



**REPUBLIC OF KENYA**

**IN THE ENVIRONMENT AND LAND COURT AT NAIROBI**

**ELC CIVIL APPEAL NO. E155 OF 2021**

**CHARLES MUNGE.....PLAINTIFF**

**VERSUS**

**NAIROBI CITY COUNTY GOVERNMENT.....1<sup>ST</sup> DEFENDANT**

**PAUL MWANGI NGUTHE.....2<sup>ND</sup> DEFENDANT**

**JANE WAMBUI.....3<sup>RD</sup> DEFENDANT**

**CHIEF LAND REGISTRAR.....4<sup>TH</sup> DEFENDANT**

**JUDGMENT**

**INTRODUCTION**

1. Vide Plaintiff dated 6<sup>th</sup> May 2021, the Plaintiff herein has sought for the following Reliefs:

- a. An order of Permanent Injunction do issue directed at the 2<sup>nd</sup> and 3<sup>rd</sup> Defendant whether by themselves or their servants, agents or employees restraining them from entering the suit property or premises, namely, on L.R No. Nairobi Block 107/1/118 or remaining thereon or from selling, offering for sale or in any other way attempting to alienate the suit premises from the Plaintiff.*
- b. An order do issue directed at the 1<sup>st</sup> and 4<sup>th</sup> Defendant to cancel the certificate of Lease of L.R No. Nairobi Block 107/1/118 issued to the 2<sup>nd</sup> and 3<sup>rd</sup> Defendants and any other allotment, Lease or Certificate of lease issued to any other Party arising therefore.*
- c. A Declaratory order do issue that the Plaintiff is the sole owner of all that parcel of land, namely L.R No. Nairobi Block 107/1/118 and be held as such.*
- d. Damages.*
- e. Costs of the suit.*
- f. Interests on d & e*
- g. Such other or further orders that may be necessary or as the court may deem just.*

2. Following the filing of the Plaintiff and the issuance of summons to enter appearance, the 1<sup>st</sup> Defendant duly entered appearance and thereafter filed her Statement of Defense. For clarity, the Statement of Defense was filed on the 11<sup>th</sup> November 2021.

3. However, despite being served with the Plaintiff and summons to enter appearance, the 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup> Defendants herein neither entered appearance nor filed Statement of Defense.

4. In the premises, the matter proceeded for Formal proof as against the 2<sup>nd</sup>, 3<sup>rd</sup>, and 4<sup>th</sup> Defendants.

**EVIDENCE BY THE PARTIES:**

**EVIDENCE BY THE PLAINTIFF:**

5. The Plaintiff herein testified as PW1, and informed the court that same was issued with a letter of allotment over and in respect of a Property hitherto known as Residential Block-Umoja 2, Extension Block 107, by Nairobi City Commission, ( *now defunct* ) and that upon being issued with the Letter of allotment, same proceeded to and complied with the terms and conditions of the Letter of allotment.
6. For clarity, the witness testified that same timeously paid the Ground rents and the Stand premiums, in the manner indicated by Nairobi City Commission.
7. As pertains to the allocation of the suit property to and in his favor, the Plaintiff adduced and showed to the court the Letter of allotment dated 17<sup>th</sup> august 1992, which was produced as exhibit P1 and the revenue receipts attesting to payment of the Stand premium and the ground rents, the latter which was produced as exhibit P2.
8. Besides, the Plaintiff further testified that after the payment of the Stand premium and the incidental charges, same was issued with the Lease instrument which was duly executed and thereafter engrossed and which was thereafter, lodged for registration, culminating into the issuance of a Certificate of lease.
9. In respect of the foregoing, the Plaintiff adduced in evidence both the Lease instrument and the Certificate of lease.
10. Other than the foregoing, the Plaintiff also tendered in evidence the various relevant receipts in respect of the payments of the Rates over and in respect of the suit property, which are testament to the fact that the suit property lawfully belongs to him.
11. Nevertheless, the Plaintiff further testified that on or about the 29<sup>th</sup> July 2020 when same sought to ascertain the outstanding Rates over and in respect of the suit property, from the office of the 1<sup>st</sup> Defendant, same was surprised by an officer from the 1<sup>st</sup> Defendant that there are other persons, who have also been seeking to ascertain the Rates due and payable in respect of the suit premises and that upon being so informed, the Plaintiff indicated that same became concerned and therefore developed an interest to conduct an Official search over and in respect of the Suit Property.
12. It was the Plaintiff's further testimony that thereafter same proceeded to and conducted a search at the offices of the 4<sup>th</sup> Defendant and obtained evidence of the existence of a Certificate of lease issued in respect Nairobi Umoja Block 107/1118, albeit in the names of the 2<sup>nd</sup> and 3<sup>rd</sup> Defendants herein and which certificate also shows that the said property was also obtaining at Umoja.
13. Based on the foregoing, the Plaintiff herein testified that same developed an interest to ascertain how and on what basis a second certificate of lease could issue and be granted over and in respect of the same property, yet his title thereto, had not been cancelled and/or revoked.
14. On the other hand, the Plaintiff further testified that he also got to know that it is the 2<sup>nd</sup> and 3<sup>rd</sup> Defendants, who have been involved in the demolition of his perimeter wall whenever he tried to erect same, as well as interfering with his peaceful occupation and use of the suit property.
15. In the premises, the Plaintiff adopted and reiterated his witness statement dated the 4<sup>th</sup> May 2021 and also relied on the bundle of documents at the foot of the list dated the 6<sup>th</sup> May 2021, which were duly produced and marked as exhibits P1 to P11, respectively.
16. On cross examination by the 1<sup>st</sup> Defendant, the Plaintiff herein stated that same has neither seen nor been shown any Other letter of allotment in respect of the suit property, either in favour of the 2<sup>ND</sup> and 3<sup>RD</sup> Defendants or at all.
17. Besides, the Plaintiff further stated that the only person who has been allocated the suit property is himself and not otherwise.
18. The Plaintiff's counsel did not carry out and/or conduct any Re-examination and thereafter same proceeded to and closed the Plaintiff's case.

**EVIDENCE BY THE DEFENSE:**

**1<sup>ST</sup> DEFENDANT'S CASE:**

19. The 1<sup>st</sup> Defendant herein called one witness, namely, Mr. Benson Ndegwa Gichohi, who testified that same is an employee of the City County of Nairobi.
20. On the other hand, the witness also stated that he was formerly, an employee of the City Council of Nairobi, prior to the commencement of devolution, which culminated into the establishment of the City County Government of Nairobi.
21. Nevertheless, the witness further stated that same is currently in charge of Records at the City County Government of Nairobi and that from the Records held by the 1<sup>st</sup> Defendant, the suit property was allocated to the Plaintiff herein.
22. Further, the witness testified that the suit property has never been allocated to any other person other than the Plaintiff.

23. Finally, the witness reiterated that the Land in question belongs to the Plaintiff and hence the Plaintiff is the Lawful and Bona Fide Owner thereof.

24. With that short testimony, the 1<sup>st</sup> Defendant's case was closed.

#### **2<sup>ND</sup> DEFENDANT'S CASE:**

25. It was pointed out herein before that despite having been duly served with the Plaint and summons to enter appearance, the 2<sup>nd</sup> Defendant neither entered appearance nor filed Statement of Defense.

26. In the premises, the 2<sup>nd</sup> Defendant did not defend the subject suit.

#### **3<sup>RD</sup> DEFENDANT'S CASE:**

27. Similarly, just like the 2<sup>nd</sup> Defendant, the 3<sup>rd</sup> Defendant herein neither entered appearance nor filed a statement of Defense. Consequently, the Plaintiff's suit as against the 3<sup>rd</sup> Defendant proceeded for formal proof.

#### **4<sup>TH</sup> DEFENDANT'S CASE:**

28. I beg to point out that the 4<sup>th</sup> Defendant herein also neither entered appearance nor filed a Statement of Defense. In this regard, the Plaintiff's case also proceeded for formal proof as against the 4<sup>th</sup> Defendant.

#### **SUBMISSIONS:**

29. At the close of the 1<sup>st</sup> Defendant's case, the Parties herein sought liberty to file and exchange written submissions over and in respect of the subject matter and in this respect, latitude was indeed granted to the Parties to file and exchange the written submissions.

30. Pursuant to the foregoing, the Plaintiff filed his set of written submissions on the 3<sup>rd</sup> March 2022, whereas the 1<sup>st</sup> Defendant filed her submissions on the 7<sup>th</sup> March 2022. For clarity, the two sets of written submissions are on record.

31. Briefly, it is the Plaintiff's submissions that the suit property herein was lawfully allocated and/or alienated to and in favor of the Plaintiff on the 17<sup>th</sup> august 1992, by the Nairobi City commission and thereafter the Plaintiff proceeded to and paid the requisite Stand premium and ground rents on even date, namely the 17<sup>th</sup> august 1992.

32. It was the Plaintiff's further submissions that upon compliance with the terms of letter of allotment, the Office of commissioner of lands proceeded to and prepared the lease instrument over and in respect of the suit property and thereafter same was duly executed and forwarded unto the Plaintiff for his execution and subsequent registration.

33. It is further submitted by the Plaintiff that upon the registration of the Lease instrument, the Office of the 4<sup>th</sup> Defendant herein proceeded to and issued the relevant certificate of lease over and in respect of the suit property. Consequently, the Plaintiff submitted that same is the lawful and legitimate proprietor over and in respect of the suit property.

34. Nevertheless, the Plaintiff has submitted that despite having been lawfully allocated the suit property, the 1<sup>st</sup> and 4<sup>th</sup> Defendants herein appeared to have conspired and thereafter allocated the suit property to the 2<sup>nd</sup> and 3<sup>rd</sup> Defendants, irregularly and/or unlawfully, albeit during the life time of his (Plaintiff's) Title.

35. It is the Plaintiff's submissions that having been allocated the suit property, same ceased to be available for allocation and/or alienation whatsoever and hence the purported allocation in favor of the 2<sup>nd</sup> and 3<sup>rd</sup> Defendant was not only, irregular but also unlawful. In this regard, the Plaintiff has relied on the case of **Joseph N. K Arap Ngok v Moiyo Ole keiwua & 4 Others (1997) eKLR**.

36. On the other hand, the Plaintiff has further relied on the case of **Arthi Highways Developers Ltd v Westend Butcheries Ltd & 6 Others (2015) eKLR**, to contend that the manner in which the 2<sup>nd</sup> and 3<sup>rd</sup> Defendants acquired and/or obtained title to the suit property, was replete with Fraud and illegality.

37. Finally, the Plaintiff has submitted that the certificate of lease in favor of the 2<sup>nd</sup> and 3<sup>rd</sup> Defendants, which is said to have been issued on the 7<sup>th</sup> April 2014, by the City Council of Nairobi, is unlawful insofar as the said Body, namely, the City Council of Nairobi, ceased to exist on or about the 4<sup>th</sup> March 2013.

38. In this regard, the Plaintiff has contended that there is no way that a non-existent body, namely, the City Council of Nairobi, could generate and/or issue a letter of allotment to facilitate the registration of title in favor of the 2<sup>nd</sup> and 3<sup>rd</sup> Defendants.

39. In the premises, the Plaintiff has submitted that the 2<sup>nd</sup> and 3<sup>rd</sup> Defendants title is therefore a nullity and same ought to be canceled and/or revoked pursuant to Section 80 of the Land Registration Act, No. 3 of 2012.

40. On her part, the 1<sup>st</sup> Defendant has submitted that the suit property herein was lawfully allocated to the Plaintiff and that upon the allocation and/or alienation to and in favor of the Plaintiff, the 1<sup>st</sup> Defendant has never allocated the suit property to any other person.

41. On the other hand, it was further submitted that other than the letter of allotment which was issued to and in favor of the Plaintiff, the 1<sup>st</sup> Defendant herein, has never issued any letter of allotment to the 2<sup>nd</sup> and 3<sup>rd</sup> Defendants. For clarity, the 1<sup>st</sup> Defendant pointed out that same do not have any record of a letter of allotment that was issued to the 2<sup>nd</sup> and 3<sup>rd</sup> Defendants.

42. Thirdly, the 1<sup>st</sup> Defendant also submitted that same has never made any representation to the 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup> Defendants herein, pertaining to and/or concerning the availability of the suit property for allocation and/or alienation.

43. Consequently, the 1<sup>st</sup> Defendant has submitted that if ever the 4<sup>th</sup> Defendant issued the 2<sup>nd</sup> and 3<sup>rd</sup> Defendants with a Certificate of lease, then same was issued in the absence of a letter of allotment and in any event, without the knowledge of the 1<sup>st</sup> Defendant.

44. Finally, the 1<sup>st</sup> Defendant has submitted that where land has been allocated and/or alienated, like in the instant case, such land ceases to become available and cannot be allocated to another person unless the first allocation is validly and lawfully canceled. In this regard, the 1<sup>st</sup> Defendant has relied on the decision in the case of **Republic v City Council of Nairobi & 3 others (2014) eKLR**.

#### **ISSUES FOR DETERMINATION:**

45. Having reviewed the Complaint dated the 6<sup>th</sup> May 2021, the witness statement dated the 4<sup>th</sup> May 2021 and the bundle of documents dated the 6<sup>th</sup> May 2021, which were duly adopted and admitted as exhibits and having similarly taken into account the contents of the Statement of Defense dated the 11<sup>th</sup> November 2021, filed by the Defendant and similarly having evaluated the oral evidence tendered by the Parties, as well as the written submissions filed, the following issues do arise and are germane for determination;

- a. *Whether the Plaintiff is the Lawful and Bona fide Owner of the Suit Property, namely, L.R No. Nairobi Block 107/1/118.*
- b. *Whether the Title in favor of the 2<sup>nd</sup> and 3<sup>rd</sup> Defendants in respect of the suit Property was procured and/or obtained by Fraud.*
- c. *What Reliefs are appropriate in the subject matter.*

#### **ANALYSIS AND DETERMINATION**

##### **ISSUE NUMBER 1**

##### **Whether the Plaintiff is the Lawful and Bona fide owner of the suit property, namely, L.R No. Nairobi Block 107/1/118.**

46. The Plaintiff tendered evidence whereby same indicated that the Nairobi City Commission issued a letter of allotment in respect of residential plot Umoja 2, extension Block 107, plot No 16, unto him and that upon the issuance of the letter of allotment, same proceeded to and complied with the terms of the letter of allotment, including payments of the stand premium and the ground rates. For clarity, the Plaintiff pointed out that the said payments were made on the 17<sup>th</sup> August 1992.

47. The Plaintiff further submitted that upon compliance with the terms of the letter of allotment, the office of the commissioner of land, now defunct, proceeded to and prepared the lease instrument, which was thereafter executed, engrossed and registered and thereby conferred lawful rights in his favor.

48. Further, the Plaintiff submitted that upon the registration of the lease instrument same was issued with a certificate of lease, which effectively conferred title rights and/or interests over the land unto him. In this regard, the Plaintiff thus contended that same is the lawful proprietor and/or legitimate owner of the suit property.

49. Suffice it to mention, that the 1<sup>st</sup> Defendant confirmed and authenticated that from the records held by the 1<sup>st</sup> Defendant, the suit property was lawfully allocated unto the Plaintiff and not otherwise.

50. On the other hand, the 1<sup>st</sup> Defendant also proceeded to and submitted that the Plaintiff is the lawful and bona fide owner of the suit property.

51. Based on the foregoing, I find no difficulty in returning a verdict that the Plaintiff herein is the lawful and bona-fide owner of the suit property and therefore same is entitled to a declaration to that effect.

52. Suffice it to note, that the issuance of a title document in favor of a title holder, namely, the Plaintiff in this case, confers upon the Plaintiff lawful and legitimate rights thereto and such rights are entitled to protection under the law.

53. In support of the foregoing observation, I adopt and endorse the position of the law captured in the case of **Isaac Gathungu Wanjohi & another v Attorney General & 6 others [2012] eKLR**, at paragraph 43 where the court stated as hereunder;

**“I therefore adopt the sentiments of the court in the case of Milan Kumarn Shah & 2 Others v City Council of Nairobi & Another (Supra) where the Court stated as follows, ‘We hold that the registration of title to land is absolute and indefeasible to the extent, firstly, that the creation of such title was in accordance with the applicable law and secondly, where it is demonstrated to a degree higher than the balance of probability that such registration was procured through persons or body which claims and relies on that principle has not himself or itself been part of a cartel which schemed to disregard the applicable law and the public interest.’”**

54. Other than the foregoing decision, I must also point out that the issuance of a title or a certificate of lease in favor of a person, in this case the Plaintiff, confers upon the Plaintiff inviolable rights to the subject land and same can only be defeated subject to the Due process of the law and not otherwise.

55. In support of the foregoing observation, I adopt and endorse the statement of the law enunciated in the case of **Ocean View Plaza Ltd v Attorney General [2002] eKLR**, where the Court stated as hereunder;

***“Compulsory acquisition would be the only lawful way of taking away a piece of land from the registered owner. Allotment of land to a citizen or others protected under the Constitution, which action is symbolized by Title Deeds, invests in the allottee inviolable and indefeasible rights that can only be defeated by a lawful procedure under Land Acquisition Act.”***

56. Premised on the foregoing, the Plaintiff herein, who currently holds a Certificate of lease in respect of the suit property and which certificate of lease has not been impeached and/or invalidated in accordance with the law, is the bona-fide and legitimate owner of the suit property.

## **ISSUE NUMBER 2**

**Whether the Title in favor of the 2<sup>nd</sup> and 3<sup>rd</sup> Defendant in respect of the suit property was procured and/or obtained by Faud.**

57. The suit property herein was lawfully allocated to and alienated in favor of the Plaintiff, vide a letter of allotment issued by the authorized authority, namely, Nairobi City Commission, now defunct.

58. Upon the issuance of the letter of allotment, whose terms were thereafter duly complied with by the allottee, culminating into the issuance of the lease instrument and ultimately the certificate of lease, the suit property became private property and thus ceased to be available for alienation.

59. Based on the foregoing, it is therefore evident and/or apparent that neither the 1<sup>st</sup> Defendant nor any other allocating authority could allocate or alienate the suit property to any one, let alone the 2<sup>nd</sup> and 3<sup>rd</sup> Defendants, whatsoever.

60. Nevertheless, it is refreshing to know that the 1<sup>st</sup> Defendant herein, which was the only allocating authority in respect of the suit Property, did not allocate the suit property to the 2<sup>nd</sup> Defendant and 3<sup>rd</sup> Defendant or at all and in any event, the 1<sup>st</sup> Defendant herein also does not have any record of any allotment to and in favor of the 2<sup>nd</sup> and 3<sup>rd</sup> Defendants.

61. Be that as it may, once land has been allotted and the allottee has complied with the terms and conditions thereof, such land ceases to exist for allocation and in this case, upon the allotment of the suit property in favor of the Plaintiff, the said land could not be re-allocated to anyone else let alone the 2<sup>nd</sup> and 3<sup>rd</sup> Defendants.

62. In support of the foregoing position, I adopt and endorse the holding of the Court, namely, Odunga J in the case of **Republic v City Council of Nairobi & 3 Others (2014) eKLR** where it was held as hereunder;

***“Once allotment letter is issued and the allottee meets the conditions therein, the land in question is no longer available for allotment since a letter of allotment confers absolute right of ownership or proprietorship unless it is challenged by the allotting authority or is acquired through fraud mistake or misrepresentation or that the allotment was out rightly illegal or it was against public interest. In other words, where land has been allocated, the same land cannot be reallocated unless the first allocation is validly and lawfully cancelled.***

63. Given that the suit property had already been allotted to and in favor of the Plaintiff who had thereafter complied with the terms thereof, it was not practicable nor legally tenable to allocate and/or alienate the said to property to and in favor of the 2<sup>nd</sup> and 3<sup>rd</sup> Defendant.

64. Nevertheless, based on the evidence adduced by the 1<sup>st</sup> Defendant herein that same do not have any record of the letter of allotment to and in favor of the 2<sup>nd</sup> and 3<sup>rd</sup> Defendant, it is therefore puzzling how the 2<sup>nd</sup> and 3<sup>rd</sup> Defendants, acquired the certificate of lease without being allotted the suit property in the first instance.

65. In my humble view, the manner in which the 2<sup>nd</sup> and 3<sup>rd</sup> Defendants acquired the Certificate of lease, the parallel certificate of lease, was irregular, illegal, unlawful and replete with corrupt practice, which therefore vitiates the validity of the said certificate of lease.

66. No wonder, when the 2<sup>nd</sup> and 3<sup>rd</sup> Defendants were served with Plaint and summons to enter appearance, same did not find it fit to challenge the Plaintiff’s claim.

67. Be that as it may, all I wish to add is that the circumstance under which the 2<sup>nd</sup> and 3<sup>rd</sup> Defendants acquired the certificate of lease over and in respect of the suit property bespeak of fraud and in any event, the Plaintiff herein, has placed before the court sufficient and credible evidence of fraud to warrant invalidation of the 2<sup>nd</sup> and 3<sup>rd</sup> Defendants' title.

68. In support of the kind of evidence and the standard of proof that is required to prove fraud, I wish to adopt and rely in the case of **Kuria Kiarie & 2 others v Sammy Magera [2018] eKLR**, where the Court Of Appeal stated as hereunder;

**25. The next and only other issue is fraud. The law is clear and we take it from the case of Vijay Morjaria vs Nansingh Madhusingh Darbar & Another [2000] eKLR, where Tunoi, JA. (as he then was) stated as follows:**

**“It is well established that fraud must be specifically pleaded and that particulars of the fraud alleged must be stated on the face of the pleading. The acts alleged to be fraudulent must, of course, be set out, and then it should be stated that these acts were done fraudulently. It is also settled law that fraudulent conduct must be distinctly alleged and distinctly proved, and it is not allowable to leave fraud to be inferred from the facts.” [Emphasis added].**

**The same procedure goes for allegations of misrepresentation and illegality. See Order 2 Rule 4 of the Civil Procedure Rules.**

**26. As regards the standard of proof, this Court in the case of Kinyanjui Kamau vs George Kamau [2015] eKLR expressed itself as follows:-**

**“...It is trite law that any allegations of fraud must be pleaded and strictly proved. See Ndolo vs Ndolo (2008) 1 KLR (G & F) 742 wherein the Court stated that: “...We start by saying that it was the respondent who was alleging that the will was a forgery and the burden to prove that allegation lay squarely on him. Since the respondent was making a serious charge of forgery or fraud, the standard of proof required of him was obviously higher than that required in ordinary civil cases, namely proof upon a balance of probabilities; but the burden of proof on the respondent was certainly not one beyond a reasonable doubt as in criminal cases...”...In cases where fraud is alleged, it is not enough to simply infer fraud from the facts.”**

### **ISSUE NUMBER 3:**

#### **What Reliefs are appropriate in the subject matter .**

69. Having resolved Issues number 1 and 2 in favor of the Plaintiff herein, it must have become obvious that the Plaintiff's suit is bound to succeed. However, the only question is what Reliefs is the Plaintiff entitled to.

70. In my humble view, the Plaintiff has established and/or placed before the court sufficient and credible evidence to warrant a declaration being granted that same is the lawful and legitimate owner of the suit property, namely, **L.R No. Nairobi Block 107/1/118**.

71. On the other hand, by virtue of being the legitimate owner of the suit property, the Plaintiff is also entitled to an order of Permanent injunction. Consequently, **an order of permanent injunction be and is hereby issued restraining the 2<sup>nd</sup> and 3<sup>rd</sup> Defendants whether by themselves or their servants, agents or employees from entering the suit property or premises on L.R No. Nairobi Block 107/1/118 or remaining thereon or from selling, offering for sale or in any other way attempting to alienate the suit premises from the Plaintiff.**

72. Similarly, having found and held that the Certificate of lease in favor of the 2<sup>nd</sup> and 3<sup>rd</sup> Defendant was fraudulently, illegally and unlawfully issued, the 4<sup>th</sup> Defendant be and is hereby ordered and/or directed to revoke, cancel and/or nullify the said certificate of lease and to expunge any entries and/or records pertaining to the name of the 2<sup>nd</sup> and 3<sup>rd</sup> Defendants from the suit property.

73. Other than the foregoing, the 1<sup>st</sup> Defendant be and is hereby directed to cancel, revoke and/or nullify the letter of allotment or such other documents, if any, under her custody and respecting the suit property, bearing the names of the 2<sup>nd</sup> and 3<sup>rd</sup> Defendants.

74. The Plaintiff be and is hereby awarded General damages in the sum of Kes.500, 000/= only to be borne by the 2<sup>nd</sup> and 3<sup>rd</sup> Defendants.

75. Costs of the suit are awarded to the Plaintiff and same to be borne by the 2<sup>nd</sup> and 3<sup>rd</sup> Defendants.

76. It is so ordered.

**DATED, SIGNED AND DELIVERED AT NAIROBI THIS 20TH DAY OF APRIL 2022.**

**HON. JUSTICE OGUTTU MBOYA**

**JUDGE**

**IN THE PRESENCE OF;**

**JUNE NAFULA COURT ASSISTANT.**

**MR. GICHANA H/B FOR MR. KELVIN MOGENI FOR THE PLAINTIFF**

**MR. LUMUMBA FOR THE 1ST DEFENDANT.**

**NO APPEARANCE FOR THE 2ND DEFENDANT**

**NO APPEARANCE FOR THE 3RD DEFENDANT**

**MR. MENGE FOR THE 4TH DEFENDANT**