



**REPUBLIC OF KENYA  
IN THE HIGH COURT OF KENYA AT NAIROBI (NAIROBI LAW COURTS)**

**Civil Suit 1349 of 2004**

**REV. SAMWEL ATUNGA OMAGWA .....PLAINTIFF/  
APPLICANT**

**-VERSUS-**

**1. REV. PETER NDUNG’U**

**2. REV. DAUDI MUNDIA**

**3. REV. FRANCIS NYAMWARO (*as trustees of the Evangelical Lutheran Church in  
Kenya*) .....DEFENDANTS/  
RESPONDENTS**

**4. REV. BISHOP WALTER E. OBARE)**

**RULING**

The plaintiff moved the Court by Chamber Summons dated and filed on 10<sup>th</sup> December, 2004. The application was brought by virtue of Order XXXIX, rules 1, 2, 2A, 3 and 9 of the Civil Procedure Rules, and s. 3A of the Civil Procedure Act (Cap. 21).

The applicant had one substantive prayer, set out (more-or-less) as follows:

“That, the Honourable Court be pleased to issue an interim injunction restraining the defendants jointly and severally by themselves, their agents, servants and/or employees from transferring, suspending, removing, expelling, sacking and/or interfering in any manner with the plaintiff [in his] duties and responsibilities as a parish leader of [the] Kawangware Congregation Nairobi Parish pending the hearing and determination of the suit herein.”

The application was premised on several grounds. Firstly, it was stated that the respondents have acted jointly and severally in contravention of the Evangelical Lutheran Church in Kenya’s Constitution and By-laws. Secondly it was stated that the applicant had been elected for a two-year term of office, with effect from 31<sup>st</sup> May, 2003 and his term had not yet lapsed. Thirdly it was stated that the respondents had no power or authority, whether jointly or severally, to transfer the applicant from his current parish. Fourthly it was stated that the applicant is at the moment taking a three-year, part-time Master of Arts degree course in theology and, if he is transferred from his place of study in Nairobi, this will fundamentally affect him as he will then be compelled to terminate his studies. Fifthly it was stated that the transfer is oppressive and punitive, as against the applicant. And lastly it was stated that the 4<sup>th</sup> respondent has usurped the powers and authority of the organs of the Church.

Evidence in support of the application is in the supporting affidavit sworn by **Rev. Samwel Atunga Omagwa** (the plaintiff) on 10<sup>th</sup> December, 2004. He deposes that he was, in February, 2001 **ordained as a pastor** in the Evangelical Lutheran Church in Kenya; and on 31<sup>st</sup> May, 2003 he was **elected a parish leader** in charge of the Kawangware Congregation Nairobi Parish. This election took place at the Nairobi Parish Council meeting, and it was expressed to be for **two years**. It is averred that the applicant has always been involved at the parish with ensuring discipline among the parishioners; and in this task he has always consulted with the 4<sup>th</sup> respondent. But on **18<sup>th</sup> October, 2004** it is averred, the 4<sup>th</sup> respondent had interfered with disciplinary matters pending before the applicant's parish; then on **2<sup>nd</sup> November, 2004** the applicant received a letter from the diocesan secretary purporting to **transfer** the deponent to Bomett Pioneering Parish, in the Central Rift District, with effect from **1<sup>st</sup> January, 2005**. On **5<sup>th</sup> November, 2004** the deponent replied, stating reasons why he was opposed to the transfer. But on **17<sup>th</sup> November, 2004** the deponent received a letter from the 4<sup>th</sup> defendant **confirming the transfer**, and closing any further communication on this subject. On **29<sup>th</sup> November, 2004** the deponent wrote a letter to the 4<sup>th</sup> respondent concerning the transfer; but there was no response from the 4<sup>th</sup> defendant. On the following day, **30<sup>th</sup> November, 2004** the 4<sup>th</sup> defendant wrote a letter appointing another pastor to act as parish leader of the Kawangware Congregation Nairobi Parish – which action the deponent avers to be in contravention of the Church's Constitution and By-laws.

The deponent avers that his transfer to Bomett has caused confusion at the Kawangware Parish. He avers that he “never requested [his] diocesan Bishop to transfer [him] to any other parish – since he occupies an **elective** office”. He avers that no member of his congregation has ever requested that he be transferred; and that the defendants have no power or authority to transfer him to another parish.

The deponent deposes that he is currently undertaking a three-year, part-time Master of Arts degree in theology at the Nairobi Evangelical Graduate School of Theology, with effect from **24<sup>th</sup> August, 2004** – and that the respondents are aware of this and, indeed, were the ones who had recommended his application for admission. The deponent states his belief that the respondents – and in particular the 4<sup>th</sup> respondent – are determined to effect his transfer as a punishment, meted out to him over matters of discipline in respect of which the Kawangware Congregation Nairobi Parish is currently conducting investigations. The deponent believes that his transfer is actuated by ulterior motives the purpose of which is to compel him to abandon his studies or to resign from his position in the Church.

The deponent avers that he stands to suffer substantial loss and prejudice if he were to go on transfer to Bomett, and on that account drop off from his studies. He deposes that he has not handed over his pastoral responsibilities at Kawangware to any other pastor, and the 4<sup>th</sup> respondent has no powers to appoint a replacement to him at that parish. He prays that the Court do issue **orders to stop the implementation of the transfer**.

In the replying affidavit of 20<sup>th</sup> December, 2004 **Rev. Bishop Walter E. Obare** (4<sup>th</sup> defendant) avers that he is the presiding Bishop of the Evangelical Lutheran Church in Kenya, Kawangware Congregation. He deposes that on 2<sup>nd</sup> November, 2004 the plaintiff was transferred from his previous Parish to Bomett Pioneering Parish, Central Rift District, and the plaintiff was therefore required to hand over his previous parish and congregation within the month of November, 2004. The deponent avers that the transfer of the plaintiff was in every respect procedural, normal, and in accordance with the terms of the **Church Constitution**. Upon this transfer being effected, the deponent averred, the plaintiff resorted to “raising all manner of allegations against his superiors”. Such allegations, it was averred, are “baseless and are not connected with his transfer”. It was averred that the transfer of the plaintiff was not meant to punish him, and was unrelated to his postgraduate studies in Nairobi. The deponent deposes that “the church is not aware of his studies nor did it give its authority [for the same].” He goes further to aver that “his [the plaintiff's] alleged studies are in contravention of ... Church policy”. The deponent deposes that the plaintiff “**has not exhausted all the avenues for the amicable settlement of disputes within the Church constitution and the suit herein is premature**”.

The deponent annexes to his affidavit several documents including the Terms and Conditions of Service

in the Evangelistic Work (version dated 23<sup>rd</sup> June, 1993); ELCK Central Diocese Executive Council Strategy and Policy Formulation Meeting's Minutes, Mombasa, 21<sup>st</sup>-26<sup>th</sup> July, 2004; Minutes of the Elders' Council Meeting of 12<sup>th</sup> December, 2004; affidavit of **Mrs. Edna Ouma**, Chairperson of the Evangelical Lutheran Church in Kenya, Kawangware Congregation dated 20<sup>th</sup> December, 2004. In that affidavit it is averred that the leadership of Kawangware Evangelical Lutheran Church in Kenya Congregation has no dispute with the transfer of the plaintiff to the Bomett Parish. It is deponed that it is not true that the transfer of **Rev. Samwel Atunga Omagwa** has caused any confusion in the Church, and that another pastor has since taken over the responsibilities which used to be performed by the plaintiff. It is averred that a list filed by the plaintiff as showing those dissatisfied with his transfer, improperly includes at least two children of tender years – **Isaac Mwati** aged five, and **Charles Omacha** aged three.

The 4<sup>th</sup> defendant, **Rev. Bishop Walter E. Obare** swore a further replying affidavit on 23<sup>rd</sup> May, 2005 in which he impugns the plaintiff's admission as a graduate student of the Nairobi Evangelical Graduate School of Theology, noting that the plaintiff has not exhibited his letter of admission; and that the fee-payment receipts tendered by the plaintiff were issued only **after** he had already been transferred to Bomett. It is averred that "the plaintiff's current studies are a private arrangement without the sanction of the Evangelical Lutheran Church in Kenya."

When this matter came up before me for hearing, on 8<sup>th</sup> November, 2005 learned counsel **Mr. Oyugi** and **Mr. Moindi** represented the plaintiff/applicant, while learned counsel **Mr. Nyakundi** represented the defendants/respondents.

**Mr. Oyugi** set store by the fact that the plaintiff had been **elected** a parish leader on 31<sup>st</sup> May, 2003 and was to be in office in that capacity for two years. On that basis, learned counsel submitted that the plaintiff's office was not transferable; it was specifically **his** office, and he could not be transferred to Bomett or any other place. As the plaintiff was occupying and **elective office**, it was submitted, he could only be transferred if he so **requested**; or if the congregation wrote to the Bishop demanding the plaintiff's transfer. Counsel submitted that only the "District Leaders" had acted to procure the plaintiff's transfer – but such a body was not provided for in the Church Constitution, and was not part of the Church hierarchy.

Learned counsel referred to annexure "SAO 15" in the application, which is a letter from the Nairobi Evangelical Graduate School of Theology, dated 24<sup>th</sup> August, 2001 addressed to the Lutheran Church. The letter, in part, reads:

"This is mainly to inform you that **Rev. Samuel Atunga Omagwa** applied to study in our institution. He is already taking an evening course offered on Monday and Thursday, every week ... The course is one of the core courses required to acquire a Postgraduate Diploma or a Master of Arts degree. His admission process is still going on and we will have his admission letter as soon as we have his official transcripts from Tumaini University, Tanzania."

**Mr. Oyugi** submitted that as at the time of transfer of the plaintiff, the defendants were aware that the applicant **was undertaking a three-year course in theology**, at the Nairobi Evangelical Graduate School of Theology; yet the letter of transfer made no mention of the course of studies. Transferring the plaintiff to Bomett, it was submitted, would entail abandonment of the course. This, counsel submitted, would be a substantial injury, and "no amount of damages can compensate [the plaintiff]." Counsel urged: "**The studies would enrich him**, and they cannot be replaced by money".

**Mr. Oyugi** contested the veracity of the averment in the replying affidavits, that the plaintiff's course of studies in Nairobi was unknown to the Church. On 5<sup>th</sup> November, 2004 the plaintiff had written to the Diocesan Secretary, in respect of the transfer in issue here:

"[I] am perturbed that you are hurriedly moving to effect my transfer, when you know that I am currently a student at Nairobi Evangelical Graduate School of Theology (NEGST) and the Kawangware Christians are responsible for my studies. Your move is aimed at cutting short my studies ..."

This was followed by a letter from the Presiding Bishop (4<sup>th</sup> defendant), dated **17<sup>th</sup> November, 2004**. The response is in these terms:

“May God’s grace abide with you and your family. I am in receipt of a copy of your letter ...

“Please note that ... ***you need to prepare for your new place of work and it is our prayer that God will use you mightily in his vineyard in Bomett.***

“It is also my humble request that you desist from insubordination [against] your leaders. ***With this letter I close any further communications or discussions ...***”

**Mr. Oyugi** submitted that it is the Presiding Bishop himself who had closed the plaintiff’s approaches to the resolution of the dispute, and yet the Bishop now pleads that the plaintiff moved the Court before exhausting the Church’s domestic machinery.

Learned counsel made submissions on the authority of the Church to take disciplinary action against the plaintiff. For basic principles he referred to ***Halsbury’s Laws of England*** (1975) Vol. 14 (4<sup>th</sup> ed.) The following passage in that volume (page 160, paragraph 338) may be set out here:

**“The discipline of a church cannot affect any person except by the express sanction of the civil power or by the voluntary submission of the particular person, but, for the purpose of enforcing discipline within a church, any religious body may constitute a tribunal to determine whether its rules have been violated by any of the members or not and what shall be the consequence of such violation. The tribunal’s decision will be binding and will be enforced by the Courts of law when the tribunal has acted within the scope of its authority, has observed such forms as the rules require, if any forms are prescribed, and, if not, has proceeded in a manner consonant with the principles of justice; but if any member of such a body has been injured as to his rights in any matter of a mixed spiritual and temporal character the courts of law will, on due complaint being made, inquire into the laws and rules of the tribunal or authority which has inflicted the injury, and will ascertain whether any sentence pronounced was regularly pronounced by competent authority, and will give such redress as justice demands.”**

**Mr. Oyugi** relied on the above passage for the proposition that the Court can investigate the Church’s compliance with its own constitution.

In ***Gathuna v. African Orthodox Church of Kenya*** [1982] KLR 356 the Court of Appeal had stated that though the Courts have jurisdiction to address grievances in Church matters, this would only very sparingly be exercised. The Court held (***Law, J.A.*** at page 360):

**“As I understand previous decisions of the High Court in comparable cases, the judges have refused to interfere with decisions arrived at by properly constituted tribunals established under the rules governing recognised churches in Kenya, but they have never held that they had no jurisdiction in such cases.”**

The Court of Appeal again held, in ***Daniel Tanui et al v. The Diocesan Chancellor, Paul Birech***, Civil Application No. Nai. 107 of 1991:

**“We would agree that while it is not the business of the High Court or this Court to involve itself in the day-to-day running of institutions such as the Church, colleges, clubs and so on, yet where it is shown that such an organization is conducting its affairs in a manner contrary to its constitution and to the detriment of its member, then the High Court and this Court would not only be entitled but be under a duty to compel it, either by injunction or otherwise, to obey its constitution.”**

This was in aid of the contention that, in the instant case, the Church had been in breach of its constitution, with resultant injury to the plaintiff; and so this Court, it was urged, was placed under duty to determine the relevant questions. Counsel submitted that the applicant had made out a ***prima facie*** case,

with a probability of success.

Learned counsel *Mr. Nyakundi*, in his response which he made on **14<sup>th</sup> March, 2006** contended that the plaintiff did not meet the standards set out in the Court of Appeal decision, *Giella v. Cassman Brown* [1973] E.A. 358 for the grant of interlocutory injunctions. He submitted that the application had shown no *prima facie* case with a probability of success. The basis for this argument was Article 31 of the Church's *Terms and Conditions of Service in the Evangelistic Work*. It stipulates:

**“Every employee in the evangelistic work shall at any time be ready to be transferred to any place in the Evangelistic Lutheran Church in Kenya and be posted there for a longer or shorter time of service. Any costs [incurred] in connection [with] the [transfer] is reimbursed by the ELCK on production of receipts ...”**

Not only is the exercise of the competence to transfer workers provided for in the operative management documents, it was submitted, but it is a normal practice which even the plaintiff, where he has been responsible for decision- making, has exercised without limitation – as shown in the further affidavit of the 4<sup>th</sup> defendant.

Learned counsel disputed the contention that the plaintiff as a Parish leader could not be transferred; for even though he be a Parish leader, he had been *appointed* to that position on **31<sup>st</sup> May, 2003**. In this regard the relevant supporting document is the Minutes of the Nairobi Parish Council Meeting of 31<sup>st</sup> May, 2003. Minute 8/03 states in part: “*Rev. Miyianda* withdrew from the contest, therefore *Rev. Atunga* [plaintiff] was elected unopposed”. Minute 1/03 reads: “The meeting was opened by the *appointed* Chairman *Rev. Atunga* who read from *Jeremiah* and then prayed”.

Learned counsel invoked the *Constitution and By-Laws of the Evangelical Lutheran Church in Kenya*, 1995 ed., Article 10.1 which relates to “THE PARISH”; it stipulates, under the rubric “Members of the Parish Council”:

**“1.1 The Parish Pastor (Chairman) elected by the Parish Staff for a period of two years in the event that a Parish has more then one pastor”.**

*Mr. Nyakundi* submitted that even though the plaintiff *was* a Parish Pastor, he was authorised under the constitution to serve for only **two years**, a period which had now expired; and moreover, the fact of being Parish Pastor did not secure the plaintiff against *transfer*. Counsel invoked articles of the Church constitution which empowered the *executive authority* to conduct management functions which included transfer of staff: Article V 2 which stipulated that “The Church authority shall be exercised by: a. The General Assembly; b. *The Executive Committee* ...”; Article VII (1) which provided that “*The executive power of this Church shall be vested in the Executive Committee*”; By-laws Article 1 which related to the Presiding Bishop, and provided that the Presiding Bishop shall “*be responsible for the administration of the Church in accordance with the Constitution*”.

*Mr. Nyakundi* contested the contention made for the plaintiff, that he had been transferred by a non-existent body referred to as District Leaders; he submitted that the transfer had been properly done, under the hand not of the District Leaders, but of the *Diocesan Secretary*, for the Central Diocese under which the plaintiff was serving. To the same effect was the *letter of the Presiding Bishop*, which *reinforced the direction for transfer of the plaintiff*.

Learned counsel submitted that the plaintiff's case had no probability of success on the transfer issue. He invoked a persuasive authority, the decision of *Mbito, J* in *Martin O. Oluoch & 3 Others v. Kenyatta National Hospital & Another*, HCCC No. 546 of 2002:

**“... I find that a cardinal principle of equity requires the Court not to act in vain. If it is not possible to supervise [the] implementation of its order, then it would be acting in vain if it were to force parties to work together. [In] the present case, as the employer does not want to work with the**

**applicants then it would be in vain for the Court to force the applicants on it.”**

*Mr. Nyakundi* doubted the validity of the claim that the plaintiff’s transfer to Bomett would interfere with his theology studies in Nairobi. In counsel’s words: “It is more than one year since he was transferred; but he is still doing the same course ... He therefore cannot suffer irreparable harm” Returning to *Giella v. Cassman Brown*, learned counsel submitted that the plaintiff did not stand to suffer any irreparable harm; and moreover, if he were to suffer any harm at all, this would be amenable to recompense through an award of **damages**. Counsel urged that if this would have been a case of **dismissal**, it would have caused injury to the plaintiff, but even then, this would not have entitled the plaintiff as of right to an **injunction**. In *Dalmas B. Ogoye v. K.N.T.C. Limited*, Civil Appeal No. 124 of 1996 the Court had held:

**“The only remedy in a claim for wrongful dismissal is damages. Courts do not order reinstatement in such cases because such an order would be difficult to enforce. Besides, it would be plainly wrong to impose an employee who has fallen out of favour on a reluctant employer.”**

Learned counsel urged that in the instant matter, an analogy be drawn with the *Ogoye* case: “The plaintiff in this case, following his transfer, has fallen out with the defendants. It is inequitable to force the defendants to continue having the plaintiff in the station in which he was.”

Still drawing from *Giella v. Cassman Brown*, learned counsel urged that the balance of convenience stood in favour of the defendants and not of the plaintiff: “The defendant would suffer more harm, for it is a Church; the sheep had been without a shepherd for quite some time”.

In further support of his clients’ case learned counsel cited the holding in the English case, *Garrett v. The Banstead Downs and Epsom Downs Railway Company* (1865) XII L.T.R. (N.S.) 654:

**“... as the Court would have no power to compel a due completion of the contract by the plaintiff, if it reinstates him, whereas he would have ample remedy in damages if he were improperly displaced by the defendants, the injury to the defendants of granting an injunction would far exceed that to the plaintiff of refusing it ...”**

On those principles, in the *Garrett* case the Court of Appeal reversed the decision of *Stuart, V.C.* (in the High Court) to grant an injunction to the plaintiff.

The rationale of the principle in the *Garrett* case is obvious; and indeed it is the most important consideration that should guide this Court in granting or refusing an interlocutory injunction. In the instant matter learned counsel builds upon that principle the defendants’ case; he urges: “If the Court does not [grant the plaintiff an injunction], he can [indeed] later be reinstated if [in the full trial] the Court finds this course of action appropriate”. This, it was urged, would be a more practical course than granting an injunction at this stage to restrain the transfer.

Although learned counsel for the defendants argued the jurisdictional point regarding the Church’s internal procedures and remedies, *vis-à-vis* the prosecution of the instant proceedings, nothing much, I believe, turns on this. This was not really a controversial point, and the clear impression I get, is that both sides in the suit have willingly placed themselves before this Court, to determine the matters in dispute. The governing principle of law is already well established (see *Halsbury’s Laws of England*, 4<sup>th</sup> ed, Vol. 14 (1975), paragraph 338; *Gathuna v. African Orthodox Church of Kenya* [1982] KLR 356; *Daniel Tanui et al v. The Diocesan Chancellor, Paul Birech*, Civil Application No. Nai 107 of 1991): the individual subjects himself to Church obligations by his chosen acts of submission, but the civil law does not require this; the Church as a domestic body is under duty to comply with its governing laws and regulations; the laws and regulations governing a domestic body such as a Church are not to negate the civil law in force.

The foregoing principles have not, I think, come into issue so far as the instant application is concerned. Although the applicant contends that the defendants are in violation of the constitution, and that he stands to suffer harm as a consequence, that contention is not supported by the express terms of the **Constitution**

**and By-Laws of the Evangelical Lutheran Church in Kenya.** That Constitution, as I have indicated earlier, empowers the *executive authority* of the Church, and the *Presiding Bishop*, to conduct personnel management as in their judgment is right; and I believe this includes exercise of discretion in staff transfers which are, besides, provided for in detail in the *Terms and Conditions of Service in the Evangelistic Work*.

In those circumstances, is the contention tenable that the applicant was *elected* to serve the Kawangware Congregation, and so he is not subject to transfer? In the said *Constitution and By-Laws*, Article 10.1 the provision for the election of a Parish Leader is to take effect only “in the event that a Parish has more than one Pastor”. This, in my opinion, suggests that such an election is not a fundamental process which alone determines the existence or the management of the Parish; it is no more than an *arrangement of convenience*, for recognising one of the Pastors of the station as the presiding one. On that basis, I further think that a Pastor elected in accordance with the *Constitution and By-Laws* is by no means an autonomous pillar of the congregation who no longer links up with the duly-constituted hierarchy of the Church. Such a pastor has no basis for claiming immunity to transfer, by virtue of the normal exercise of powers and functions as provided for in the Church’s constitution.

From the foregoing analysis, I see as the sole gravamen of the plaintiff the fact that he is *currently a student* at the Nairobi Evangelical Graduate School of Theology; he loves the convenience of being within easy access of the school; he is reluctant to relocate, for purposes of pastoral service, to Bomett which is about two hundred kilometres from Nairobi. The plaintiff’s gravamen is, I believe, set around interests in *personal, educational development*. Does this interest constitute a *firm - enough legal or legitimate basis* to merit injunctive relief, restraining the defendants’ hand?

I think *not*. For a claim for injunctive relief to have either a legal or a legitimate foundation, it must be supported by a *defined legal right*, or a *serious claim* backed up with major *moral force*. Such a legal foundation has not, I believe, been raised by the applicant; and I seriously doubt that there is any weighty moral claim to sustain the case based on personal educational needs, for the applicant.

From the evidence, the applicant is a *pastor*. I therefore would consider that his first moral and spiritual obligation is to do *pastoral work*, within the framework of policy and direction such as would come forth from the Church hierarchy. The plaintiff must be holding his pastoral assignment because he is *already qualified*, professionally, to serve in that capacity. For the flock in the Evangelical Lutheran Church in Kenya, the plaintiff is already good enough as he is, and only greater *pastoral experience* will make him better. His personal conviction that he must undertake a Masters degree course is, therefore, an eccentric goal, however justified it may be. Since the flock would not, I think, easily appreciate such a personalised commitment on the part of their pastor, the rational course for the plaintiff is to still abide by directions issuing from the Church management; and using *internal procedures* he can arrange with his Presiding Bishop, to create some time for him to continue with his part-time theological studies. It is clear to me that the plaintiff has been unable to raise legitimate cause weighty enough to merit restraint orders against the Presiding Bishop, on the question of transfer from Nairobi to Bomett.

The work of a pastor is to give *pastoral and spiritual services*. No doubt the defendants expect the plaintiff to provide such services to a *certain standard* which would not necessarily be knowable to this Court. The defendants consider that the plaintiff will deliver such services better at Bomett, and so they have dispatched him there. If this Court were to restrain the defendants from transferring the plaintiff, it would be improper; for the Court cannot guarantee that the plaintiff will provide the expected standards of service at the station where he has served in the past. By forcing the hand of the defendants to retain the plaintiff at Kawangware, much harm will be occasioned to the proper running of the Church; the amount of harm that can come the plaintiff’s way at Bomett will not be quite so much, and, moreover, it can be compensated by an *award of damages*, in the event the plaintiff wins in the main suit.

Therefore, I hereby dismiss with costs the plaintiff’s application by Chamber Summons dated 10<sup>th</sup> December, 2004

Orders accordingly.

**DATED** and **DELIVERED** at Nairobi this 31<sup>st</sup> day of March, 2006.

**J. B. OJWANG**

JUDGE

Coram: Ojwang, J.

Court Clerk: Mwangi

For the Plaintiff/Applicant: Mr. Oyugi/Mr. Moindi –

Instructed by M/s Oyugi & Co. Advocates

For the Defendants/Respondents: Mr. Nyakundi,

Instructed by M/s Nyakundi & Co. Advocates