



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KERICHO

E.L.C NO. 80 OF 2016

LEAH CHELANGAT TIROP.....PLAINTIFF

VERSUS

JOEL KIPRONO KERING.....DEFENDANT

JUDGMENT

Introduction

1. The suit herein was commenced by way of Originating Summons (O.S) dated 24th October, 2016. In the said suit the Plaintiff seeks a determination of the following questions:-

1. Whether Samuel Tirop Kiprotich alias Kiprotich Arap Tirop (deceased) at his demise was the registered owner of land parcels L.R No. Kericho/Kapsoit/1015, L.R No. Kericho/Kipchorian/Lelu Block 7 (Chepkechei)/24 and L.R No. Kericho/Kipchorian/613.

2. Whether the applicant solely purchased land parcels L.R No. Kericho/Kapsoit/1015, L.R No. Kericho/Kipchorian/Lelu Block 7 (Chepkechei)/24 and L.R No. Kericho/Kipchorian/613 but had the same registered in her husband's name Samuel Tirop Kiprotich alias Kiprotich Arap Tirop (deceased).

3. Whether there exists trusteeship between the Applicant and the estate of Kiprotich Arap Tirop (deceased) in relation to land parcels L.R No. Kericho/Kapsoit/1015, L.R No. Kericho/Kipchorian/Lelu Block 7 (Chepkechei)/24 and L.R No. Kericho/Kipchorian/613.

4. Whether the Applicant is entitled to a declaration that Samuel Tirop Kiprotich alias Kiprotich Arap Tirop (deceased) held the said parcels of land known as L.R No. Kericho/Kapsoit/1015, L.R No. Kericho/Kipchorian/Lelu Block 7 (Chepkechei)/24 and L.R No. Kericho/Kipchorian/613 in trust for the Applicant, the Applicant having purchased the same solely hence not forming part of the estate of the aforementioned deceased person.

5. Whether the Applicant is entitled to a declaration that she is entitled to the whole of the parcels of land comprised in Kericho/Kapsoit/1015, L.R No. Kericho/Kipchorian/Lelu Block 7 (Chepkechei)/24 and L.R No. Kericho/Kipchorian/613 now registered in the Applicant's name and one Alfred Kiproprop Keter respectively.

6. Costs of the Suit.

2. The O.S was supported by the Affidavit of Leah Chelangat Tirop sworn on 25th October 2016. In the said O.S, the Plaintiff alleges that she is entitled to the whole of the estate of Samuel Tirop Kiprotich alias Kiprotich Arap Tirop (deceased) comprised in land parcel L.R No. Kericho/Kapsoit/1015 and L.R No. Kericho/Kipchorian/Lelu Block 7 (Chepkechei) 24 and L.R No. Kericho/Kipchorian/613.

3. In the said affidavit, she contends that although the said properties were registered in the name of the deceased at the time of his demise, he was not the sole owner thereof. She further depones that she and her husband had purchased land from one Arap Langat in Cheronget village. She avers that the said parcel was purchased before adjudication but that after adjudication was done they were issued with a title L.R No. Kericho/Kiptugumo/308 comprising 8.8 acres. It is her contention that she was at the time trading in maize and flour while her husband was a prison officer and therefore they put their savings together to buy the land.

4. She further states that the two parcels of land comprised in L.R No. Kericho/Kiptugumo/234 and 255 were family land inherited from her deceased's husband's father. It is her contention that she later purchased 10 acres of land from her brother one Isaac Kiget for the sum of Kshs. 5,000/- obtained from her maize and flour business and that the said parcel was registered in the name of her deceased husband as property L.R No. Kericho/Kapsoit/1015.

5. The Plaintiff further avers that in 1972 she bought shares in Chepkechei Company Ltd at Kshs. 1,240/- using her husband's name. She claims that on the basis of her shares she was allocated property L.R No. Kericho/Kipchorian/Lelu Block 7 (Chepkechei)/ 24 and 613.
6. She depones that the aforementioned properties could not be registered in her name as their Kipsigis custom precluded her from being registered as an owner of land. The Petitioner cites this as the reason why the properties were registered in the name of her deceased husband.
7. Joel Kiprono Kering; the Respondent on his part filed his Replying Affidavit sworn on 18th August, 2017. In the said Affidavit, he depones that the properties were purchased by and registered in his father's name as his father was in gainful employment and therefore capable of buying many properties. It is his averment that if indeed the Applicant purchased the said properties as alleged then the same would have been registered in her name.
8. He contends further that after his father's demise, the Applicant had been colluding with the Ministry of Lands to transfer some of the said parcels of land.
9. He dismisses the suit herein as being frivolous, vexatious and an abuse of the process of the court and argues that the same does not warrant the orders sought.
10. He contends further that his step mother the applicant herein secretly filed succession proceedings being Succession No. 173B of 2002 where Letters of Administration were issued to her but subsequently revoked since she had not obtained the consent of the beneficiaries.
11. He depones further that the Applicant colluded with the Ministry of Lands in Kericho to obtain false title deeds in order to facilitate the transfer of some of the properties to one Alfred Kiprob Keter.
12. It is his further contention that the Plaintiff herein should have filed new succession proceedings immediately after the revocation of the prior Succession Cause instead of filing the instant suit which in his view is calculated to waste the courts time.
13. The court on 8th May, 2017 directed that the matter be canvassed by way of viva voce evidence and that the O.S and the Replying Affidavit filed by the parties to be deemed as the Plaintiff and Defence respectively.

Plaintiff's case

14. PW1, Leah Chelangat Tirop stated in her testimony she contributed Kshs 1,240 towards the purchase of the suit land. She stated further that there were several meetings held with the elders who resolved that the Plaintiff should be given her parcels of land.
15. In re-examination, PW 1 stated that she gave her husband money to buy the land. She claims to have bought the land parcel known as Kericho/Kapsoit/1015 from her late brother Isaac Kiget. She stated that the property is now registered in her name although it was previously registered in her late husband's name.
16. It is noted from the certificate of official search dated 15th April 2015 that the land **L.R No. Kericho/Kapsoit/1015 (Samutet)** was transferred and a title deed issued to the Plaintiff on 20th August 2004. It is doubtful how this transfer was achieved without a court order. The Certificate of Confirmation of Grant is dated 12th August 2005 and therefore the same cannot be used to justify the said transfer of land to the Plaintiff's name. Even if it were true that the said land was purchased through her own money the due process of the law ought to have been followed.
17. PW2 Kipketer Arap Ngok who is the nephew of the deceased stated that the Plaintiff used to deposit the proceeds of her business with him. He stated that between 1967-1972, she gave him a total of Kshs. 7,000/- to keep for her. It is his evidence that whenever the Plaintiff wanted to lease or buy land she would ask for part of the money from him.
18. It is his testimony that when she wanted to buy shares in Chepkechei, he gave her Kshs. 1,250/- to purchase the same. The Plaintiff claimed that on the basis of her shares she was allocated property L.R No. Kericho/Kipchorian/Lelu Block 7 (Chepkechei)/ 24 and 613. PW2 further testified that he was called as a witness in a meeting held to resolve the land dispute and that the elders resolved that the applicant be given the land at Chepkechei.
19. PW2 also stated that he did not know any other properties registered in the name of the Plaintiff. In his cross examination he stated that his uncle did not buy the land at Chepkechei as he said he did not have money for the same at the time.
20. It was the evidence of PW3 that he attended 2 meetings in 2010 and 2011 where it was resolved by the elders that the properties in dispute belonged to the Plaintiff. PW4 on his part stated that the Plaintiff was his neighbour in Kabokyek. He stated that the Plaintiff's husband had a dispute with one Ezekiel Laboso over the land in Chepkechei. His father was the chair of the Chepkechei farm and during the resolution of the dispute he stated that the second wife could not be brought to stay on the land as it was purchased using the Plaintiff's money.
21. In the Plaintiff's submissions it has been argued that her witnesses indicated that the property belonged to her. It has been submitted that during cross examination, DW1 on being pressed admitted that under Kipsigis customary law married women's property would be registered in their husband's names. The evidence of PW2 Kipketer Arap Ngok, PW3 and PW4 confirmed the same position. It has been pointed out that the plaintiff's entitlement to property L .R No. Kericho/Kapsoit/1015 was not disputed by any of the defence witnesses.
22. On the issue of whether the Plaintiff is entitled to the said properties by virtue of trust, it has been submitted on behalf of the Plaintiff

that her entitlement to property L.R Numbers Kericho/Kipchorian/Lelu Block 7 (Chepkechei)/24 and L.R No. Kericho/Kipchorian/613 was not controverted. It has been argued that the defence witnesses only testified as to how the deceased paid for the disputed parcels but could not actually impeach the Plaintiff's evidence as to how the said purchase price was raised.

23. In the circumstances, the court is urged to find that the disputed properties were acquired and registered in the deceased's name in circumstances that imply that they were being held in trust for the plaintiff. Counsel for the plaintiff has cited the case of **Maroa Wambura Gatimwa v Sabina Nyanokwe Gatimwa & 5 others [2010] eKLR**.

Defendant's case

24. DW1, the Defendant herein admitted that he did not know how the properties were acquired but had lived on the suit properties for a very long time. He testified that his mother lived in Kabokyek on his late fathers land parcels NO. Kericho/Kiptigumo/255, 308 and 234 and only stayed on the suit property for a short period between 1983 and 1984.

25. Under cross-examination DW1 admitted that under Kipsigis customary law a married woman's property would be registered in her husband's name thereby echoing the Plaintiff's testimony.

26. DW2 Kimel Arap Yebei Kimisik testified that the suit property was purchased by the plaintiff's late husband and claimed that the defendant's mother lived on the said property upto the time of her death. This evidence is at variance with the defendant's testimony.

27. DW3 also stated that there was no dispute over the suit property when the deceased was alive and that Alice lived on the Chepkechei property from 1973 upto the time of her death. This again contradicts the testimony of the Defendant himself when he stated that his mother only stayed on the suit land briefly. DW4 Johnstone Kipkoech Rotich who is a brother to the Defendant stated that his mother lived on the suit land for intermittent short periods of time between 1978 and 1984. This contradicts what his brother the Defendant stated as according to him his mother lived on the Chepkechei property for 2 months between 1983-1984.

Issues for determination

28. The following issues emerge for determination:-

- a. Whether this court is the appropriate forum for ventilation of the issues raised by the Plaintiff;
- b. Whether the suit properties were held in trust by the deceased for the Plaintiff;
- c. Who bears the costs of this suit.

1. ANALYSIS

a. Whether this court is the appropriate forum for ventilating the issues raised by the Plaintiff

29. The Defendant in his Replying Affidavit (Defence) sworn on 18th August 2017 as well as his submissions states that immediately after the grant was revoked, it was upon the Plaintiff to file new Succession proceedings to enable the parties share the property of the deceased. It is his argument that if the Plaintiff had a claim to any of the properties of the deceased that was the procedure to use and dismisses the instant suit as a waste of the courts time.

30. It is therefore imperative to determine at the onset whether this court is indeed the appropriate forum to ventilate the issues raised. It is trite that jurisdiction is everything and without it a court of law ought to down its tools. In the case of **Owners Of The Motor Vessel 'Lillian S' Vs Caltex Oil (Kenya) Ltd 1989 K.L.R 1.653 (C.A)** the Court of Appeal stated as follows:-

“Jurisdiction is everything. Without it, a court has no power to make one more step. Where a “court has no jurisdiction there would be no basis for a continuation of proceedings pending other evidence. A court of law downs its tools in respect of the matter before it the moment it holds the opinion that it is without jurisdiction”.

31. The Plaintiff's case is hinged on the doctrine of trusts. It is her case that her deceased husband held the parcels of land in dispute herein in trust for her. She cites customary laws and practices as the reason why the said properties were not registered in her name despite having paid the purchase price out of money raised from her maize and flour business. The question that this court must address is which court has the jurisdiction to handle cases of land ownership based on the doctrine of trust.

32. Courts of law are creatures of statute. It therefore follows that their jurisdiction must be derived from the Constitution or legislation or both. This position was confirmed by the Supreme Court in the case of **Samuel Kamau Macharia Vs. Kenya Commercial Bank Limited And 2 Others [2012] eKLR** where it was held: -

“(68) A Court's jurisdiction flows from either the Constitution or legislation or both. Thus, a Court of law can only exercise jurisdiction as conferred by the constitution or other written law. It cannot arrogate to itself jurisdiction exceeding that which is conferred upon it by law”.

33. The jurisdiction of the Environment and the Land Court flows from both the Constitution as well as the Environment and Land Court

Act. Article 162(2) (b) provides that the court is established to hear and determine disputes relating to-the environment and the use and occupation of, and title to land.

34. Part III of the Environment and Land Court Act provides for the jurisdiction of the Environment and Land Court as follows:-

PART III – JURISDICTION OF THE COURT

13. Jurisdiction of the Court

(1) The Court shall have original and appellate jurisdiction to hear and determine all disputes in accordance with Article 162(2)(b) of the Constitution and with the provisions of this Act or any other law applicable in Kenya relating to environment and land.

(2) In exercise of its jurisdiction under Article 162(2)(b) of the Constitution, the Court shall have power to hear and determine disputes—

(a) relating to environmental planning and protection, climate issues, land use planning, title, tenure, boundaries, rates, rents, valuations, mining, minerals and other natural resources;

(b) relating to compulsory acquisition of land;

(c) relating to land administration and management;

(d) relating to public, private and community land and contracts, choses in action or other instruments granting any enforceable interests in land; and

*(e) **any other dispute relating to environment and land. (Emphasis supplied)***

35. From the foregoing it is my finding that the answer to this issue is in the affirmative. This court is the appropriate forum for ventilating the issues of whether or not a trust in the parcels of land in dispute exists and not the High Court (Probate and Administration)

36. The Court in the case of **Raphael Muriithi Ngugi v Paul Thuo Kimani [2017] eKLR** stated as follows:-

“As far as this court is concerned, land registered as L.R. No. LOC.9/KIRURI/3 is registered in the names of the deceased Jeremiah Kimani Wangire. The land therefore prima facie forms part of the deceased’s estate. Any challenges to that title ought to be directed to the Environment and Land Court.”

37. In the case of **Monica Wangari Njiri & 4 others v Eunice Wanjiru Igamba & another [2016] eKLR** the court was of the opinion that the mandate of the Probate court is limited. It stated further that where a party was seeking proprietary rights in the form of a trust, he should have such issues resolved in the Environment and Land Court. The court stated as follows:-

“The mandate of the Probate court is limited. A distinction ought to be made between a claim against the Estate of a deceased and a claim on inheritance in respect of the estate of the deceased. In our instant suit the objectors are not claiming any interest as dependants or direct beneficiaries of the deceased. Their claim is that the title to the parcels of land is held in trust for them. Indeed this is a claim for a proprietary right.

As held in H.C. Succession Cause No.864 of 1996 (2015) eKLR, even if there was material establishing that there was such a trust, I doubt that the resolution of this issue would be a matter of the Probate court. The mandate of the Probate court under the Law of Succession Act is limited. It does not extend to determining issues of ownership of property and declaration of trusts. It is not a matter of the Probate court being incompetent to deal with such issues but rather that the provisions of the Law of Succession Act and the relevant subsidiary legislation do not provide a convenient mechanism for determination of such issues. A party who wishes to have such matters resolved ought to file a substantive suit to be determined by the Environment and Land Court.”

38. Similarly, in the case at hand the Plaintiff is seeking inter alia a declaration that the disputed properties were held in trust for her by her deceased husband. Effectively she is challenging the title and claiming proprietary rights and therefore the court with the requisite jurisdiction is the Environment and Land Court.

b. Whether the Properties were held in Trust by the Deceased for the Plaintiff

39. The heart of the Plaintiff’s claim is hinged on her assertion that the properties in dispute were held by her deceased husband in trust for her. In her Replying Affidavit sworn on 25th October 2016 she claims to have purchased the properties using her savings accrued from her maize and flour business.

40. It is her case that the Kipsigis customary law at the time precluded women from having land registered in their own names and instead their property was registered in the names of their husbands. She cites this as the reason why the disputed parcels of land were registered in the name of her husband and not hers.

41. It is also noteworthy that none of the Defendant's witnesses testified to contradict the evidence of the Plaintiff with regards to her claim over property L.R No. Kericho/Kapsoit/1015. The Defendant's witnesses did not controvert her assertion that the deceased held this parcel of land in trust for the Plaintiff.

42. It is trite that without evidence, what a party alleges in their pleadings remains a mere assertion.

In his Defence (Replying Affidavit) the Defendant merely states that his father was a man of means capable of buying many properties but mentions no specific property purchased and owned by his father. Indeed in his witness statement the Defendant only disputes the Plaintiff's claim on property L.R No.s Kericho/Kipchorian/Lelu Block 7 (Chepkechei/24 and 613. He however does not dispute the claim made by the Plaintiff over Property L.R No. Kericho/Kapsoit/1015.

43. A party must follow up such assertions with clear and cogent evidence. The court in the case of **Kenya Tea Development Agency Limited V Joshua Nyakundi Nyakoni [2011] eKLR** considered a similar issue and stated as follows:-

"It is common ground that the defendant did not call any evidence in support of its defence. Thus it failed to controvert the plaintiff's cause of action by calling any witnesses to counter the plaintiff's assertions. In law pleadings are mere allegations. They must be supported by evidence if a party expects a judgment in his favour. In this case, the plaintiff made allegations in his plaint. He followed up those allegations by calling evidence in proof thereof unlike the defendant. The defence filed by the defendant cannot on its own take the place of evidence. The defendant may have denied that the plaintiff was its employee, the occurrence of the accident, the injuries sustained by the plaintiff as a result, if at all, and negligence attributed to it. However, it needed to go further and tender evidence in support of those contentions. It did not. Without the evidence, they remained mere averments."

44. Having noted that the evidence tendered by the Defence is weak and inconsistent and comprised of admissions, the next issue for consideration is whether the deceased indeed held the properties in trust for the Plaintiff. Under Sections 107 and 108 of the Evidence Act, the person who alleges is under a duty to prove all allegations as contained in his claim against the Defendant on a balance of probability. As was held in the case of **Kirugi & Another – Vs – Kabiya & 3 Others [1987] KLR 347**, the Court of Appeal held thus:

"The burden was always on the plaintiff to prove his case on the balance of probabilities even if the case was heard on formal proof."

45. The Plaintiff sought a declaration that the deceased held the parcels of land namely Kericho/Kapsoit/1015 and L.R No. Kericho/Kipchorian/Lelu Block 7 (Chepkechei)/24 and L.R No. Kericho/Kipchorian/613 in trust for her.

46. In the case of **Njoki v Gachingiri [19089] LLR 17 (HCK)** the property was acquired by the wife from her moneys but registered in the name of her husband. On the question whether a trust would be implied to alter the ownership of land it was held that a resulting trust would arise by operation of law where property is purchased in the name of a person without any intimation that he is to hold it in trust but the retention of the beneficial interest by the purchaser is presumed to have been intended and is held to be equitable. The court therefore held that the wife was entitled to registration as the owner of the suit property.

47. The applicable equity doctrines would be "resulting trust" or "constructive trust" as was applied by the court in **N W K v J K M & Another [2013] eKLR**. Citing **Halsbury's Laws of England, 5th Edition Vol. 72 para 280**, the Court in that case stated as follows:-

"Subject to any express declaration of trust, where property is purchased in one party's name but both parties contribute to the purchase price, the other party acquires an interest under a resulting trust proportionate to his or her contribution to the purchase price, or alternatively may make a claim under a constructive trust. On such a claim the first and fundamental question which must always be resolved is whether, independently of any inference to be drawn from the conduct of the parties in the course of sharing the house as their home and managing their joint affairs, there has at any time prior to acquisition, or exceptionally at some later date, been any agreement or understanding reached between them that the property is to be shared beneficially. This common intention, which has been said to mean a shared intention communicated between them and which must relate to the beneficial ownership of the property can only be based on evidence of express discussion between the parties, however imperfectly remembered and however imprecise their terms may have been. Once a finding to this effect is made, it will only be necessary for the party asserting a claim to a beneficial interest against the party entitled to the legal title to show that he or she had acted to his or her detriment or significantly altered his or her position in reliance on the agreement in order to give rise to a constructive trust or proprietary estoppel.".....

"A constructive trust will arise in connection with the legal title to property whenever one party has so conducted himself that it would be inequitable to allow him to deny to the other party a beneficial interest in the property acquired. This will be so where: (1) there was a common intention that both parties should have a beneficial interest and (2) the claimant has acted to his detriment in the belief that by so acting he was acquiring a beneficial interest. The relevant intention of each party is the intention reasonably understood by the other party to be manifested by that party's words or conduct notwithstanding that he did not consciously formulate that intention or even acted with some different intention which he did not communicate.

The first question is whether, independently of any inference to be drawn from the conduct of the parties in the course of sharing the property, there has at any time prior to acquisition, or exceptionally at some later date, been any agreement, arrangement or understanding reached between them that the property is to be shared beneficially. Such an agreement will be conclusive.

Where the evidence is that the matter was not discussed at all, the Court may infer a common intention that the property was to be shared beneficially from the conduct of the parties. In this situation direct contributions to the purchase price by the party

who is not the legal owner, whether initially, or by way of mortgage installment, will readily justify the inference necessary to the creation of a constructive trust.”

The Court in the case of *Godfrey Githere vs. George Kagia & 4 Others* [2008] eKLR which adopted the definition of “constructive trust” from *Equity and the Law of Trusts* by Philip H. Pettit, 4th Edition Page 46, thus:-

“... a constructive trust is one imposed by a Court of equity regardless of the intention of the owner of the property. “In *Hussy V Palmer* [1972] 3 ALL ER 744, Lord Denning held that a constructive trust; “Is a trust imposed by law whenever justice and good conscience require it. It is an equitable remedy by which the Court can enable an aggrieved party to obtain restitution.”

48. The Court in the case of *Agella v Richard Mbole Kimuyu* [2013] eKLR considered a similar issue and stated as follows:-

“In *Kivuitu v Kivuitu* (1982 – 1988) 2 KAR 241, Hon. Omolo, Ag JA (as he then was), laid down the rule that where property acquired during coverture is registered jointly, it shall be presumed to be held in equal shares. In *Karanja v Karanja*, (1976) KLR 307 the court held that when property is purchased jointly by both spouses and registered in the name of the husband with the wife's approval, a resulting trust can be inferred in her favour. In *Njoroge –vs- Ngari* (1985) KLR 481 where the plaintiff sought declaration that half of the property registered in the name of her husband was held in trust beneficially for her, the court therein held, inter alia, that:“If property is held in the name of one person but another contributes towards acquisition of the property, then both persons have proprietary interests in that property...”

If legal ownership of such property is registered in the name of only one of them, that one is deemed to hold the land in trust beneficially for himself and the other person.”

49. Upon evaluating the evidence on record, I am inclined to believe the Plaintiff's testimony that there were issues regarding the Chepkechei property which necessitated resolution by elders during the deceased's lifetime. I am also inclined to believe that the elders resolved that the Chepkechei property belonged to the Plaintiff. Were this not the case, I see no reason why Alice Tirop would not have continued staying on the Chepkechei property. In the circumstances, it is my finding that as regards the Chepkechei parcels of land namely L.R No. Kericho/Kipchorian/Lelu Block 7 (Chepkechei)/24 and L.R No. Kericho/Kipchorian/, the Plaintiff has proved that the same were held in trust for her by the Defendant.

50. In light of the foregoing it is my finding that the Plaintiff has proved her case on a balance of probabilities. I therefore enter judgment for the plaintiff and make the following orders:

a. That land parcels number KERICHO/KAPSOIT/1015, KERICHO/KIPCHORIAN/LELU BLOCK 7 (CHEPKECHEI) 24 and L.R NO KERICHO/KIPCHORIAN/613 were solely purchased by the Plaintiff but registered in the name of her late husband Samuel Tirop Kiprotich alias Kiprotich Arap Tirop.

b. The said Samuel Tirop Kiprotich deceased held land parcels number KERICHO/KAPSOIT/1015, KERICHO/KIPCHORIAN/LELU BLOCK 7 (CHEPKECHEI) 24 and L.R NO KERICHO/KIPCHORIAN/613 in trust for the applicant and hence the said parcels of land do not form part of the estate of Samuel Tirop Kiprotich deceased.

c. That a declaration is hereby issued that the applicant is entitled to the whole of the parcels of land known as KERICHO/KAPSOIT/1015, KERICHO/KIPCHORIAN/LELU BLOCK 7 (CHEPKECHEI) 24 and L.R NO KERICHO/KIPCHORIAN/613 currently registered in the Applicant's name and one Alfred Kiprop Keter respectively.

d. This being a matter between family members, each party shall bear their own costs.

Dated, signed and delivered at Kericho this 16th day of March, 2018.

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J.M ONYANGO

JUDGE

In the presence of:

Mr. Kemboi for Mr. Mwita for the Plaintiff

The Defendant is present in person

Court

assistant