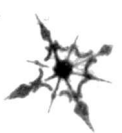
OPEN GRASS

SMALL TERT

640 acres

Free Grant

65 acres  
Household





Plot farm  
NO. 6(A)  
Experiment Farm

VEDANTA RAILWAY

VEDANTA RAILWAY BOUNDARY

INDIAN BANK

FROM 10A

BUS STATION

MANGROVE STATION YARD  
ENCLOSURE

CLUM

RAILWAY

OPEN GRASS

S

M A K I N D D

B R O O K



3

6 P I

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11

R A I D W A Y

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(See Note)

208

E I N

216

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N

Copyright

28 Apr 1911

~~Handwritten signature~~

DRAFT.

EAP 4  
N. 212  
Copy to EAP forward.

MINUTE.

- Mr. P... .. 24 11
- Mr. Butler 24 11
- Mr. Fiddes.
- Mr. Just.
- Mr. Cox.
- Sir C. Lucas.

- Col. Seely.
- Mr. Harcourt.

Sir,

I have the honour to acknowledge the receipt of your copy of No 12350 of the 24<sup>th</sup> of March & to request that you will inform Messrs P... .. and Messrs P... .. that I have received their copy of my ordinary land register petition <sup>in the matter of P... ..</sup> but that after careful consideration of it I can see no reason to question the rightness of your decision in the matter.

Yours faithfully,  
Chas...