REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT MACHAKOS

MISC. CIVIL APPLICATION NO. E071 OF 2021

(Coram: Odunga, J)

BETWEEN

GEORGE ARAB MULI WALABU........APPLICANT

VERSUS

FESTUS MBAI NDONYE..................RESPONDENT

RULING

1. By his Notice of Motion dated 28th April, 2021, principally expressed to be brought under section 18(1)(b) and (2) of the Civil Procedure Act, the Applicant herein, **George Arab Muli Mwalabu**, seeks an order that this Court withdraws Kangundo SPMCC No. 72 of 2016 and thereafter transfers the same to another court of competent jurisdiction to try or dispose of the same. The said application is based on the following grounds:

> **1. THAT despite exciting Court order given by this Court on 19th November, 2019, the lower court on 5th February 2021 order the arrest of the Applicant by the OCS Tala Police Station.**
>
> **2. THAT in contravention of the rules of natural justice, the lower court unreasonably refused to hear the Applicant herein in prosecution of the application dated 23rd July 20219 seeking to set aside judgement and thus denying him an opportunity to demonstrate that the Applicant was non suited as the Respondent had only transacted with a limited company and not with the Applicant in person.**
>
> **3. THAT the lower court acted with caprice in that after ordering the release of the applicant from prison on ground of the order of 19th November 2019, the court committed the applicant to prison while the said order still subsisted**
>
> **4. THAT the order by the lower court committing the Applicant to prison is manifestly oppressive.**

2. The application was supported by an affidavit sworn by the Applicant herein on 28th April, 2021. In the said affidavit, it was deposed that the Applicant is the judgement debtor in Kangundo SPMCC No. 72 of 2016 – ***Festus Mbai Ndonye vs. George Arab Muli Mwalabu & Another*** in which an ex parte judgement was entered on 18th November, 2016. It was deposed that in execution of the resultant decree the decree holder obtained warrants of attachment and sale of the Applicant's plot 1190 (16-16) Muka Mukuu Society. However, it was averred that while the said attachment was in force the judgement debtor (sic) issued concurrent execution vide a warrant of arrest. After seeking this Court's intervention vide Misc. Civil Application No. 175 of 2019, this court vide its decision delivered on 19th November, 2019 set aside the directive issuing.

3. The Applicant averred that vide his application dated 23rd July, 2019, he had sought an order setting aside the ex parte judgement and for leave to file his defence.

4. According to the Applicant the learned trial magistrate on 5th February, 2021 issued another warrant of arrest against him to be executed by the OCS Tala Police Station which led to his committal to prison for 6 months from 19th March, 2021. However, upon his application, the on 9th April 2021, the court reversed the order of committal and on 15th April, 2021 re-issued a notice to show cause why execution should not issue. Subsequently on 21st April,2021, the court once again issued warrant of arrest against his to be executed by unspecific Auctioneer.

5. Based on the foregoing, the Applicant believed that the conduct of the trial magistrate in the said matter depicts caprice thus he may not get justice before the said court hence it is fair and just that the case be heard by another court of competent jurisdiction.

6. The application was however opposed by the Respondent vide his replying affidavit sworn on 18th May, 2021. According to the Respondent, the order to withdraw SPMCC No. 72 of 2016 (Kangundo) as sought by the applicant cannot issue owing to the fact that the said suit is not pending before the Senior Principal Magistrate, the same having been heard and determined and a Decree issued to that effect. That being the case, it was averred that the jurisdiction of this court under section 18 of the ***Civil Procedure Act*** cannot be invoked at this stage and this court ought not to accede to such an invitation.

7. It was averred that the application dated the 23rd day of July 2019 that the applicant seeks to be heard on was filed way three (3) years after the delivery of the Judgment on the 18th day of November 2016 and issuance of the Decree, thus the applicant was guilty of laches and inordinate delay and cannot be permitted to benefit from his own indolence. The applicant however failed to prosecute the said application and it was dismissed for want of prosecution.

8. It was deposed that in its Judgment, the trial court noted that the Applicant (Judgment debtors) did not enter appearance or file the defence even after being duly served with the summons to enter appearance. To date, it was averred, no appeal against the said Judgment and Decree has ever been preferred by the applicant hence the orders of the trial court remain valid, in force and executable.

9. It was averred that after the respondent sought to attach and sell the applicant's property known as Plot No. 1190 (16-061), the applicant, in an attempt to frustrate the Respondent from realizing the fruits of his judgment, filed an application dated the 29th day of January 2019 seeking stay of the intended sale of the said property on the ground that the same was subject to a Matrimonial Dispute No. 1318 of 1982. In a Ruling delivered on the 17th day of May 2018, the lower court restrained the Respondent against the intended sale of the said property for the reason that it was the subject of Matrimonial Cause No. 1318 of 1982 that was pending before the High Court. However, the court declined to stay execution and stated that the interested party (I) was at liberty to use any other legal means to enjoy the fruits of the judgment. Accordingly, the Respondent caused to be issued a Notice to Show Cause why execution should not issue against the applicant whereof upon hearing of the same, warrants of arrest were issued on the 17th day of January 2019, which warrants were the subject of Judicial Review Application No. 175 of 2019.

10. According to the Respondent, the dates of the modes of execution (attachment and sale and the warrants of arrest) that he sought to issue are glaringly and manifestly different hence the issue of concurrent execution as alleged by the applicant does not arise.

11. It was however averred that upon hearing the said Judicial Review Application, this court rendered its Judgment on the 19th day of November 2019 wherein it declined to issue an order of certiorari to quash the decision of the lower court dated the 17th day of January 2019 (issuing warrants of execution) but only set aside the directive that the warrants of arrest be executed by the OCS Flying Squad. In the Respondent's understanding, the effect and implication of the above orders were that he was at liberty to take out further and subsequent Notice to Show Cause against the judgment debtors and on the 5th day of January 2021, the lower court issued a Notice to Show Cause against the Judgment debtors which was duly served on the judgment debtors and upon hearing, the court issued warrants of arrest against the applicant herein, to be executed by the OCS Kilimani. It was averred that upon the failure by the applicant to give satisfactory explanation to the court on how he intends to settle the decretal sum, he was committed to civil jail for a period of six (6) months on the 19th day of March 2021.

12. However pursuant to an application dated the 8th April 2021, the lower court on the 9th April 2021 set aside its earlier orders committing the applicant to civil jail on the ground that this court had, in JR No. 175 of 2019 directed that the applicant ought not to be arrested by any unit of the police. As a result, the Respondent caused to be issued a Notice to Show Cause dated the 15th day of April 2021 which came up for hearing on the 21st day of April 2021 when the court issued warrants of arrest against the applicant (Judgment debtors) and directed the same to be executed by Court Bailiffs namely; Virmir Auctioneers.

13. It was therefore the Respondent's case that the applicant's assertion that the lower court's conduct depicts caprice are mere and unsubstantiated aspersions as the court has acted in accordance with the law, there being no order by a superior court barring it from issuing the orders that commend to itself as and when apposite. It was his view that the applicant has not satisfied any of the conditions spelt under Order 42 Rule 6 of the ***Civil Procedure Rules, 2010*** to warrant a grant of stay of execution since he has not demonstrated that he will suffer substantial loss if the orders sought are not granted, neither has he furnished such security for the due performance of the decree and is therefore undeserving of any audience or relief from this Court.

14. The Applicant, in his submission relied on on the case of **Mukisa Patrick vs. Umeme Ltd HC in Misc Cause No. 168 of 2014** cited in **Sara Centotanti versus Matumbawe Investment Limited {2020} eKLR**.

15. In the present case it is submitted that the Applicant contends that he is apprehensive that he may not get fair hearing which is a tenet of natural justice in that the conduct of the trial court at Kangundo has clearly demonstrated that fair hearing may not be granted to the applicant. This is based on the fact that on the 5th February 2021 the Senior Principal Magistrate, Kangundo law courts issued another warrant of arrest against the Applicant herein to be executed by the OCS Tala police Station to be committed to prison for 6 months and on 19th March 2021 the warrants were executed despite the existing directives of this court. Further to that on the 15th April 2021 the said magistrate re-issued notice to show cause why execution should not issue and on 21st April 2021 the same magistrate issued a warrant of arrest to be executed by un-specified Auctioneer prompting the filing of the current application.

16. According to the Applicant, the trial court not only refused to respect the existing Court order but unreasonably refused to hear the Applicant herein in prosecution of his application dated 23rd July 20219 seeking to set aside judgement and thus denying him an opportunity to demonstrate that the Applicant was non suited as the Respondent had only transacted with a limited company and not with the Applicant in person. In the Applicant's submissions, the lower Court has also acted with caprice in that after ordering the release of the applicant from

prison on ground of the order of 19th November 2019, the court again committed the applicant to prison while the said order still subsisted.

17. It was therefore submitted that, having demonstrated the apprehension which is reasonable, it is fair and just that the Court grants the orders sought. The Applicant disagreed with the position taken by the Respondent that the power of the High Court is only limited to suit or proceedings that are pending before the lower court which is not the case herein. According to the applicant, the suit at Kangundo has not been finalized in that they are at the stage of execution and section 18 of the ***Civil Procedure Act*** is to the effect that any party at any stage apply for transfer or withdrawal of the suit from the subordinate court to competent jurisdiction for trial and final disposal. In the Applicant's view, the reading of that Section does not mention anywhere that a party cannot move to High Court for transfer and/or withdrawal the suit from the subordinate Court to the court of competent jurisdiction at the stage of execution. It was therefore submitted that this Court has jurisdiction to issue orders in respect of transfer or even withdrawal of the suit from a subordinate court to anther court of competent jurisdiction for trial and final disposal at any stage.

18. The Applicant submitted that he is entitled to the orders sought having demonstrated the apprehension of not get fair hearing and having demonstrated that this court has un-limited jurisdiction over all subordinate courts and has a supervisory power over the subordinate courts to achieve fair demonstration of justice. He urged the court to allow the Notice of Motion Application dated 28th day of April 2020 with costs as it is merited.

19. On the other hand, the Respondent in his submissions reiterated the contents of the replying affidavit and averred that the only issue that falls for this court's determination is; whether or not the application should be allowed. The Respondent referred to section 18 of the ***Civil Procedure Rules***, and submitted that a plain reading of the above provision, it was submitted, is to the effect that the power of the High Court to withdraw a suit or proceeding before a lower court is limited only to suits or proceedings that are pending before the subordinate court and that the power does not extend to suits or proceedings where the subordinate court has rendered itself in a judgment as the instant case. Reference, in this regard, was made to the decision in **Zacharia Otel Wamalwa vs. Zakayo Wasike [2020] eKLR** where the court stated that;

> **"…Therefore, the transfer of BUNGOMA CMCC No 139 of 2016 to this Court can only be done where that suit is pending hearing and final determination. I do not think Section 18 of the Civil Procedure Act allows the transfer of a suit that has been heard and a Judgment delivered by the Subordinate Court."**

20. According to the Respondent, having so rendered itself, the subordinate court became *functus officio* and if the Applicant was dissatisfied with the orders issued therein, he had a recourse for review or appeal within the stipulated period of time, which action the Applicant did not deem necessary to pursue. In this case, save for the satisfaction of the decree of the lower court that is lawfully before the lower court pursuant to section 30 of the ***Civil Procedure Act***, there is no proceeding that is pending before the subordinate court that is capable invocation of this court's jurisdiction under section 18 above since the application to set aside that the Applicant alludes to as pending was indeed dismissed for want of prosecution, a critical fact that has not been controverted by the Applicant.

21. It was submitted that the Applicant imputation of improper motive on the trial magistrate are mere aspersions not supported by any evidence. As regards the contention that the trial court issued concurrent execution, the Respondent reiterated that the application for attachment and sale of Plot No. 1190 (16-061) was filed way in May 2018 while the warrants of arrest were issued in January 2019, only after the court issued a stay of intended sale of the subject property in Matrimonial Cause No. 1318 of 1982 hence the dates of the two modes of executions are glaringly and manifestly different thus the allegation that the trial court issued concurrent execution is, to say the least, preposterous. As regards the warrants to be executed by Virmir Auctioneers, it was submitted that in all the instances where warrants of arrest have been issued against the Applicant, the subordinate court has in no instance been derelict in its duty in adhering to the law and affording the Applicant an opportunity to be heard. The contention by the Applicant that the conduct of the trial court depicts caprice is thus far from the truth. The Applicant has further not submitted any material to show that the lower court has unfairly and unjustly treated him to warrant making such serious allegations. It was the Respondent's submission that the allegations made by the Applicant ought to be treated with the contempt that they deserve. The Court was therefore urged to dismiss the application with costs.

Determination

22. I have considered the issues raised in this matter.

23. Section 18 of the ***Civil Procedure Rules***, on which the application is anchored provides as follows:

> **(1) On the application of any of the parties and after notice to the parties and after hearing such of them as desire to be heard, or of it's own motion without such notice, the High Court may at any stage –**
>
> **(a) transfer any suit, appeal or other proceeding pending before it for trial or disposal to any Court Subordinate to it and competent to try or dispose of the same;**
>
> **or**
>
> **(b) withdraw any suit or other proceeding pending in any Court Subordinate to it, and thereafter –**
>
> **(i) try or dispose of the same; or**
>
> **(ii) transfer the same for trial or disposal to any Court Subordinate to it and competent to try or dispose of the same; or**

(iii) retransfer the same for trial or disposal to the Court from which it was withdrawn.

24. The Respondents argues that the matter having reached the stage of execution, there are no pending proceedings that can be subject of the said section. The Court of Appeal in **Patrick Olasa Wabidonge vs. Kobil Petroleum Limited Civil Appeal (Application) No. Nai 36 of 2004** while citing ***Words and Phrases Legally Defined Vol. 4 Page 183,*** held that the word "proceedings" is a broad term the meaning of which depends on the context in which it is used and it may have a wide or narrow meaning depending on the context in which it is used. According to the Court, the term is frequently used to note a step in an action and obviously it has that meaning in such phrases as "proceedings in any cause or matter" and when used alone, however, it is in certain statutes to be construed as being synonymous with or including "action".

25. Based on that holding, it is my view that execution proceedings are proceedings for the purposes of section 18 of the ***Civil Procedure Act***. My position is in line with the view expressed in **Kagenyi vs. Musiramo and Another [1968] EA 43** that section 18 of the ***Civil Procedure Act*** gives a general power of transfer of all suits, which may be exercised *at any stage of the proceedings* even *suo moto* by the Court without application by any party. My understanding of the decision in **Zacharia Otel Wamalwa vs. Zakayo Wasike [2020] eKLR** is that where the matter is finalised and there are not pending proceedings, then there is nothing to be transferred.

26. The next issue is under what circumstances should section 18 of the Civil Procedure Act be invoked? According to **Yolamu Kaluba vs. Kerementi Kajaya [1957] EA 312*:***

> **"Section 18(1) of the Civil Procedure Ordinance (Cap 6) which empowers the High Court to transfer a suit to a subordinate court does not specify the grounds upon which a transfer may be ordered and it would therefore appear to be entirely a matter for discretion of the court…The burden lies on the applicant to make out a strong case for a transfer. A mere balance of convenience in favour of proceedings in another court is not a sufficient ground, though it is a relevant consideration. As a general rule the court should not interfere unless the expenses and difficulties of the trial would be so great as to lead to injustice."**

27. The same position was adopted in the case of **Mukisa Patrick vs. Umeme Ltd HC in Misc Cause No. 168 of 2014** cited in **Sara Centotanti versus Matumbawe Investment Limited {2020}eKLR** in which the Court made the following observation:

> **"Questions of expense, the possibilities of undue hardship, convenience or inconvenience of a particular place of trial having request to the nature of evidence on the parts involved in the suit, the issues raised by the parties, existence of reasonable apprehension in the mind of a litigant, that he or she might not get justice in the Court in which the suit is pending, important questions of Law are involved, or a considerations of the interest of justice……"**

28. Accordingly, I adopt the position in **John Peter Nyageri Simba vs. Barclays Bank of Kenya Nairobi (Milimani) HCCS No. 74 of 2005** that section 18 of the ***Civil Procedure Act*** grants the court jurisdiction to transfer a civil suit from one court to the other where sufficient reasons for such transfer are presented to the court.

29. In this case the Applicant is apprehensive, from the matter in which the proceedings have been conducted, that he is unlikely to get a fair trial. The proceedings facing him are execution proceedings and the execution is being undertaken by way of committal to jail. Such proceedings are quasi-criminal in nature. **Trevelyan, J** in **Shilenje vs. The Republic [1980] KLR 132**, expressed himself as follows:

> **"On the authority of such cases as *Re M S Patel's Application (1913) 5 KLR 66* and *The Republic vs. Hashimu [1968] EA 656* (a Tanganyika case), I am asked to say that the application should be granted if I am satisfied that a clear case has been made out that the applicant has a reasonable apprehension in his mind that he will not have a fair and impartial trial before the magistrate; and save, that I would rather use my expression "a real apprehension, honestly held and reasonably based" for "reasonable apprehension", I would not quarrel with that. But I am asked, also, on the authority of later English decisions such as *Metro-politan Properties Co (F G C) Ltd vs. Lannon [1969] 1 QB 577* and *Hannam vs. Bradford City Council [1970] 2 All ER 690* to hold (if I understood counsel correctly) that the question falls (in the end) to be resolved on the basis that, if right-minded people would have a suspicion that a fair trial was not to be had, that is enough to require the application to be granted. I would like to go into the question a little more closely than that; and I derive much help from the commentaries upon section 526 of the *Indian Code of Criminal Procedure 1908* made by two eminent writers, both former judges, Sir H T Prinsep and Sir John Woodroffe, i.e the former's *Commentary and Notes* (14th Edn) and the latter's *Criminal Procedure in British India* (1926). On page 646 of Prinsep we find:**
>
> > **'The High Court will always require some very strong grounds for transferring a case from one judicial officer to another, if it is stated that a fair and impartial inquiry or trial cannot be held by him, especially when the statement implies a personal censure on such officer.'**
>
> **and I endorse entirely. It would be thoroughly unfair to such officers were it otherwise. At page 647 we have:**
>
> > **'What the court has to consider is not merely the question whether there has been any real bias in the mind of the presiding judge against the accused, but also whether incidents have not happened which, though they may be susceptible of explanation and have happened without there being any real bias in the mind of the judge, are nevertheless such as are calculated to create in the mind of the accused a reasonable apprehension that he may not have a fair and impartial trial. It is not every apprehension of this sort which would be taken into consideration, but when it is of a reasonable character, and not withstanding that there was to be no real bias on the matter, the fact that incidents have taken place calculated to raise such reasonable apprehension ought to be a ground for ordering a transfer.'**

Again I agree; it is, as it were, the objective approach to the problem supplementing the subjective approach which I have just previously set out. Then we have:

> **'Whether such apprehension is reasonable must be determined with reference to the mind of the court rather than to the mind of the accused. The court cannot accept as reasonable grounds what the judges know to be insufficient and unreasonable, simply because the litigants were foolish enough to entertain them. To do so would be to encourage a distrust in the integrity and independence of the courts which would amount to a serious evil.'**

which also must be so, or so I think. Then it is said:

> **'But although each of the several grounds imputing bias may not be sufficient in itself for ordering the transfer of a case to another court, they may, taken together form reasonable grounds for the accused apprehending that he may not have a fair trial.'**

which again, as I think, must be so. And finally, on page 648 we have:

> **'It is the duty of the court to have regard to the importance of securing the confidence of the public generally, of every section of the community, in the fairness and impartiality of the trial that is to be held, and it is equally its duty to see that no undue regard is shown to the abnormal susceptibilities of any section of the public from an apprehension of ulterior consequences.'**

Which I am prepared to accept; but this does not relieve the court from resolving the question on the evidence before it in the light of what the section under discussion provides, which is what, as I understood it, counsel for the respondent urged upon me.

On pages 612 and 613 of Woodroffe, we have:

"…This clause deals with the case in which the High Court is satisfied that a fair and impartial inquiry cannot in fact be had; but such cases are rare, for to move a case from one magistrate to another on grounds personal to him is tantamount to a severe censure of such officer and the very clearest grounds must exist before the High Court will interfere…A more ordinary class of case is that in which, the High Court is not of itself of opinion that affair and impartial inquiry cannot be had yet a party has reasonable grounds for the apprehension that he will not have affair trial which is another matter. It is not sufficient that justice is done; but it must also appear to have been done. The law in such a case has regard not so much to the motive which might be supposed to bias a judge as to susceptibilities of the litigant parties. One important object is to clear away everything which might engender suspicion or distrust of the tribunal and thus to promote the feeling of confidence in the administration of justice which is essential to social order and security…The transfer of a case will therefore be granted not on the ground that the judicial officer is incapable of performing his duty, but simply to allay the apprehension of the applicant for transfer…The question in such cases is not whether there is actual bias…but whether there is reasonable…ground for suspecting bias…and whether incidents may have happened which, though they might be susceptible to explanation and may have happened without there being any real bias in the mind of the judge, are nevertheless such as are calculated to create in the mind of the accused a reasonable apprehension that he may not have a fair and impartial trial…The necessary condition, however, for the transfer in such a case is that the apprehension to justify a transfer must be reasonable, that is, the court ought not to be guided by the impressions produced in his own mind as to the impartiality of the magistrate, but must look to the effect likely to be produced in the mind of the parties to the action of the magistrate…Abstract reasonableness, however, ought not to be the standard…'

Which, if not precisely the same as Prinsep, is in line with it."

30. I however appreciate the position taken in **People vs. Rhodes (1974) 12 Cal. 3d 180, 185 [115 Cal. Rptr. 235, 524 P.2d 363**, that it is essential that the public have absolute confidence in the integrity and impartiality of our system of justice and that this requires that public officials not only in fact properly discharge their responsibilities but also that such officials avoid, as much as possible, the appearance of impropriety.

31. The principles that emanate from the foregoing are that in order to justify transfer of a case from one judicial officer to another on grounds of apprehension of unfairness, there ought to be a real apprehension, honestly held and reasonably based that the applicant may not have a fair and impartial trial. Accordingly, some very strong grounds are required for transferring a case from one judicial officer to another. However, though incidents have not happened which, though they may be susceptible of explanation and have happened without there being any real bias in the mind of the judge, they may, nevertheless be such as are calculated to create in the mind of the applicant a reasonable apprehension that he may not have a fair and impartial trial. Whether such apprehension is reasonable must be determined with reference to the mind of the court rather than to the mind of the applicant since the court cannot accept as reasonable grounds what the judges know to be insufficient and unreasonable, simply because the litigants are unreasonably foolish enough to entertain them. To do so would be to encourage a distrust in the integrity and independence of the courts yet it is the duty of the court to have regard to the importance of securing the confidence of the public generally, of every section of the community, in the fairness and impartiality of the trial that is to be held. It is equally, its duty to see that no undue regard is shown to the abnormal susceptibilities of any section of the public from an apprehension of ulterior consequences. With regard to transfer of cases on grounds that a fair and impartial inquiry cannot in fact be had, cases which are very rare to come by, on grounds personal to the judicial officer, is tantamount to a severe censure of such officer and the very clearest grounds must exist before the High Court will interfere.

32. In this case, this court in Misc Civil Application No.175 of 2019 - **George Arab Muli Mwalabu vs. Senior Resident Magistrate,**

Kangundo and Others, on 19th day of November, 2019**,** while declining to quash the court's decision of 17th January, 2019 ordering the arrest of the applicant, did set aside the directive that the warrants of arrest be executed by the OCS Flying Squad Nairobi or any other unit of the police. It is not contested that on 5th January, 2021, the Court once again issued a Notice to Show Cause against the applicant and upon hearing the same, the Court issued warrants of arrest against the applicant to be executed by the OCS Kilimani. Those directions were clearly contrary to the decision of this court aforesaid. The applicant contends that he was committed to serve six months on 19th March, 2021 despite the fact that there was a pending application by him seeking that the judgement be set aside. According to the Respondent, that application was dismissed for want of prosecution. Though the orders of committal were eventually set aside based on this court's said decision, the Applicant still believes that he is unlikely to receive fair trial before the trial court.

33. It is my view that considering the cumulative effect of the manner in which the proceedings were conducted subsequent to the issuance of this Court's decision, though might be susceptible to explanation and may have happened without there being any real bias in the mind of the trial magistrate, is nevertheless such as may create in the mind of the applicant a reasonable apprehension that there may be some unfairness in the proceedings.

34. In the premises, in order that justice not only be done but be seen to have been done, I hereby direct that further proceedings in Kangundo SPMCC No. 72 of 2016 – **Festus Mbai Ndonye vs. George Arab Muli Mwalabu & Another** be undertaken in Kangundo but before any magistrate with jurisdiction to dispose of the same other than **Hon. D Orimba, SPM**.

35. There will be no order as to the costs of this application.

36. It is so ordered.

RULING READ, SIGNED AND DELIVERED IN OPEN COURT AT MACHAKOS THIS 28TH DAY OF JULY, 2021

G. V. ODUNGA

JUDGE

In the presence of:

Mr Mutunga for the Respondent

Mr Langalanga for the Applicant

CA Simon