



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
MILIMANI COMMERCIAL COURTS
CIVIL CASE NO 264 OF 2013

ABDULLAHI MOHAMMED ALI.....1ST PLAINTIFF

MOHAMED NOOR HASSAN.....2ND PLAINTIFF

YOUTH KENYA SOCIAL DEVELOPMENT.....3RD PLAINTIFF

VERSUS

ABDULLAHI SHARIFF.....1ST DEFENDANT

FIRST COMMUNITY BANK LIMITED.....2ND DEFENDANT

REGISTRAR OF SOCIETIES.....3RD DEFENDANT

RULING

INTRODUCTION

1. The Plaintiffs' Notice of Motion application dated 21st June 2013 and filed on 25th June 2013 was brought under the provisions of Order 40 Rules 1, 2, 3 and 9 of the Civil Procedure Rules, Section 1A and 63 (e) of the Civil Procedure Act, Societies Act and all the enabling provisions of the law. Prayer Nos (i), (ii), (iv) and (vi) were spent. The remaining prayers were as follows:-
 - i. Spent.
 - ii. Spent.
 - iii. **The Defendants The Defendants (sic) and particularly the 1st and 2nd Defendants be restrained by themselves, their servants, agents and/or whatsoever be restrained from dealing with funds deposited in the 3rd Plaintiff's account held at the 2nd Defendant's bank Account No 102359 pending the hearing and determination of this suit.**
 - iv. Spent.
 - v. **The 1st Defendant together with the persons appearing on the list of officials on the 3rd De and/or whatsoever from holding out themselves as registered officials of the 3rd Plaintiff pending the hearing and determination of the suit.**
 - vi. Spent.
 - vii. **Cause (sic) be provided for.**
2. The Plaintiffs' grounds in support of their application were generally as follows:-

- a. **The 1st Defendant had fraudulently and without authority been misappropriating the 3rd Plaintiff's funds held at the 2nd Defendant's Bank Account No 102359.**
- b. **The 2nd Defendant had ignored the 3rd Plaintiff's instructions of the mandate to operate the said bank account and relied on an altered list by the 3rd Defendant listing the 1st Defendant as a bona fide official of the 3rd Plaintiff.**
- c. **The 3rd Defendant had in the absence of any resolution of minutes of a proper election proceeded to alter the list of the 3rd Plaintiff's *bona fide* officials and that the 1st Defendant, based on the said altered list, had continued to hold himself out as a bona fide official with mandate to carry out the operations of the 3rd Plaintiff.**
- d. **That it was in the interest of justice that restraining and preservative orders be issued by this court to safeguard the Plaintiff's interests together with that of its members and donors.**

AFFIDAVIT EVIDENCE

3. The Plaintiffs' application was supported by the affidavit of Abdullahi Mohamed Ali, the 1st Plaintiff herein. The said affidavit was sworn on 21st June 2013. He stated that he was the *bona fide* Chairman of the 3rd Plaintiff and was thus competent and authorised to swear the said affidavit on his behalf and that of the 2nd and 3rd Plaintiffs herein.
4. It was his averment that the 3rd Plaintiff's elections were held in September 2012 and the following persons were elected as officials as evidenced in the 3rd Defendant's letter dated 8th October 2012 Exhibit marked "AMA 1":-
 - a. **Abdullahi Mohamed Ali- Chairman**
 - b. **Ismael Matuti Oloo- Vice Chairman**
 - c. **Abdullahi Dahir Sheikh- Secretary**
 - d. **Khadija Osman- Assistant Secretary**
 - e. **Anab Abukar Mohammed- Treasurer**
 - f. **Abdisalan Abdullahi- Assistant Treasurer**
5. He also annexed a copy of the 3rd Plaintiff's Notice dated 30th August 2012 convening its Annual General Meeting scheduled for 20th September 2012 in which the agenda was the election of its Board of Directors, minutes of the said meeting and a letter dated 13th December 2012 from the 3rd Defendant showing the following as the 3rd Plaintiff's office bearers:-
 - a. **Abdullahi Shariff- Chairman**
 - b. **Mohammud Noor Hassan- Vice Chairman**
 - c. **Mohamud Unshir- Secretary**
 - d. **Mukhtar Abdullahi- Assistant Secretary**
 - e. **Ahmed Jibril- Treasurer**
 - f. **Khadijo Osman- Assistant Treasurer**
 - g. **Mohamed Haji Jama- Organising Secretary**
6. In a letter dated 11th January 2013, the Plaintiffs' advocates, M/S Wasonga, Kimakia & Associates, wrote to the 3rd Defendant raising a concern that it had reversed its list of 8th October 2012 and reinstated the previous officials in its letter of 13th December 2012. There were also letters to the 3rd Defendant written by M/S Rahma Jillo & Co Advocates for one Dahir Sheikh Ahmed, who is shown in the aforementioned minutes as having been elected in the Board of Trustees, complaining about the transfer of funds from the 3rd Plaintiff's aforesaid account into Account No 11137201 without the approval of the signatories.
7. Previously, Mohamed Noor Hassan, shown as the Vice Chairman in the 3rd Plaintiff's letter of 13th December 2012 had written to the 2nd Defendant on 27th September 2012 requesting that all transactions in respect of Account No 111372 be stopped to enable all parties resolve the issues that had arisen.
8. In response to the Plaintiffs' application, the 1st Defendant filed his Grounds of Opposition dated 4th July 2013 on 5th July 2013. The same can be summarised as follows:-
 - a. **The application was incurably defective and the same did not lie in law and**

- consequently, the said application ought to be struck out.**
- b. The provisions under which the application was brought could not be the basis for this court to grant the orders sought.**
 - c. The application was incompetent, vexatious, scandalous as drawn and was an abuse of the court process.**
 - d. The Plaintiffs did not have the *locus standi* to take out the proceedings herein as they had not been authorised to do so.**
9. In addition, he filed a Replying Affidavit sworn on 5th July 2013 and filed on 8th July 2013 in which he stated that he was a member and the Chairman of the 3rd Plaintiff which had not sanctioned the proceedings herein. He averred that the Notice of the Annual General Meeting was a forgery as it did not belong to the 3rd Plaintiff's Secretary. He added that the same did not disclose the identity of the person who signed the same and was part of the fraud on the part of the 1st and 2nd Plaintiffs.
10. He contended that the persons indicated in the 3rd Defendant's letter of 8th October 2012 could not have been elected as office bearers as they were not fully paid members of the 3rd Plaintiff and that in fact there was no meeting that was held on 20th September 2012. He pointed out that the Plaintiffs had written to the 3rd Defendant in a letter dated 26th September 2012 advising that the 3rd Plaintiff held its elections on 30th May 2012 and a new Board of Trustees and Board of Directors elected. It was his averment that the 3rd Defendant revoked its letter of 8th October 2012 as the notifications were a forgery and fraudulent.
11. It was his further contention that the 3rd Defendant wrote several letters confirming that the correct list of officials was as was contained in its letter of 13th December 2012. The said letters were annexed as exhibits. He stated that his group represented the legitimate office bearers and that the 3rd Plaintiff continued to suffer irreparable loss due to the interim orders currently enjoyed by the Plaintiffs herein.
12. The 3rd Defendant filed a Replying Affidavit sworn by Joseph L. Onyango, its Deputy Registrar in the Registrar of Societies Department on 16th July 2013. He stated that the Plaintiffs had no *locus standi* to institute the proceedings herein as they were neither the official nor members of the 3rd Plaintiff and that they were culpable for the fraudulent misrepresentation to the 3rd Defendant on the grounds that:-
- a. The Plaintiffs availed forged documents in order to effect the changes of the list of the 3rd Plaintiff's office bearers;**
 - b. Upon realising that the documents were not prepared in accordance with the law, served a notice upon the Plaintiffs to supply it with authentic documents but no evidence had been tendered to controvert its finding; and**
 - c. It acted within its statutory mandate and had at all material times acted with due diligence and utmost good faith and that it was the Plaintiffs conduct that had come under scrutiny.**
13. He stated that the 3rd Defendant acted within powers donated to it under Section 18 of the Societies Act Cap 108 (laws of Kenya) when it rectified its records. It was his contention that the Plaintiffs had not demonstrated any good cause to claim control over the 3rd Plaintiff's bank account but that instead the 3rd Plaintiff's projects would suffer to the detriment of members of public who were to benefit from implementation of the said projects. The 3rd Defendant therefore sought the dismissal of the Plaintiffs' application.
14. In his Further Affidavit sworn on 16th December 2013 and filed on 17th December 2013, the 1st Plaintiff reiterated that the Plaintiffs had the *locus standi* to institute the proceedings herein and that the 3rd Defendant was partisan in the matter herein. He said that it was clear from the 3rd Defendant's letter of 13th December 2013 that the 2nd Plaintiff herein was an office bearer of the 3rd Plaintiff and it was therefore not true that the 1st and 2nd Plaintiffs had no *locus standi* to institute the proceedings herein or that they had been expelled as members of the 3rd Plaintiff.
15. He said that the minutes attached to the 3rd Defendant's Replying Affidavit were untrue as the persons who are listed therein as having attended the meeting held on 13th December 2013 had

- confirmed that they did not attend the said meeting. In particular, he said that although he had been listed as No 23 in the said minutes, he did not attend the said meeting. He pointed out that the 1st Defendant had perjured by stating that some persons were not members of the 3rd Plaintiff yet they were shown to have been acknowledged as *bona fide* members in the said minutes.
16. He averred that the 3rd Defendant had not presented any evidence to show that the Plaintiffs were involved in a proper hearing as required by the law before it effected changes to the list of 8th October 2012.
17. Abdi Weli Mohamed who described himself as a member of the 3rd Plaintiff's Board of Trustees, swore a Further Affidavit on 16th December 2013, filed on 17th December 2013. Its purport was to confirm that the Plaintiffs had his authority to bring the proceedings herein and that the 1st Defendant had taken a partisan position to mislead the court and undermine the 1st Plaintiff as an official of the 3rd Plaintiff and his powers as a signatory of the 3rd Plaintiff's bank accounts.

LEGAL SUBMISSIONS BY THE PLAINTIFFS

18. In their written submissions dated 14th January 2014 and filed on 15th January 2014, the Plaintiffs submitted that the 1st Plaintiff was a *bona fide* Chairman of the 3rd Plaintiff as his election was presided over by Abdulkadir Haji Ali, Abdi Weli Mohamed and Hassan Maalim Omar, the Chairman, Secretary and Treasurer respectively of the 3rd Plaintiff's Board of Trustees and who signed the minutes of the Annual General Meeting held on 20th September 2013. They argued that the Notice convening the said meeting was properly issued and that the 3rd Defendant had not discharged its burden of proving that the said documents were a forgery.
19. They argued that the 3rd Defendant does not conduct elections and that its role was that of a custodian of the register of societies and its officials. They stated that the 3rd Defendant had refused to acknowledge that only duly elected officials had the mandate to operate funds on behalf of the 3rd Plaintiff. They added that the 3rd Defendant was in fact not sure of who were the actual officials of the 3rd Plaintiff going by its letters of 8th October 2012, 30th November 2012, 13th December 2012, 13th February 2013 and 21st May 2013.
20. It was also their contention that they had *locus standi* to institute the proceedings herein as was evidenced by the Verification Affidavit and the Further Affidavit of Abdi Weli Mohamed. They urged this court to disregard the Defendant's arguments that the 3rd Party had no *locus standi* to bring the proceedings herein as the 1st Plaintiff was clear that it had filed the suit herein on behalf of the 3rd Plaintiff.
21. They pointed out that the 1st Defendant had come to court with unclean hands and had not denied that his term of office had lapsed. They argued that they had demonstrated a *prima facie* case in line with the case of **Giella vs Cassman Brown** on the ground that if the 1st Defendant embezzled the funds, it would erode the goodwill existing between the membership and the donors and that once that goodwill was eroded, no amount of damages would compensate the membership. It was therefore their case that the balance of convenience in granting the injunction tilted in their favour.

LEGAL SUBMISSIONS BY THE 1ST DEFENDANT

22. In his written submissions dated 16th December 2013 and filed on 17th December 2013, the 1st Defendant argued that the 3rd Plaintiff was a society duly registered pursuant to the provisions of the Societies Act Cap 108 (laws of Kenya) and that it could not institute court proceedings in its name in the same way a limited liability company.
23. It referred the court to the several cases amongst them the cases of **Kenya Country Bus Owners Association vs Barclays Bank of Kenya Limited [2010] eKLR**, **Eriteria Orthodox Church vs Wariwax Generation Limited [2007] eKLR** and **Beatrice Mghamba Onyonka vs Mosoch Helath Centre & Another [2009] eKLR** where the common thread was that an incorporated body did not have capacity to sue or be sued in its own name.
24. He urged this court to strike out the name of the 3rd Plaintiff from the suit herein for reason of

- misjoinder. It was also his submission that the 1st Plaintiff contravened the provisions of Section 24 of the Societies Act in holding himself out as an official of the 3rd Plaintiff contrary to the records at the 3rd Defendant's office and that the 2nd Plaintiff had not indicated in what capacity he had instituted the suit herein.
25. It was also his argument that the 1st Plaintiff had not complied with the provisions of Order 1 Rule 8 of the Civil Procedure Rules, 2010 before he could institute a representative suit. He stated that the 1st and 2nd Plaintiffs did not give the requisite notice contemplated under Order 1 Rule 8 (2) of the Civil Procedure Rules, 2010 and accordingly their suit could not be sustained. He referred the court to the case of **Lawrence Sese & 5 Others vs Jeremiah Otieno Okenye & 2 Others [2009] eKLR** in this regard.
26. He reiterated his contentions that the elections were not held as has been alleged by the Plaintiffs and stated that the 3rd Defendant had acted correctly when it invoked the provisions of Section 18 (1) of the Societies Act. He added that the 1st and 2nd Plaintiffs had failed to produce the authentic documents as had been demanded by the 3rd Defendant and that the Plaintiff had therefore come to court with unclean hands.
27. It was his further submission that the Plaintiffs concealed relevant material when it sought and obtained the *ex parte* injunction one of which was that the 2nd Plaintiff was an official of the 3rd Plaintiff and was privy to the purported misuse of the funds. He persuaded this court to vacate the *ex parte* order issued herein for having been obtained by misrepresentation, fraud or concealment of material facts. He referred this court to the case of **Ragui vs Barclays Bank Limited [2002] 1KLR 647**.
28. In addition, he urged this court to find that the Plaintiffs had not demonstrated a *prima facie* case with a probability of success for the reason that the Plaintiffs did not have *locus standi* to institute the proceedings herein and they would therefore not suffer irreparable loss. He relied on the cases of **Giella vs Cassman Brown** (Supra) and **Mrao Limited vs First American Bank Limited (2003) KLR 235** to buttress its point.

LEGAL ANALYSIS

29. This court has carefully considered the affidavit evidence, the written submissions and all the case law relied on by the parties herein and notes that the following are issues for its determination:-
- a. **Whether or not the Plaintiffs had *locus standi* to institute the proceedings herein?**
 - b. **Whether or not the Plaintiffs have established a *prima facie* case with a probability of success to enable this court grant an interlocutory injunction pending the hearing and determination of the suit herein?**
30. From the documentation presented before this court, there does appear to have been a Notice dated 30th August 2012 informing members of the 3rd Plaintiff that there would be an Annual General Meeting for election of new Board of Directors on 20th September 2012. As was rightly pointed out by the 1st and 3rd Defendants, the same did not bear the name of the Secretary. It was also signed "for" the Secretary and bore no name of the person who signed the same.
31. According to Article 8 of the 3rd Plaintiff's Constitution attached to the affidavit in support of the Plaintiffs' application and marked as Exhibit "AMA 5", the Secretary is the only official with the mandate to issue notices convening all meetings of the Boards of Directors and all general meetings of the society. It therefore follows that the sitting secretary at the time of the said alleged meeting was the one only who had the power to issue a notice convening any annual general meeting.
32. Perusal of the 3rd Defendant's letter dated 15th November 2012 attached to the 1st Defendant's Replying Affidavit and marked as Exhibit "AS 1", refers to a letter of 11th September 2012 which showed who the office bearers of the 3rd Plaintiff were. The said letter was not enclosed as an exhibit in this matter. It was, however, mentioned in Exhibit "AS 4" attached to the said Replying Affidavit in which the 3rd Defendant pointed out that it had revoked the letter of 8th October 2012 and reconfirmed the actual office bearers as having been those shown in paragraph 9 hereinabove. These are the same names repeated in several letters from the 3rd Defendant annexed as exhibits in

the 1st Defendant's Replying Affidavit.

33. The Plaintiffs do not appear to have responded to the 3rd Defendant's letter of 15th November 2012 which it said it issued in exercise of its powers under Section 18 of the Societies Act. It stated in part as follows:-

“ ...We are enclosing a copy of the said letter of complaint with all the attachments to enable you respond urgently within the next seven days. You will need to verify and justify the authority under which you purported to hold such meeting, if at all, and purport to cause the said change. By a copy of this letter we are requesting Abdullahi Sheriff and the other office bearers to await your response to enable us adjudicate and take the next necessary step.”

34. Bearing the aforesaid in mind, the court first and foremost finds that in the absence of any evidence that the Plaintiffs complied with the said direction by the 3rd Defendant, they cannot be said to have exhausted all the options that were available to them to resolve the issue of who were the rightful office bearers of the 3rd Plaintiff. In the circumstances, this court can only come to the conclusion that the *bona fide* office bearers were those that were listed by the 3rd Defendant in their several letters save for that of 8th October 2012 as it rightly revoked the same.

35. Secondly, this court also finds that in the absence of proof that the Notice of 30th August 2012 was issued by the sitting Secretary before the elections of 20th September 2012, the 1st Plaintiff cannot be said have been validly elected. There is no provision the 3rd Plaintiff's Constitution for any other person other than the Secretary or the Assistant Secretary, in the absence of the former, to issue a notice for convening of an annual general meeting.

36. It therefore follows that a notice signed on behalf of the Secretary by an unidentified person or any other person other than the sitting Secretary cannot be said to be a valid notice to convene any meeting. The Plaintiffs did not clarify this issue or give the name of the specific person who signed the said notice but they failed to do so much to their detriment.

37. Thirdly, this court cannot with certainty say whether the 1st and 2nd Plaintiffs were part of the office bearers who were elected in the meeting of 30th May 2012 alluded to the letter of 26th September 2012 by M/S N. T. Tigogo & Co Advocates to the 3rd Defendant marked as Exhibit “AS 2” or which office bearers were being referred to in the said letter. If indeed, there was an annual general meeting on 30th May 2012, this court is unable to understand how another annual general meeting could be held on 20th September 2012 when Article 9 of the 3rd Plaintiff's Constitution shows that there could only be one (1) annual general meeting held not later than 10-20 December in each year.

38. Additionally, in the event the annual general meeting was held on 30th May 2012, the court finds that the notice, marked as Exhibit “JLO 2 a” attached in the 3rd Defendant's Replying Affidavit, convening the said meeting was also invalid for the reason that it only contained some signatures without identifying to whom the said signatures belonged to.

39. This court has carefully noted the contents of the Further Affidavit of Abdi Weli Mohamed. It is evident from the minutes of the meeting held on 20th September 2012 that he was elected as a member of the Board of Trustees on the same date. However, the court has already found that the notice convening that meeting was invalid. The probative value of such an affidavit is extremely low and the court cannot rely on the same to confirm the veracity of the 1st and 2nd Plaintiffs averments that they were duly elected officials of the 3rd Plaintiff.

40. This court takes the firm view that the Constitution of a society is a very fundamental document to guide the running of affairs. If the same is not adhered to, it is recipe for chaos such as what is being witnessed in this case.

41. Therefore, in answering the question of whether or not the 1st and 2nd Plaintiffs had the *locus standi* to institute the proceedings herein, this court finds that they had the right to do so in their personal capacities but not as the office bearers of the 3rd Plaintiff as they had not been validly elected, if at all. The 1st Plaintiff could not therefore institute the proceedings herein in his capacity as the Chairman of the 3rd Plaintiff.

42. The court notes that the description of the 2nd Plaintiff in the Plaintiff that he served as the 3rd Plaintiff's Vice Chairman until 8th October 2012 differs from the contents of the letters from the 3rd Defendant annexed to the 1st Defendant's Replying Affidavit and in particular the letter of 13th December 2012 confirming that he was the 3rd Plaintiff's Vice Chairman.
43. Be that as it may and bearing in mind paragraph 7 of the 1st Plaintiff's Supporting Affidavit that the 3rd Defendant altered the list to reflect that the 2nd Plaintiff still serves as the Vice Chairman of the 3rd Plaintiff, the 2nd Plaintiff had every right to bring the said proceedings herein in his personal capacity.
44. As regards the 3rd Plaintiff, this court wholly concurs with the submissions by the 1st Defendant that the third party had no capacity to sue in its own name as it was an unincorporated body. If it was isolated, its claim against the 1st and 3rd Defendants would be non-existent and could not be sustained.
45. This court is thus more persuaded by the 1st Defendant's submissions that the 1st and 3rd Plaintiffs had no *locus standi* to institute the proceedings herein. However, the fact that the court has found that the 2nd Plaintiff could bring the proceedings in his personal capacity does not in itself validate his claim against the 1st and 3rd defendant herein. The duty is bestowed upon him to demonstrate the legitimacy of his claim and/ or prove his case against the 1st and 3rd Defendants. It is incumbent upon him to show that he had a cause of action against the 1st and 3rd Defendants.
46. For the foregoing reasons and the fact that the question before this court presently is whether or not the Plaintiffs are entitled to an interlocutory injunction pending the hearing and determination of the suit herein, this court is not inclined to strike out the suit as had been sought by the 1st Defendant. The Plaintiffs are entitled to respond to an application for striking out of their suit. In this regard, this court will not consider the 1st Defendant's written submissions in respect of his Notice of Motion Application dated 6th August 2013 and filed on 7th August 2013 which had been combined with the submissions for the Plaintiff's Notice of Motion application dated 21st June 2013 and filed on 25th June 2013. The 1st Defendant is at liberty to fix his said application for hearing and determination by this court.
47. In the event this court would be found to have been wrong on the first issue of whether or not the Plaintiffs had *locus standi* to bring the proceedings herein, it would be crucial to determine the second issue, that is, whether or not the Plaintiffs would be entitled to an interlocutory injunction pending the hearing and determination of the suit herein.
48. It is trite law that an applicant must make out a *prima facie* case with probability of success, satisfy the court that it would suffer irreparable damage which would not be adequately compensated if the court did not grant the injunction and if the court is in doubt, then it should decide the case on a balance of convenience. These main principles were encapsulated in **Geilla vs Cassman [1973] EA 358 at page 360** where Spry J held that:-

“ The conditions for the grant of an interlocutory injunction are now, I think, well settled in East Africa. First, an applicant must show a prima facie case with a probability of success. Secondly, an interlocutory injunction will not normally be granted unless the applicant might otherwise suffer irreparable injury, which would not adequately be compensated by an award of damages. Thirdly, if the court is in doubt, it will decide an application on the balance of convenience.”

49. The Plaintiff submitted that the loss of goodwill from the donors would be irreparable loss that cannot be compensated by way of damages. This court is not satisfied that loss of goodwill would fall within the criteria that are contemplated in the case of **Giella vs Cassman Brown** (Supra). This is particularly because this court has found that the 1st Plaintiff was not validly elected as the Chairman of the 3rd Plaintiff.
50. As was correctly pointed out by the 1st Defendant, the granting of an injunction is an equitable relief. It behoves upon an applicant to bare all the facts of its case to the court. Withholding and/or non-disclosure of material facts would disentitle such a party from enjoying an equitable relief. This court finds that the Plaintiffs' failure to disclose the issuance of communication from the 3rd

Defendant and facts of an annual general meeting purportedly held on of 30th May 2012, facts which were brought to the attention of this court by 1st and 3rd Defendants in effect made the Plaintiffs hands unclean. They could not therefore enjoy the equitable relief of an interlocutory injunction.

51. Hence, the Plaintiffs have not been successful in convincing this court that it satisfied the laid down principles for the granting of an interlocutory injunction or on a balance of convenience, pending the hearing and determination of the suit.

DISPOSITION

52. The upshot of this court's ruling is that the Plaintiffs Notice of Motion application dated 21st June 2013 and filed on 25th June 2013 is not merited and the same is hereby dismissed with costs to the 1st and 3rd Defendants.

53. Accordingly, the interim orders issued by this court on 27th June 2013 restraining the 1st and 2nd Defendants, which is now no longer a party to the suit herein, or their servants, agents and/or from dealing with funds deposited in the 3rd Plaintiff's account held at the 2nd Defendant's bank Account No 102359 are hereby vacated.

54. Orders accordingly.

DATED and DELIVERED at NAIROBI this 21st day of May 2014

J. KAMAU

JUDGE