



NO.124

**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT KISII**

**CIVIL CASE NO. 178 OF 2006**

THE REGISTERED TRUSTEES

FULL GOSPEL CHURCHES OF KENYA.....PLAINTIFFS

**VERSUS**

JOHN MORWANI NYAKUNDI.....1<sup>ST</sup> DEFENDANT

FRED MORARO NYAMBEGA.....2<sup>ND</sup> DEFENDANT

FRANCIS MORAGU alias PASTOR KARIUKI.....3<sup>RD</sup> DEFENDANT

REGISTERED TRUSTEES REDEEMED

GOSPEL CHURCH OF KENYA.....4<sup>TH</sup> DEFENDANT

**JUDGMENT.**

1. The Plaintiffs are the registered trustees of Full Gospel Churches of Kenya. For the purposes of this judgment, the registered trustees of Full Gospel Churches of Kenya and Full Gospel Churches of Kenya shall all be referred to jointly and severally where the context so admits as “the plaintiffs”. The

**E&LCC.NO.178 OF 2006NO.124**

plaintiffs brought this suit against the defendants on 18<sup>th</sup> December, 2006 by way of a plaint dated 5<sup>th</sup> December, 2006. The plaintiffs sought the following reliefs;-

- a. **A declaration that the registration of land parcel No.NYARIBARI CHACHE/KEUMBU/2141 in the name of REDEEMED GOSPEL CHURCH was fraudulent and null and void and that the same parcel of land belongs to the plaintiffs;**
- b. **An order for the rectification of the register in respect of the suit land by deleting the name of REDEEMED GOSPEL CHURCH P.O. Box 178, KISII and inserting that of the REGISTERED TRUSTEES FULL GOSPEL CHURCH OF KENYA OR in the alternative an order that the Defendant do transfer the suit land in favour of the Plaintiffs;**
- c. **An order for the executive officer of this court to sign the documents and/or instruments so as to effect transfer and registration of the suit land in favour of the plaintiffs in default of the Defendants doing so;**

- d. **An order of injunction restraining the defendants by themselves, their agents, servants and/or employee**

**E&LCC.NO.178 OF 2006NO.124**

**from entering onto or in any manner whatsoever interfering with the suit land or the Plaintiffs' occupation thereof;**

- e. **Costs of the suit and interest thereon at court rates;**  
f. **Further or other relief deemed just.**

2. The plaintiffs' claim against the defendants as pleaded in their plaint is as follows:-

Sometimes in the year 1999, the plaintiffs bought a piece of land measuring 0.05 hectares at Keumbu at a consideration of Ksh. 110,000.00 for the purposes of putting up a church building for its members in the area. The said piece of land was a portion of a larger parcel of land known as L.R. No. Nyaribari Chache/Keumbu/ 1137(hereinafter referred to as "**Plot No.1137**"). Plot No. 1137 went through several subdivisions that ultimately gave rise to L.R.No. Nyaribari Chache/ Keumbu/ 2141(hereinafter referred to as "**the suit property**") which is the portion of the original Plot No.1137 that was

**E&LCC.NO.178 OF 2006NO.124**

purchased by the plaintiffs. The plaintiffs claimed that, in the month of June, 2003 the defendants, jointly and severally fraudulently and unlawfully caused the suit property to be transferred and registered in the name of the Redeemed Gospel Church whose trustees are the 4<sup>th</sup> defendant thereby depriving the plaintiffs of the same. Redeemed Gospel Church and the 4<sup>th</sup> defendant shall all be referred to hereinafter jointly and severally as "the 4<sup>th</sup> defendant" where the context so admits. In the same year, the 4<sup>th</sup> defendant filed a suit against the plaintiffs at the Senior Resident Magistrate's court at Keroka in, Keroka SRMCC No.224 of 2003 seeking the eviction of the plaintiffs from the suit property. The plaintiffs filed a counter-claim in the said suit seeking a declaration that the plaintiffs are the lawful owners of the suit property and a rectification of the register of the suit property by the cancellation of the name of the 4<sup>th</sup> defendant as the registered

**E&LCC.NO.178 OF 2006NO.124**

owner of the suit property and the registration of the plaintiffs as the owners thereof. The court at Keroka dismissed the 4<sup>th</sup> defendant's claim against the plaintiffs with costs. On the plaintiffs' counter-claim, the court held that it had no jurisdiction to grant the reliefs that had been sought by the plaintiffs. The plaintiffs were advised by the said court to institute their claim in a court of competent jurisdiction. The plaintiffs claimed that after the said decision by the court at Keroka, the defendants started threatening the plaintiffs with eviction from the suit property and despite demand; the defendants refused and/or declined to transfer the suit property to the plaintiffs and to stop the said threats. It was on account of the foregoing that the plaintiffs were forced to file this suit.

3. The 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> defendants filed a joint statement of defence dated 5<sup>th</sup> February, 2007 on 9<sup>th</sup> February, 2007. The 1<sup>st</sup>, 2<sup>nd</sup>

**E&LCC.NO.178 OF 2006NO.124**

and 3<sup>rd</sup> defendants denied the plaintiff's claim in its entirety and termed the same as "incongruous, an affront to mandatory legal provisions and an abuse of the process of the court". The 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> defendants urged the court to dismiss the plaintiffs' suit with costs. The 4<sup>th</sup> defendant appointed the firm of Omariba & Co. Advocates to act for it. The said law firm filed a notice of appointment of advocate on 6<sup>th</sup> July, 2007. For reasons which are not clear from the record, the said firm of advocates which

participated fully in the interlocutory application for injunction that was filed herein did not file a statement of defence on behalf of the 4<sup>th</sup> defendant to the plaintiffs' claim.

4. This suit was fixed for hearing on 12<sup>th</sup> November, 2012. On that day, only the plaintiffs' advocate appeared in court. The defendants' advocates failed to attend court although due service of a hearing notice was effected upon them. On

#### **E&LCC.NO.178 OF 2006NO.124**

perusing the court file, the court noted that the parties had not exchanged bundle of documents and witness statements in compliance with the provisions of Order 11 of the Civil Procedure rules. The court ordered the parties to exchange bundle of documents and witness statements and also to agree on issues for trial failure to which each party was given the liberty to file separate issues. The matter was listed by the court for mention on 6<sup>th</sup> December, 2013 to confirm if the parties had complied with the said pre-trial directions. On 6<sup>th</sup> December, 2013, once again, only the plaintiffs' advocate appeared in court. The defendants' advocates failed to attend court despite service upon them of a mention notice by the plaintiffs' advocates. Since all the parties had not complied with the pre-trial directions that the court had given on 12<sup>th</sup> November, 2012, the matter was fixed for further mention on 23<sup>th</sup> January, 2013 and the parties were ordered to comply.

#### **E&LCC.NO.178 OF 2006NO.124**

On 23<sup>th</sup> January, 2013, as had become the norm, only the plaintiffs' advocate appeared in court and upon confirmation by the court that the plaintiffs had complied with the pre-trial directions, the court set down this case for hearing on 16<sup>th</sup> April, 2013 and directed the plaintiffs' advocates to serve a hearing notice upon the defendants.

5. When the matter came up for hearing on 16<sup>th</sup> April, 2013, just like in the previous occasions, only the plaintiffs' advocate and the plaintiffs' witnesses turned up in court. The defendants and their advocates failed to attend court for the hearing. Upon satisfying myself that the defendants' advocates were duly served with a hearing notice, I allowed the plaintiff's advocate to proceed with the hearing in the absence of the defendants. The plaintiffs' advocate notified the court that the 1<sup>st</sup> defendant is deceased and that the plaintiffs' claim is maintainable as against the remaining defendants. The

#### **E&LCC.NO.178 OF 2006NO.124**

plaintiffs called three witnesses namely, EZEKIEL KIMAIGA MOKUA(“PW1”), SAMUEL MAKORI OKIAMBA(“PW2”) and LAWRENCE NYARIKI ONDIEKI(“PW3”).

6. PW1 is a pastor with the plaintiffs and one of the plaintiffs' registered trustees. In his testimony, he stated that the plaintiffs have a church at Keumbu(hereinafter referred to only as “**Keumbu church**” or “**the church**”) which he pastored between 1989 and 1996 and again between 2002 and 2012. When he was a pastor at Keumbu church between 1989 and 1996 the church was conducting its services from rented premises. After his transfer to another region, the pastor who took over from him, a Mr. Samuel Makori(PW2) arranged for the plaintiffs to purchase a piece of land for Keumbu church . When he was posted back to Keumbu church in the year, 2002, the plaintiffs had purchased the said piece of land and put up a temporary structure made of iron sheets in which Keumbu

#### **E&LCC.NO.178 OF 2006NO.124**

church was now worshipping. The plaintiffs had also paid the purchase price in full but had not obtained a title deed for the said piece of land. The plaintiffs had in their possession the Agreement for sale between the Plaintiffs and the vendor, one, Hana Muhonja Onsembe dated 15<sup>th</sup> October, 1999. The Plaintiffs also

had letters that the vendor signed acknowledging receipt of the purchase price. The said Agreement for sale and letters of acknowledgment were produced as plaintiffs' exhibit 3(a), (b) and (c). PW1 testified further that, the piece of land that the Plaintiffs had purchased was a portion of Plot No. 1137. This plot was sub-divided and the portion on which the Plaintiffs' land was situated became Plot No. 2020.

7. He stated further that the Plaintiffs went to the Land Control Board and obtained consent to sub-divide the said plot No.2020 so that the plaintiffs could secure a separate title deed

#### **E&LCC.NO.178 OF 2006NO.124**

in the name of the Plaintiffs for its portion of the said parcel of land. After the sub-division exercise was concluded, the plaintiffs did not get a title deed for the piece of land that the plaintiffs had purchased. The plaintiffs' piece of land that was given reference number LR. No. Nyaribari Chache/Keumbu/2141 ("the suit property") after the said sub-division was instead registered in the name of the 4<sup>th</sup> defendant on 6<sup>th</sup> June, 2003. During sale transaction, the 1<sup>st</sup> and 2<sup>nd</sup> defendants were members of Keumbu Church and were designated as church elders. The 1<sup>st</sup> and 2<sup>nd</sup> defendants executed the agreement for sale of the suit property as witnesses. PW1 testified further that it was the 1<sup>st</sup> and 2<sup>nd</sup> defendants who fraudulently caused the suit property to be registered in the name of the 4<sup>th</sup> defendant instead of having the same registered in the name of the plaintiffs. He stated that the 1<sup>st</sup> and 2<sup>nd</sup> defendants had no authority from the plaintiffs

#### **E&LCC.NO.178 OF 2006NO.124**

to have the suit property registered in the name of the 4<sup>th</sup> defendant. PW1 produced a certificate of official search as plaintiffs' exhibit 4. The said certificate showed that the suit property was registered in the name of the 4<sup>th</sup> defendant. He stated that the 3<sup>rd</sup> defendant was at all material times a pastor with the 4<sup>th</sup> defendant at its church at Keumbu which church had its own separate place of worship on a different piece of land. He stated that in addition to the church building which the plaintiffs had put up on the suit property, the plaintiffs had also put up a pit latrine and a borehole. The plaintiffs had also connected electricity to the premises. PW1 testified about the case that the 4<sup>th</sup> defendant filed against the plaintiffs at Keroka and the outcome thereof. He produced as exhibits copies of the proceedings and judgment made in the said case. The same were marked as plaintiffs' exhibit 5(a) and (b). PW1 also produced in evidence a copy of the plaint and a copy of the

#### **E&LCC.NO.178 OF 2006NO.124**

defence that were filed in the said case which were marked as plaintiffs' exhibit 6(a) and (b) respectively. He stated that after the case at Keroka was concluded, the 1<sup>st</sup> and 2<sup>nd</sup> defendants caused fracas at Keumbu church which forced the church members to relocate to another area for the sake of peace as they pursue this claim. He stated that it is the 2<sup>nd</sup> defendant who is now conducting church services at Keumbu church building. He testified that what the plaintiffs want is possession of the suit property and an injunction to restrain the defendants from interfering with their church services on the suit property.

8. PW2 is the current pastor at Keumbu church. He was also the pastor in charge of the same church in 1999 when the plaintiffs purchased the suit property. In his testimony, he stated that he was involved in the process of looking for a piece of land for Keumbu church for the plaintiffs to buy. He also participated in

#### **E&LCC.NO.178 OF 2006NO.124**

sourcing for funds once the land had been found to pay the purchase price. He was one of the signatories to the Agreement for sale on behalf of the plaintiffs. The other signatory was the 1<sup>st</sup> defendant. He stated that the suit property was registered in the name of the 4<sup>th</sup> defendant after his transfer from Keumbu to another area. PW2 testified that the 4<sup>th</sup> defendant was not involved in any way in the purchase of the suit

property and that the purchase price for the suit property was paid in full by the plaintiffs. He stated further that Keumbu church has now been forced to conduct church services from rented premises because the suit property has been taken over by the 2<sup>nd</sup> defendant who is the one now conducting church services therefrom. He stated that the 4<sup>th</sup> defendant has its own church premises from where it is operating and that the 2<sup>nd</sup> defendant is no longer working under the 4<sup>th</sup> defendant.

#### **E&LCC.NO.178 OF 2006NO.124**

9. PW3 is a member of Keumbu church. PW3 together with the 1<sup>st</sup> and 2<sup>nd</sup> defendants were church elders at Keumbu church when the plaintiffs purchased the suit property. He signed the Agreement for sale of the suit property as a witness on behalf of the plaintiffs. He confirmed that the 1<sup>st</sup> and 2<sup>nd</sup> defendants also signed the said agreement in that capacity. He stated that the Plaintiffs paid the full purchase price for the suit property. He testified that the plaintiffs were represented at the Land Control Board by the 1<sup>st</sup> and 2<sup>nd</sup> defendants and that the 4<sup>th</sup> defendant was not at all involved in the purchase of the suit property. According to him it is the 1<sup>st</sup> and 2<sup>nd</sup> defendants who caused the suit property to be registered in the name of the 4<sup>th</sup> defendant when they attended the Land Control Board meeting to obtain consent to transfer the suit property to the plaintiffs. PW3 confirmed the testimony of the PW1 and PW2 that it was the 2<sup>nd</sup> defendant who is now operating from the suit property.

#### **E&LCC.NO.178 OF 2006NO.124**

PW3 stated that the suit property belongs to the plaintiffs and not the 4<sup>th</sup> defendant.

10. After the close of the plaintiffs' case, the plaintiffs' advocates filed written submissions. The same was filed in court on 8<sup>th</sup> May, 2013. In their written submissions, the plaintiffs reiterated their claim against the defendants as pleaded in the plaint and framed a total of four (4) issues for determination by the court namely:-

- i. **Whether the plaintiffs purchased the suit property.**
- ii. **Whether the registration of the suit property in the name of the 4<sup>th</sup> defendant was fraudulent.**
- iii. **Whether the plaintiffs are entitled to the orders sought.**
- iv. **Who is liable to pay the costs of this suit?**

11. The plaintiffs submitted that they have placed sufficient evidence before the court to prove that the suit property was purchased by the plaintiffs. The plaintiffs submitted further

#### **E&LCC.NO.178 OF 2006NO.124**

that the same evidence points clearly to the fact that the 1<sup>st</sup> and 2<sup>nd</sup> defendants caused the suit property to be transferred to the 4<sup>th</sup> defendant fraudulently. The plaintiffs submitted that the 4<sup>th</sup> defendant neither purchased the suit property nor paid the purchase price. The suit property could therefore have been transferred to the 4<sup>th</sup> Defendant only through acts of fraud. In conclusion the plaintiffs submitted that they are entitled to the prayers sought.

12. I have considered the pleadings, the evidence tendered by the plaintiffs and the submissions by the plaintiffs' advocates. I am in agreement with the plaintiffs on the issues that arise for determination in this suit. I will consider these issues hereunder in the order in which they have been set out in the plaintiffs' submissions.

13. **Issue No.I.- Whether the plaintiffs purchased the suit property;-**

#### **E&LCC.NO.178 OF 2006NO.124**

PW1, PW2 and PW3 testified that the suit property was purchased by the plaintiffs. PW1 produced as an exhibit the agreement for sale of the suit property between the plaintiffs and one, Hana Muhonja Onsembe who was the vendor thereof. PW1 also produced as exhibits letters signed by the said Hana Muhonja Onsembe acknowledging receipt of payment of the purchase price for the suit property. In the proceedings that took place before the Senior Resident Magistrate's court at Keroka that were produced herein as Plaintiffs' exhibit 5(b), Hana Muhonja Onsembe had testified that she sold the suit property to the plaintiff. In his evidence given before the same court, the 1<sup>st</sup> defendant had testified that **“at the time, we were buying the land as officials of Full gospel churches of Kenya with which we were affiliated”**. On his part the 2<sup>nd</sup> defendant testified before the said court that they purchased the suit property as members of the plaintiffs and that they later on

#### **E&LCC.NO.178 OF 2006NO.124**

decided to change the name of the plaintiffs from Full Gospel church to Redeemed Gospel church and according to him, **“the effect of changing names was that the property also went to Redeemed Gospel Church. The title deed was then acquired in the name of the Redeemed gospel church”**. The Senior Resident Magistrate court at keroka considered this evidence and ruled that the 1<sup>st</sup> and 2<sup>nd</sup> defendants had failed to prove the 4<sup>th</sup> defendant's claim over the suit property. The 4<sup>th</sup> defendant's claim against the plaintiffs before that court over the suit property was dismissed with costs. There is no evidence that any appeal was filed by the 4<sup>th</sup> defendant against the said decision. The 4<sup>th</sup> defendant's claim over the suit property was therefore laid to rest with the judgment that was delivered by the Senior Resident Magistrate's court at Keroka on 16<sup>th</sup> December, 2005, that was produced as plaintiffs' exhibit 5(a). Due to the foregoing, I am satisfied on the material before me

#### **E&LCC.NO.178 OF 2006NO.124**

that the suit property was purchased by the plaintiffs and not by the 4<sup>th</sup> defendant. It should be noted that the 4<sup>th</sup> defendant did not file any defence to this suit and that the 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> defendants did not lay any claim to the suit property in their statement of defence. They merely denied the plaintiff's claim. They did not give evidence at the trial of this suit in support of their defence. The evidence of PW1, PW2 and PW3 on the purchase of the suit property was therefore not controverted. Section 107 of the Evidence Act, Cap 80 laws of Kenya provides that whoever desires a court to give judgment as to any legal right or liability dependent on the existence of facts which he asserts has the burden of proving the existence of those facts. I am satisfied that the plaintiffs have discharged this burden.

#### **14.Issue No.II- Whether the registration of the suit property in the name of the 4<sup>th</sup> defendant was fraudulent;**

The plaintiffs' advocates submitted that the 4<sup>th</sup> defendant neither

#### **E&LCC.NO.178 OF 2006NO.124**

purchased the suit property nor paid the purchase price. The 1<sup>st</sup> and 2<sup>nd</sup> defendants who caused the suit property to be registered in the name of the 4<sup>th</sup> defendant admitted that when the suit property was purchased they were church elders at Keumbu church and that the purchase price was contributed by the members of the Plaintiffs' Keumbu church. The move by 1<sup>st</sup> and 2<sup>nd</sup> defendants to register the suit property that had been purchased by plaintiffs in the name of the 4<sup>th</sup> defendant on the allegation that the plaintiffs' name had been changed to Redeemed Gospel Church to me was nothing but an act of fraud. I do not see how the plaintiffs who had been in existence since pre-independence days could change their name to Redeemed Gospel Church which was already existing as a church as of the date of the purported change of name. What is even more intriguing is the fact that the purported change of name was effected pursuant to a resolution passed by the members of the plaintiffs' Keumbu

#### **E&LCC.NO.178 OF 2006NO.124**

Church. I am satisfied that the plaintiffs have proved the particulars of fraud pleaded against the defendants who tendered no evidence in court in their defence.

**15.Issue No.III – Whether or not the plaintiffs are entitled to the reliefs sought in the plaint;**

I have set out at the begging of this judgment the reliefs sought by the plaintiffs. The plaintiffs have proved that they purchased the suit property and that the same should have been registered in their name instead of the name of the 4<sup>th</sup> defendant. The plaintiffs have also proved that the suit property was registered in the name of the 4<sup>th</sup> defendant fraudulently. In the circumstances, the plaintiffs are entitled to a declaration that the plaintiffs are the lawful owners of the suit property. The plaintiffs are also entitled to an order for the rectification of the register of the suit property by the cancellation of the name of the 4<sup>th</sup> defendant therefrom. This

**E&LCC.NO.178 OF 2006NO.124**

court has power under section 143 of the Registered land Act, Cap. 300 Laws of Kenya (**now repealed**), and section 80 of the Land Registration Act, 2011 to rectify the register of land if it is satisfied that any registration was obtained or made by fraud or mistake. As I have stated above, I am satisfied that the 4<sup>th</sup> defendant was registered as the proprietor of the suit property fraudulently. The plaintiffs who should have been registered as the proprietors of the suit property are therefore entitled to an order for the rectification of the register of the suit property by the cancellation of the name of the 4<sup>th</sup> defendant as the proprietor of the suit property.

16.The proprietorship of the suit property shall revert to Hanah Muhonja Onsembe (**deceased**). The plaintiffs will have to arrange with the legal representatives of the estate of Hana Muhonja Onsembe to transfer the suit property to the plaintiffs. I have agonized a great deal whether I should order

**E&LCC.NO.178 OF 2006NO.124**

the 4<sup>th</sup> defendant to transfer the suit property directly to the plaintiffs. This issue has caused me a lot of difficulty because from the evidence on record, Hana Muhonja Onsembe is deceased and as such it may take the plaintiffs a couple of years before they can have the suit property registered in their name. It would have been more expedient in the circumstances to transfer the suit property directly to the plaintiffs from the 4<sup>th</sup> defendant who is holding the same unlawfully. I have decided against taking this route because I think that it would be against the law to do so. Before the suit property could be transferred by Hana Muhonja Onsembe to the plaintiffs, she was under an obligation to obtain consent of the Land Control Board. After that, she was to execute an instrument of transfer of the suit property in favour of the plaintiffs against which the plaintiffs had to pay registration fees and Stamp duty before the suit property could be

**E&LCC.NO.178 OF 2006NO.124**

registered in the name of the plaintiffs. These are well established legal procedures in conveyance of real property which this court cannot sacrifice or ignore for the sake of expediency. The plaintiffs will have to go through this normal process to obtain title to the suit property which I have already declared to belong to them. The suit property was acquired fraudulently from Hana Muhonja Onsembe and must revert to her name for it to be legally transferred to the Plaintiffs. This court will put the parties back to the position in which they were prior to the fraudulent transfer of the suit property to the 4<sup>th</sup> defendant. Due to the foregoing, the plaintiff is not entitled to the order sought that its name be inserted in the register of the suit property or that the suit property be transferred to it by the defendant.

17.Having held that the plaintiffs are the owners of the suit property having purchased the same from Hana Muhonja

**E&LCC.NO.178 OF 2006NO.124**

Onsembe the plaintiffs are entitled to the injunction sought against the defendants to restrain them from entering into and/or in any manner whatsoever interfering with the suit property and the plaintiffs occupation thereof. I will also award the plaintiffs the cost of this suit.

**18.Conclusion:**

In conclusion, I enter judgment for the plaintiffs against the 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup> defendants as follows;

1. **I declare that the registration of L.R. No.Nyaribari cache/Keumbu/2141 (“the suit property”) in the name of the Redeemed Gospel church was fraudulent and as such null and void;**
2. **I declare that the plaintiffs are the lawful owners of the suit property;**
3. **The register for the suit property shall be rectified by the cancellation of the name of Redeemed Gospel church, P.O. BOX 178, KISII and the insertion therein of the name of the previous owner HANA MUHONJA ONSEMBE as the proprietor thereof;**

**E&LCC.NO.178 OF 2006NO.124**

4. **The suit property shall be transferred to the plaintiffs by the legal representatives of estate of HANA MUHONJA ONSEMBE;**
5. **The 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup> defendant’s are restrained by themselves or through their agents, servants and/or employees from entering onto or in any manner whatsoever interfering with the suit property or the plaintiffs’ occupation thereof;**
6. **The costs of this suit shall be paid to the plaintiffs by the 2<sup>nd</sup> and 3<sup>rd</sup> defendants.**

Dated, signed and delivered at Kisii this 27<sup>th</sup> day of September, 2013.

**S. OKONG’O,**

**JUDGE.**

**In the presence of:-**

Mr. Ochwangi holding brief for Mrs. Asati for the plaintiff

No appearance for the 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> defendants

No appearance for 4<sup>th</sup> defendant

Mobisa Court Clerk

**S. OKONG’O,**

**JUDGE.**

**E&LCC.NO.178 OF 2006**