



Mayungu Real Estates Limited v Azzurri Limited & 4 others (Environment & Land Case 18 of 2021) [2022] KEELC 2801 (KLR) (30 June 2022) (Ruling)

Neutral citation: [2022] KEELC 2801 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT MALINDI
ENVIRONMENT & LAND CASE 18 OF 2021**

**JO OLOLA, J
JUNE 30, 2022**

BETWEEN

MAYUNGU REAL ESTATES LIMITED PLAINTIFF

AND

AZZURRI LIMITED 1ST DEFENDANT

DIRECTOR, LAND ADJUDICATION AND SETTLEMENT ... 2ND DEFENDANT

ATTORNEY GENERAL 3RD DEFENDANT

CHIEF LAND REGISTRAR 4TH DEFENDANT

CHIEF LAND REGISTRATION OFFICER, KILIFI 5TH DEFENDANT

RULING

1. By the Notice of Motion dated 22nd March, 2021 as filed herein on 24th March 2021, Mayungu Real Estates Limited (the Plaintiff) prays for orders that:
 4. This Honourable Court be pleased to issue an order of inhibition against registration of any dealings on Title Nos. Chembe/Kibabamshe/251 as issued by the 5th Defendant to the 1st Defendant on the 10th day of March, 2015 pending the hearing and determination of this suit.
 5. Further to prayers 4 above the 1st Defendant, its servants and/or agents be restrained by interim injunction from transferring, occupying, alienating, disposing, charging or engaging on any development whatsoever or in any way dealing with Title Nos. Chembe/Kibabamshe/1299 to 1320 being subdivisions of title No. Chembe/Kibabamshe/251 as issued by the 5th Defendant to the 1st Defendant on the 10th day of March, 2015 pending the hearing and determination of this suit;
 6. The costs of this application be provided for.



2. The application which is supported by an affidavit sworn by the Plaintiff Company's Director Mehboob Hasham Ahmed is premised on the grounds, inter alia, that:-
- (i) The Plaintiff is the registered proprietor of a freehold interest in Title Nos. 583, 585, 586, 587, 588, 589, 590, 591, 592, 593 and 594 situate in Chembe/Kibabamshe ("the suit properties");
 - (ii) The suit properties are sub-divisions of title No. Chembe/Kibabamshe/356 which is no longer in existence the same having been closed on sub-division by Jordanville (K) Limited on 27th November, 1996;
 - (iii) The parcel files for the suit properties were opened on 27th November, 1996 and the Plaintiff has a good and indefeasible title thereto;
 - (iv) Ever since the Plaintiff purchased the suit properties as aforesaid, it has been in quiet occupation and possession of the same without any interference from the Defendants herein or any other person and has been meeting all the requisite outgoings such as land rates and rent;
 - (v) On 31st October, 2014 the Chief Land Registration Officer, Kilifi (the 5th Defendant herein) without due regard to due process, issued a Title Deed in favour of Title No. Chembe/Kibabamshe/356 to the Settlement Fund Trustees;
 - (vi) The said Title No. Chembe/Kibabamshe/356 having been owned privately was not Government land and was not available for allocation. Its purported allocation by the 2nd Defendant to the Settlement Fund Trustees was illegal and void ab initio;
 - (vii) The action by the Government of issuing title to the Settlement Fund Trustees is not only illegal and against the law, it amounts to compulsory acquisition of the land;
 - (viii) (viii) The Settlement Fund Trustees had no legal or proprietary rights in the suit property to pass to the 1st Defendant;
 - (ix) The 5th Plaintiff has subsequently issued, without due process, a title for the suit properties to the 1st Defendant;
 - (x) The Plaintiff is apprehensive that unless this Honourable Court grants an order of inhibition, there is the likelihood that the suit property will be interfered with and/or alienated by the Defendants.
3. Upon being served with the application and the suit herein, the 1st Defendant – Azzurri Limited filed a Notice of Preliminary Objection dated 6th May, 2021 objecting to the suit on grounds that:
1. The Plaintiff's suit (not being a derivative action) has been instituted and is being prosecuted by a sole minority shareholder of the Plaintiff Company.
 2. The Plaintiff's suit offends the provisions of Section 80(2) of the Land Registration Act No. 3 of 2012 Laws of Kenya;
 3. The Plaintiff's suit is time barred under the provisions of Rule 30 of the National Land Commission (Historical Land Injustices Rules, 2016) Act;
 4. The Plaintiff's suit offends Article 67(2)(e) of the Constitution of Kenya as read in pari pasu with Section 5 of the National Land Commissions Act No. 5 of 2012;
 5. The Plaintiff is guilty of laches. Equity does not aid the indolent.



4. Those grounds were somewhat reiterated in the 1st Defendant's Grounds of Opposition dated 7th May, 2021 but filed herein on 10th May, 2021 wherein the 1st Defendant objects to the Plaintiff's Motion on grounds listed as follows:
 1. Locus standi/capacity –
The Plaintiff/Applicant lacks legal capacity to have instituted and to prosecute the application or to be aided by equity at this stage for lack of a valid resolution of its Board of Directors. The possibility of the absent shareholders of the Plaintiff Company resolving not to pay the 1st Defendant's costs by reason of having not resolved to institute this suit is real.
 2. Derivative action (No Leave) –
In the alternative; if the intention of the Plaintiff/Applicant's Director was to institute a derivative action on behalf of the Plaintiff Company, then leave (to) bring the said action has not been sought.
 3. Laches –
The Plaintiff/Applicant is guilty of laches. Equity will not aid the indolent.
 4. Misjoinder –
The 1st Defendant/Respondent is a stranger to the properties the subject of the Plaintiff/Applicant's application.
 5. 1st Defendant in actual physical occupation-
The Plaintiff/Applicant's application offends the provisions of Section 80(2) of the [Land Registration Act](#) No. 3 of 2012.
 6. Time-barred-
The Plaintiff/Applicants application offends Rule 30 of the [National Land Commission \(Historical Land Injustices Rules, 2016\)](#) Act No. 3 of 2012.
5. In addition to the objection and the said Grounds of Opposition, the 1st Defendant has also filed herein on 11th May, 2021 a Replying Affidavit refuting the averments made by the Plaintiff. In the said Replying Affidavit sworn on its behalf by its Managing Director Anthony Safari Kitsao, the 1st Defendant avers that the prayers sought in the Plaint cannot be maintained as against itself as they have the occupation, possession and ownership of the suit property.
6. The 1st Defendant avers that the Plaintiff has been less than candid and concealed phenomenal material facts which had the Court at the initial instance had the opportunity of gleaning, the Court would not have issued the ex-parte orders now sought to be confirmed.
7. The 1st Defendant avers that the Plaintiff has concealed the fact that in the year 2015, the National Land Commission in the exercise of its powers under Article 67(e) of [the Constitution](#) held public hearings at Malindi having publicly invited all parties claiming ownership of the suit property to appear and make their respective cases before it.
8. The 1st Defendant further avers that it disclosed to the Commission that there was a suit pending before this Court being Malindi ELC No. 217 of 2014; [Azzuri Limited -vs- George Kadenge Ziro and 5 Others](#) and that the Commission directed all interested parties to enjoin the suit and argue their respective positions thereat but the Plaintiff herein did not do so.



9. The 1st Defendant further avers that land parcel number Chembe/Kibabamshe/356 was Government land before it was allotted to one Samini Mwaro Mangi a.k.a Macmilian Samini Mwaro Mangi and that it was therefore not available for disposition to Jordanvalle Limited. The 1st Defendant asserts that Jordanvalle Limited's acquisition was irregular or fraudulent and that there is a direct connection between the Plaintiff herein and the said Jordanvalle Limited.
10. The 1st Defendant asserts that the Plaintiff purchased the suit property with full knowledge that its predecessor title was defective or illegally acquired and that the Plaintiff was part and parcel of the fraud as both the Plaintiff and the said Jordanvalle Limited shared a director being one Tukero Ole Kina at all times material when the Plaintiff purchased the property from Jordanvalle Limited. The Plaintiff was therefore not an innocent purchaser for value.
11. On the contrary the 1st Defendant avers that it lawfully entered into a Sale Agreement dated 14th June, 2014 with Lawrence Kadenge Ziro and Kambi Kadenge Zero who had been allocated the land and were in actual possession and occupation thereof and that it purchased the land at Kshs.18,900.000/-.
12. The 1st Defendant asserts that it then settled the Settlement Fund Trustees loans that were due on the land in full and the Fund then executed a transfer in favour of the 1st Defendant after issuing a Discharge of Charge dated 30th October, 2014.
13. The 1st Defendant asserts that the National Land Commission, the Police and the Ministry of Lands have all looked into the process of acquisition of the suit property by the 1st Defendant and found that the acquisition was above board. The Plaintiff has however deliberately omitted to disclose the determinations made by the Commission pursuant to Article 67 (e) of *the Constitution*.
14. I have carefully perused and considered the Plaintiff's application and the 1st Defendant's Preliminary Objection and responses thereto. I have similarly perused and considered the rival submissions and authorities placed before me by the Learned Advocates acting for the Plaintiff and the 1st Defendant. While the Honourable the Attorney General did enter appearance for the 2nd to 5th Defendants, the said parties neither filed a response to the Motion nor did they take part in the proceedings.
15. From the material placed before me, the two main issues that arise for determination are:
 - (a) Whether or not the suit ought to be struck out as per the 1st Defendant's Preliminary Objection dated and filed herein on 6th May, 2021;
 - (b) If the answer to the above is in the negative, whether the Plaintiff has satisfied the conditions for the grant of an interlocutory inhibition and/or injunction as sought in Prayer Nos. 4 and 5 of the Plaintiff's application.
16. As Law J. A stated in the often – cited case of *Mukisa Biscuit Manufacturing Company Limited -vs- West End Distributors Limited* (1969) EA 696:

“ ... a Preliminary Objection consists of a pure point of law which has been pleaded, or which arises by clear implication out of pleadings, and which if argued as a preliminary point may dispose of the suit ...”
17. The five grounds enumerated in the 1st Defendant's Preliminary Objection can in my view be reduced to three major grounds. One is whether the suit as filed is invalid for want of authority under seal from the Plaintiff Company while the other is whether the suit offends Section 80(2) of the *Land Registration Act* No. 3 of 2012. The third issue is whether the suit offends Article 67(2)(e) of *the Constitution* as read with Section 5 of the *National Land Commission Act* No. 5 of 2012.



18. On their first point of objection, the 1st Defendant contends that the Board Resolution exhibited as annexure 'MHA 1' in the Supporting Affidavit of the Plaintiff's Director Mehboob Hasham Ahmed is invalid to institute this suit. According to the 1st Defendant, the majority shareholders of the Plaintiff Company are off-shore companies and those off-shore Companies are in turn owned by phantom members holding bearer shares.
19. The 1st Defendant submits that given that the names of the owner of the bearer share is never recorded anywhere, those shares enable unparalleled confidentiality and anonymity for the owner. According to the 1st Defendant, the Plaintiff company's shareholding structure affords lawsuit protection to its shareholders such that if the veil of incorporation were to have to be lifted, the Plaintiff's majority shareholders would simply burn their bearer shares and run if they do not wish to be legally culpable for the actions of the Plaintiff's Company.
20. The basis of those submissions by the 1st Defendant was however not clear to me. A perusal of the 39 Paragraph Statement of Defence dated and filed herein on 6th May, 2021 does not reveal any reference to the Plaintiff's shareholding structure. At Paragraph 64 of the Replying Affidavit, filed herein on 10th May 2021, the 1st Defendant's Managing Director Anthony Safari Kitsao avers as follows:

“That the Plaintiff is a local company majority of whose shares are held and owned by off-shore corporations, in turn whose shareholders are shareholders in a web of more than 140 other off-shore corporations/persons, the shareholders of whom hold very liquid bearer shares designed to conceal their identities. (Attached hereto and marked “ASK-23” is information about the Plaintiff's shareholders sourced from the reputable International Consortium of Investigative Journalists (ICIJ) findings of its Investigative Report “The Panama Papers”).

21. It was clear to me from a perusal of the above Paragraph as well as the said annexure “ASK-23” that the information provided therein would certainly require to be ascertained and/or substantiated by the 1st Defendant and that the same would therefore not form the basis of a Preliminary Objection. As Newbold P. cautioned in the same Mukisa Biscuits Manufacturing Company Limited case (Supra);

“A Preliminary Objection is in the nature of what used to be a demurrer. It raises a pure point of law which is argued on the assumption that all the facts pleaded by the other side are correct. It cannot be raised if any fact has to be ascertained or if what is sought is the exercise of judicial discretion.”

22. At any rate, it was clear to me that there was no hard and fast rule requiring the filing of any resolution by the Plaintiff prior to the commencement of the suit. Dealing with a similar contestation in *Arthi Highway Developers Limited -vs- West End Butchery Limited and 6 Others* (2015) eKLR, the Court of Appeal observed as follows:

“44. The submission that there ought to have been a resolution to authorize the filing of the suit in the name of the company appears to have emanated from a decision of the Uganda High Court which has been followed and applied in this Country for a long time; Bugerere Coffee Growers Limited -vs- Sebaduka & Another (1970) 1 EA 147. The Court in that case held:-

“When companies authorize the commencement of legal proceedings, a resolution or resolutions have to be passed either at a company or Board of Director's meeting and recorded in the minutes, but no resolution had been passed authorizing the proceedings



in this case. Where an Advocate has brought legal proceedings without authority of the purported Applicant, the applicant becomes personally liable to the Defendants for the costs of the action.”

45. To their credit the appellants have cited another authority from the Supreme Court of Uganda decided in April 2002, confirming that the principle enunciated in the Bugerere case has since been overruled by the Uganda Supreme Court. The authority is Tatu Naiga & Emporium -vs- Virjee Brothers Limited Civil Appeal No. 8 of 2000.

The Uganda a Supreme Court endorsed the decision of the Court of Appeal that the decision in the Bugerere case was no longer good law as it had been overturned in the case of United Assurance Company Limited -vs- Attorney General: SCCA No. 1 of 1998. The latter case restated the law as follows:-

“... it was now settled, as the law, that, it does not require a Board of Directors, or even the general meeting of members, to sit and resolve to instruct counsel to file proceedings on behalf and in the names of the company. Any director, who is authorized to act on behalf of the company, unless the contrary is shown, has the powers of the board to act on behalf of that company.”

The decision has since been applied in Kenyan courts, for example, in Fubeco China Frushum -vs- Naiposha Company Limited & 11 Others (2014) eKLR .”

23. In the matter before me, the said Mehboob Hasham Ahmed describing himself as a member and Director of the Plaintiff Company has sworn both the Verifying Affidavit to the Plaint as well as the Supporting Affidavit to the Plaintiff’s Motion and there was nothing placed before me to demonstrate that he had no such authority to act on behalf of the Plaintiff. It follows therefore that the first limb of the 1st Defendant’s Preliminary Objection must fail.
24. On the second ground, the 1st Defendant asserts that the suit as filed by the Plaintiff offends the provisions of Section 80(2) of the [Land Registration Act](#). The said provision provides thus:

“80(2). The register shall not be rectified to affect the title of a proprietor who is in possession and had acquired the land, lease or charge for valuable consideration, unless the proprietor had knowledge of the omission, fraud or mistake in consequence of which the rectification is sought, or caused such omission, fraud or mistake or substantially contributed to it by any act, neglect or default.”
25. From the pleadings herein, it is clear that the cause of action relates to the cancellation and removal of records relating to the Plaintiff’s title to the suit land. The Plaintiff contends that the same was done without due process and/or any notification to itself and urges the Court to determine that the said actions were irregular, illegal and amounted to a violation of its rights.
26. Given the rival arguments herein, I was again not satisfied that this was a proper ground that could lead to the disposal of the suit. As it were, the Jurisdiction to rectify a land register and cancel registered title was reserved to this Court to be exercised under Section 143 of the now repealed Registered *Land Act* (Cap. 300). This section has since been reproduced under Section 80 of the [Land Registration Act](#) 2012.
27. However while under the repealed Act the Court could not rectify a register even where fraud or mistake had been proved if it was a first registration, it no longer matters under the new dispensation whether or not the Court is dealing with a first registration. That being the case, one could not as at



this stage conclude that the suit as filed offends Section 80(2) of the [Land Registration Act, 2012](#) as both parties contend to have been issued at one point or the other with title for the same suit property. It follows therefore that the objection based on that ground is without basis.

28. The third ground of objection by the 1st Defendant is that the Plaintiff's suit offends the provisions of Article 67(2) of [the Constitution](#) as read together with Section 5 of the [National Land Commission Act](#) and Rule 30 of the [National Land Commission \(Historical Land Injustices\) Rules, 2016](#). According to the 1st Defendant, the subject matter of these proceedings had also been the subject matter in proceedings held before the National Land Commission. It is the 1st Defendant's position that the Commission made a determination in its favour and that the Plaintiff having failed to appeal and/or cause the said decision to be reviewed, they cannot be allowed to re-open the proceedings by filing the present suit before the Court.
29. As it were, the Plaintiff has not made the National Land Commission a Party in the suit herein. The Plaintiff's main problem appears to be with the Chief Land Registrar (the 4th Defendant) who is said to have by a letter dated 5th March, 2015 caused the Chief Land Registration Officer Kilifi (the 5th Defendant) to cancel and expunge the Plaintiff's title from their records without due process and/or any regard to the law.
30. However while it was clear that the issue of the ownership of land parcel No. Chembe/Kibabamshe/356 was at one time referred to the National Land Commission, it was clear from a perusal of the Gazette Notice No. 6862 Volume CXIX No. 97 of 17th July, 2017 that in the course of the proceedings, the Commission was alerted that the matter was the subject of pending Court proceedings being Malindi ELC Case No. 217 of 2014; Azzuri Limited -vs- Charo Lawrence Kadenge Zin and 2 Others.
31. Accordingly and to its credit, the Commission did not make a determination on the matter. Instead the Commission advised one of the claimants by the name Samini Julius Mwaro to be enjoined in the ongoing case and that the parties proceed to produce documents. That being the case, I did not think there was any determination on the ownership of the land for which an aggrieved party ought to have appealed within Rule 30 of the [National Land Commission \(Review of Grants and Dispositions of Public Land\) Regulations 2017](#).
32. It was however apparent from the material placed before the Court that despite their knowledge of the 1st Defendant's claim to the land, the Plaintiffs herein did not take any action to claim the same. At Paragraph 42 of the 1st Defendant's Replying Affidavit, the deponent Anthony Safari Kitsao avers as follows:

“ 42. That I am now referred to 1st Defendant's Annexure 8 herein above being Legal Notice Number 6866 contained in Volume CXIX – No. 97 of the Kenya Gazette dated 17th July, 2017 and note that the Plaintiff did not defend its ownership of the Suit Property before the Commission in spite of the Plaintiff being present at the hearings and defend its ownership of other unrelated properties (for example, Chembe/Kibabamshe/350)”.
33. In response to that assertion, the Plaintiff's director Mehboob Hasham Ahmed responds at Paragraph 11 of the Supplementary Affidavit 31st May, 2021 thus:

“ 11. That in reply to Paragraph 42 of the said Affidavit, I aver and affirm that the suit properties were the subject of hearings by the National Land Commission.”



34. While indeed the properties as described in the present suit were strictly not the subject of the proceedings before the Commission, there was no explanation offered why the Plaintiff did not claim the same as it did to the other parcels it was claiming during the same proceedings held by the Commission at Malindi. At paragraph 9 of the Supporting Affidavit to the Notice of Motion, the Plaintiff makes it clear that the suit properties herein are sub-divisions of Title No. Chembe/Kibabamshe/356 which it avers were sub-divided on 27th November, 1996 by Messrs Jordanvale (K) Limited, its predecessor in title.
35. A perusal of the Gazette Notice indeed reveals that the Plaintiff was present at the venue of the Commission's public hearings and that it made representations in regard to Land Parcel Nos. Chembe/Kibabamshe/350 and 385 in which it claimed proprietary interest. The Gazette Notice which makes a determination on the said Plot Nos. 350 and 355 indeed mentions the Plaintiff's alleged predecessor in title to Plot No. 356 in the Section marked Interested Parties immediately after the determination on Plot No. 355 as follows:
- Plot No. 356 Interested Parties 31st August, 1987 Title Deed issued to Samini Julius Mwaro; Transfer to Said Thabiti then to Jordanvale; title closed on subdivision (583-594) Asumpta Reangeles & Bruno Brunzoni claim purchaser's interest from Lawrence Kadenge Ziro. MOU of Kshs.515,000/- paid Lawrence Ziro family to process documents and lift embargo.
- Azzuri Limited agreed with Ziro family to sell the land, Lawrence signed agreement with Azzuri Limited who paid Kshs.5M. Lawrence family were squatters. Plot sub-division 583, 584, 585, 586 and 587"
36. That being the case, it was apparent as submitted by the 1st Defendant that the Plaintiff had actual and constructive knowledge of the decision made by the Commission as well as the existence of the suit filed by the 1st Defendant being Malindi ELC Case No. 217 of 2014.
37. A perusal of the pleadings in the said case annexed to the 1st Defendant's Replying Affidavit (Annexure "ASK 3") reveals that the 1st Defendant herein claims to have purchased Land Parcel No. Chembe/Kibabamshe/356 from Charo Lawrence Kadenge Ziro and Kambi Kadenge Ziro on 14th June, 2014 at a consideration of Kshs.18,900,000/-. The 1st Defendant goes ahead to accuse the two Defendants of having colluded with one Valerio Bisianarelli (the 3rd Defendant) to deprive him of the said property after he paid them Kshs.13,500,000/- and prays for Judgment against the Defendants for:
- (a) An order of permanent injunction restraining the 1st and 2nd Defendants, from selling, alienating, trespassing and/or obstructing the Plaintiff from taking vacant possession of the property and/or interfering in any manner therewith;
 - (b) An order of specific performance directing the 1st and 2nd Defendant to honour their part of bargain; and
 - (c) A permanent order of injunction against the 3rd Defendant from claiming, purchasing and/or interfering in any manner with the suit property.
38. Despite its knowledge of the said suit, the Plaintiff herein has not sought to be enjoined therein. Instead by this separate suit filed some years down the line, it seeks to have the register of the land rectified and for itself to be registered as the proprietor of the sub-divisions emanating from land parcel No. Chembe/Kibabamshe/356.
39. As it were Section 6 of the Civil Procedure Act expressly provides that no Court shall proceed with the trial of any suit or proceeding in which the matter in issue is also directly and substantially in issue in



a previously instituted suit or proceeding between the same parties, or between parties under whom they or any of them claim, litigating under the same title, where such suit or proceedings is pending in the same or any other Court having jurisdiction in Kenya to grant the relief claimed.

40. The said action captures the doctrine of sub-judice in our laws. Commenting on the doctrine in *Kenya National Commission on Human Rights -vs- The Attorney & 17 Others* (2020) Eklr, the Supreme Court of Kenya aptly observed as follows:

"(67). The term sub-judice is defined in Black's Law Dictionary 9th Edition as: "Before the Court or Judge for determination." The purpose of the sub-judice rule is to stop the filing of a multiplicity of suits between the same parties or those claiming under them over the same subject matter so as to avoid abuse of the Court process and diminish the chances of courts, with competent jurisdiction, issuing conflicting decisions over the same subject matter. This means that when two or more cases are filed between the same parties on the same subject matter before Courts with jurisdiction, the matter that is filed later ought to be stayed in order to await the determination to be made in the earlier suit ..."

41. The sub-judice rule like other maxims of law has a salutary purpose. The basic purpose and the underlying object thereof is to prevent the Courts of concurrent jurisdiction from simultaneously entertaining and adjudicating upon two parallel litigations in respect of the same cause of action, the same subject matter and the same relief. This is in order to pin down the parties to one litigation so as to avoid the possibility of contradictory verdicts by two Courts in respect of the same relief. It is also aimed at preventing a multiplicity of proceedings.

42. As was stated in *Thiba Min Hydro Company Limited -vs- Josphat Karu Ndwiga* [2013] eKLR:

"It is not the form in which the suit is framed that determines whether it is sub-judice. Rather, it is the substance of the suit and the fact that there can be no justification in having the two cases heard parallel to each other.

43. In the matter before me, the Plaintiffs were aware at least some four (4) years before they filed this suit of the existence of the previously instituted proceedings as revealed in the Gazette Notice published by the National Land Commission on 17th July, 2017. They chose to do nothing about it for a while and when they decided to, they filed this separate suit claiming the same parcel of land which is the subject of the earlier proceedings still pending in Court.

44. In the circumstances herein, I find no justification to sustain the instant suit. The Plaintiff did not disclose in its pleadings the existence of the earlier suit and as a result this Court granted interim orders in regard to the subject matter. This suit thus presents the stark risk of co-ordinate Courts granting conflicting orders over the same subject matter. It falls within the ambit of what constitutes abuse of Court proceedings.

45. In the premises, I strike out the suit with costs to the 1st Defendant.

RULING DATED, SIGNED AND DELIVERED VIRTUALLY AT NYERI VIA MICROSOFT TEAMS THIS 30TH JUNE, 2022.

In the presence of:

Mr. Binyenya for the Plaintiff

No appearance for the Defendants

Court assistant - Kendi



.....
J. O. Olola
JUDGE

