



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**  
**AT NAKURU**  
**CIVIL CASE NO. 208 OF 2002**

**FR. SAMUEL WAWERU.....PLAINTIFF**

**VERSUS**

**SAMUEL MBURU.....1ST DEFENDANT**

**THE STANDARD LIMITED.....2ND DEFENDANT**

**JUDGMENT**

The Plaintiff was at the material time the priest incharge, St. Monica’s Church Wanyororo Parish, Catholic Diocese of Nakuru. He filed suit against the defendants and averred that the first Defendant was an employee of the second Defendant and that on 17th June, 2002 the defendants falsely and maliciously caused to be printed and published in the ‘EAST AFRICAN STANDARD’ Newspaper issue No. 269501 of and concerning the plaintiff in relation to his office as a priest the following words:-

**“PRIEST OWNS UP TO FUNDS THEFT BY SAMUEL MBURU**

“A Nakuru Catholic priest was yesterday forced to confess and apologise to his faithful owing (sic) allegations of drundkenness (sic) and misuse of church funds. Father Samuel Waweru of St. Monica Parish faced an angry congregation after mass after faithful demanded that he explains his wayward behaviour.

Attempts by Father Dominic Kipng’etich and Cleophas Oseso, who had been dispatched by Nakuru Bishop Peter Kairo to defuse tension at the church failed. Waweru was accused of pocketing funds heart (sic) for the local project. He also faced accusations of extreme drunkenness and using police officers to restrain the excommunicated members from accessing the church grounds and facilities. Yesterday, tension reigned high in the church in Lanet as news reporters were forced out of the meeting after mass.”

The Plaintiff stated that the said words, in their natural and ordinary meaning meant and were understood to mean, inter alia that he was a thief and an embezzler of church funds, a criminal, a person not fit to hold the office of a catholic priest in charge of a parish and a drug abuser, particularly alcohol. The said words were also understood to mean that the Plaintiff, as a parish priest, was not in control of his parish or his faithful, that he was not accountable to his parishioners and that he was abusing his office as parish priest by influencing the police force to interfere in matters of the church.

The Plaintiff stated that he had been greatly injured in his credit and reputation and prayed for judgment against the defendants jointly and severally for general damages, punitive damages, costs of the suit and interest thereon. The defendants filed their defence on 22nd August 2003 trough M/S Mohammed &

Muigai Advocates and admitted publishing the aforesaid words but denied that they did so falsely and maliciously as alleged in the plaint. The defendants denied that in their natural and ordinary meaning, the words complained of bore or were understood to bear or were indeed capable of bearing any of the meanings ascribed to them in paragraph 6 of the plaint or any other meaning defamatory to the Plaintiff.

The defendants averred that in so far as the words complained of were factually inaccurate, the defendants, at the request of the Nakuru Catholic Diocese, acting for and on behalf of the plaintiff, accorded the plaintiff a right of reply to the words complained of and the reply was published in the issue of **“East African Standard”** Newspaper dated 22nd June, 2002.

The defendants further denied that as a result of the publication of the words complained of, the plaintiff had suffered any injury loss for damage and therefore prayed that the plaintiff’s suit be dismissed with costs.

The Plaintiff told the court that he was ordained as a priest in 1996 and had since served in various parishes of his church. He testified that on 16th June, 2002 at 7.00 a.m., a mass was celebrated at St. Monica Local Church, Wanyororo Parish and was conducted by himself, Father Kimengich and Father Oseso. The latter two were the vicar general, Nakuru Diocese and the financial administrator of the Diocese respectively.

Thereafter, a meeting was called to clarify some financial matters of the Diocese and grant a hearing to the members of the congregation on some issues and in the said meeting Father Kimengich and Father Oseso were representing the Bishop of Nakuru Diocese, Peter Kairu. Earlier, the Plaintiff had ex-communicated two members of the local church, Patrick Watete and Francis Kiguru because they had disputed the closure of the local church account. The Plaintiff said that the closure had been authorised by the Bishop through the Father incharge and the Finance Committee. The Plaintiff was a member of the Finance Committee and the bank account of the Committee had three signatories and the Plaintiff explained that it was impossible for him to withdraw any money from the bank account without the approval of the other signatories.

He said that Father Kimengich and Father Oseso explained the aforesaid arrangements to the congregation and the two ex-communicated members who were present in the meeting were given opportunity to ask questions which they did.

The Plaintiff further testified that the accounts for the Local Church were not put forward for discussion that day and no issue of any missing funds was ever discussed.

He further stated that there were journalists at the start of the meeting but he did not know who had invited them but he never granted them any interview because they had not requested for it and the journalists never accessed the church books of accounts. He said that the aforesaid article did not report the true happenings of 16th June, 2002 and denied having ever pocketed any money belonging to the church, saying that the building committee was incharge of the church projects. He explained that for any money to be withdrawn there had to be three signatories and once it was withdrawn, it would be handed over to the Treasurer for appropriate disbursement.

Regarding the issue of drunkenness, the Plaintiff testified that during the said meeting, one of the members alleged that a deceased clergyman, the late Father Kabutu, administered mass to them when he was drunk with alcohol but nobody in the meeting had associated the Plaintiff with the issue of drunkenness. He told the court that he drinks church wine only but had never gone to any bar to drink alcohol.

The Plaintiff said that when he read the said report on the back page of the said Newspaper he was angry and felt betrayed and was very adversely affected in his work as he found it very difficult to fellowship with his parishioners as they found it very difficult to trust him. He said that very many people called him to ask about the story which they had read in the said Newspaper. He produced as an exhibit the particular edition of the **“East African Standard”** Newspaper which had defamed him. On 18th June, 2002, he went

to Mbeche & Company Advocates and instructed the firm to write a letter to the second Defendant demanding an unconditional apology and the said firm did so. On 22nd June, 2002 the defendants wrote another article on page 3 of the said Newspaper under the heading “**DIOCESE CLARIFIES POSITION**”. However, the Plaintiff contended that the article was not an apology but in fact it amounted to further defamation because of the deliberate manner in which it was worded. It read as follows:-

“NAKURU Catholic Diocese yesterday clarified that a priest who was forced to confess by his flock last Sunday had not been accused of drunkenness and theft. Diocese Vicar- General, Fr. Dominic Kipng’etich, said Fr. Samuel Waweru of St. Monica Parish had differed with the faithful after the closure of a parish account. Speaking in his office, Kipng’etich said the priest had closed the account and merged it with the general parish development account and differed with two parish officials. On Monday, we reported that Waweru had been forced to confess to drunkenness and theft of church funds. Kipng’etich said a meeting had been called to reconcile the priest and the Christians who had been barred from accessing the church grounds and its facilities.

Yesterday Kipng’etich chaired a meeting at the church with the faithful.”

In cross examination, the Plaintiff emphasised that during the meeting of 16th June, 2002 he never spoke about the closure of the account, he only invited the vicar general and the financial administrator to speak to the church and hear the people’s grievances.

Regarding the closure of the account, he said that it was done on the authority of the Bishop, Nakuru Diocese. At no time was he ever forced to confess and apologise to his faithful over allegations of drunkenness and misuse of church funds; he stated. He said that there had never been any complaint of any misuse of the church money. The Plaintiff further stated that he requested the first Defendant to retract the defamatory story but he did not do it. The second Plaintiff’s witness Mr. John Christopher Kamau was a member of the Parish Finance Committee whose work was to assist the Father to budget for the projects of the parish. He testified that during the church meeting of 16th June, 2002, the Plaintiff was never accused of stealing funds or of extreme drunkenness. He further stated that he knew the plaintiff from the time when he was in seminary and he was not a drunkard. He clarified that after the said account was closed the funds therein were transferred to the parish development account and the Plaintiff could not have authorised the transfer of the funds alone, all the account signatories had to do it. He clarified that at the end of the said meeting, the Plaintiff said “if I have wronged anybody I ask for forgiveness” after which people shook hands and the meeting ended.

The first Defendant testified that on 16th June, 2002 he went to St. Monica Catholic Church, having been tipped off that there would be a stormy meeting. He said that he was accompanied by his colleagues but they were not allowed to cover the meeting but they remained in the vicinity of the meeting place. Towards the end of the meeting, Father Oseso called the journalists and explained that they had finalised the meeting and came to a good conclusion. He stated that he never spoke to anybody else apart from Father Oseso and after that he went to the office and compiled a report which was published the following day. He said that one of the parishioners, a Mr. Joakim Njuguna, told him that there was a problem of missing funds. According to the first defendant, the report he wrote was not defamatory as it concerned a public issue where the parishioners had complained about allegedly missing funds and in any event, the defendants had carried out a correction as required of them by Fathers Kemeng’ich, Oseso and Mr. Ernest Murimi.

In cross examination, the first Defendant admitted that he spoke to Mr. Francis Kiguru, one of the people who had been excommunicated by the Plaintiff and who explained to him what had taken place in the meeting. However, the first Defendant stated that he did not verify the information given to him by Francis Kiguru from any other source. He stated “I had nothing to support the story I wrote” . He admitted that the conclusion which could be drawn by an ordinary person reading the story was that the Plaintiff was a thief. The first Defendant further stated that the article published on 22nd June, 2002 showed that the plaintiff was forced to confess to theft of funds and drunkenness whereas the Plaintiff did not make such confessions, although he said that the plaintiff confessed through Father Kimengitch. He said that he considered the article to be sufficient apology to the plaintiff, even though it did not bear the

word “apology” anywhere. The first Defendant was adamant that the story that was published by the second Defendant on 17th June 2002 was true.

The second defence witness, Francis Kamau Kiguru admitted that he had been excommunicated from the church by the Plaintiff due to some administrative differences between them. He stated that after the excommunication, police officers were sent to remove him from the church on 18th May, 2002. He said that he attended the reconciliation meeting that was held on 16th June, 2002 and the issues that were discussed were:-

1. Drunkenness of a Father who led mass when he was drunk.
2. Closing of the bank account.
3. Pocketing of church funds.
4. Policemen being brought to the church.

He said that after the meeting there was no reconciliation between the Plaintiff and the church congregation. However, he said, the plaintiff apologised and they all hugged one another. He admitted that he spoke to the first Defendant after the meeting.

In cross examination, he stated that during the meeting, no name of any Father was mentioned regarding drunkenness and no audit report or bank statements were tabled.

However, he said one Mr. Gaitho raised the issue of theft of funds but did not mention the Plaintiff. According to him, the words which were uttered by the Plaintiff were as follows:-

“Hata mimi nimeona makosa yangu mnisamehe na wale ambao nimewakosea mnisamehe.”

This can be translated in English to mean:-

“Even me I have recognised my mistakes, I ask for forgiveness and to those whom I have wronged I am sorry.”

He clarified that the plaintiff did not apologise for theft of funds and extreme drunkenness. He said that the Plaintiff was neither a thief nor a drunkard.

The third defence witness, Patrick Watete was also a member of St. Monica Catholic Church at the material time. He stated that during the meeting held in the church on 16th June, 2002, the issues that were discussed were:-

- (a) Mismanagement of church funds.
- (b) The Plaintiff’s action of bringing policemen to eject some people out of the church.
- (c) Drunkenness.

He said that Mr. Peter Kiguru was shoved out of the church because he did not obey. With regard to the alleged defamatory article in the “East African Standard” Newspaper, he admitted that the report was not true as the Plaintiff was neither a thief nor a drunkard.

The last defence witness, Francis Wanjau Kingori said that there was a time when there was disagreement between St. Monicas Church and the Plaintiff and the problem was to do with closure of the church account. During the meeting held on 16th June, 2002 which he attended, the issues that were discussed therein were:-

(a) Excommunication of church members.

(b) Church funds. (c) A Father who celebrated mass when he was drunk.

Regarding drunkenness, he said that no name of any Father was mentioned. At the end of the meeting, Father Kimengich asked people to forgive one another and he asked the Plaintiff also to apologise. As the Plaintiff stood up to do so, the people stood up, hugged him and sang. Regarding the church accounts, he said the problem was due to the transfer of the local church account to the parish account. There was no allegation that the Plaintiff had stolen any money and neither was he accused of drunkenness.

He said that the Plaintiff did not apologise for theft of funds and drunkenness.

The parties did not file a list of agreed issues for determination and I will therefore proceed to put down the issues which I believe ought to be determined in this matter.

They are as follows:-

1. Whether the defendants falsely and maliciously caused to be printed and published in the second Defendant's "East African Standard" Newspaper of 17th June, 2002, issue No.269501 of and concerning the Plaintiff the words as set out in paragraph 5 of the plaint.
2. Whether the said words in the natural and ordinary meaning, bore or were understood to bear or were capable of bearing the meanings ascribed to them in paragraph 6 (a) to (l) of the plaint or any meaning defamatory to the Plaintiff.
3. Whether the Plaintiff was in any way injured in his credit and reputation by the alleged defamatory words as stated in paragraph 5 of the plaint.
4. Whether the Plaintiff was accorded by the defendants a right of reply to the words complained of and if so, whether an apology as demanded by the Plaintiff was necessary.
5. Whether the Plaintiff is entitled to any damages and if so, the quantum thereof.

With regard to the first issue, having summarised the evidence of all the witnesses, I have no difficulty in holding that the defendants falsely caused to be printed and published in the "East African Standard" Newspaper of 17th June, 2002 of and concerning the plaintiff the words as set out in paragraph 5 of the plaint.

The article in question fully identified the Plaintiff as Father Samuel Waweru a Nakuru Catholic Priest attached to St. Monica Parish. Apart from the first Defendant, all the defence witnesses agreed that during the meeting of 16th June, 2002 the Plaintiff never confessed about drunkenness and misuse of church funds. None of the defence witnesses agreed that the words as published by the defendants were correct. The said meeting was a reconciliatory one and at the end of it the Plaintiff merely asked any one whom he may have wronged to forgive him. The first Defendant denied that the said words were false but his denial was without any basis because at the same time he agreed that both the articles published on 17th and 22nd June, showed that the Plaintiff was forced to confess to theft of funds and drunkenness whereas the Plaintiff had not made any such confessions.

The first Defendant said that the Plaintiff confessed through Father Kimengitch but there was no evidence to that effect. The first Defendant was not in the said meeting and he had no first hand knowledge of what transpired therein but relied on what he was told by Francis Kiguru, the second defence witness. However, there was no such evidence given by Mr. Kiguru. On the other hand, the first Defendant said that he considered the second article to have been sufficient apology to the Plaintiff. If indeed what was written in the first article was true, was there any need for an apology? In my view, there would have been none. And if the first Defendant considered the article of 22nd June to be sufficient apology, in my view, it was far from being one. Firstly, it was not headed as an apology and neither did it contain the

word “Apology” anywhere nor was it worded in such a manner as to indicate that the defendants were apologetic about what they published regarding the plaintiff in their first article of 17th June. The article of 22nd June repeated most of the words which were carried by the first article. I therefore hold that the defendants falsely printed and published the words set out in paragraph 5 of the plaint.

Were the said words printed and published maliciously? It is not absolutely necessary to consider the issue of malice because defamation is a tort of strict liability and malice becomes relevant if the Defendant contends that the words were published on an occasion of qualified privilege or were fair comment. No such defence was raised. However, I will consider the issue briefly. The first Defendant denied that the story was maliciously printed and published. But what is “Malice” in the context of Libel and Slander? In the case of **HORROCKS VS LOWE [1975] A.C.** 135 , it was stated that:-

“if a Defendant publishes untrue matter without considering or caring whether it be true or not, he is treated as if he knew it to be false but carelessness, impulsiveness for irrationality in arriving at a belief is not to be equated with indifference to truth.”

To the extent that the defendants published untrue words without considering or caring whether what they reported of the Plaintiff was true or not, that shows malice on their part. The first Defendant confirmed that the source of the story which he wrote was Mr. Francis Kiguru who was one of the people who had been excommunicated by the Plaintiff and who therefore had strong differences with the Plaintiff. The first defendant however agreed that he did not verify the information given to him by the said person from any other source. In cross examination he agreed that “I had nothing to support the story I wrote” . The first Defendant could not expect the said Mr. Kiguru to be objective given the relationship that existed between him and the Plaintiff.

On 18th June, 2002 the Plaintiff’s advocates wrote to the second Defendant and complained about the inaccuracy of the article of 17th June. The first defendant also had a meeting with Father Kimengich, Father Oseso and Mr. Ernest Murimi on 18th June, 2003 and what transpired during the meeting of 16th June was clearly explained and it was agreed that a correction was to be published. However, the purported correction was not properly worded and it portrayed the Defendant’s malice. According to **MCGREGOR ON DAMAGES**, 13 th Edition Paragraph 1309(a): -

“Malice may be shown by the Defendant’s conduct generally, but there are two particular ways in which it has come to be shown by other derogatory statements made of the Plaintiff by the Defendant and by the Defendant’s persistence in the accusation, such persistence being either by way of an unreasonable plea of justification or by lack of any, or any adequate apology.” If there was no malice at all on the part of the defendants they should have published an unreserved apology after receipt of the Plaintiff’s advocate’s letter which demanded “an immediate and unequivocal written apology”.

I therefore find that the words published by the defendants on 17th June, 2002 concerning the Plaintiff were not only false but also malicious.

With regard to the second issue, it is obvious that the said words were highly defamatory of the plaintiff and particularly in his calling as a church priest. **GATLEY ON LIBEL AND SLANDER** Ninth edition at page 7 states that:-

“There is no wholly satisfactory definition of a defamatory imputation. Three formulae have been particularly influential: (1) would the imputation tend to lower the plaintiff in the estimation of right thinking members of society generally? (2) would the imputation tend to cause others to shun or avoid the plaintiff? And (3) would the words tend to expose the Plaintiff to hatred, contempt or ridicule?”

All the above questions can be answered affirmatively with respect to the words published of and concerning the Plaintiff by the defendants. The plaintiff testified that he was highly defamed by the false words published by the defendants and that his ministry was messed up. The second and third issues are answered in the affirmative.

As far as the fourth issue is concerned, that is the right of reply and an apology, the defendants stated in their defence that in so far as the words complained of were factually inaccurate, they accorded the Plaintiff a right of reply to the words complained and sought to rely upon Section 7A of the Defamation Act. That Section states as follows:-

“7A (1). Any person or body of persons shall be entitled to a right of reply to any factual inaccuracy affecting them which has been published in a Newspaper and which is damaging to the character, reputation or good standing of that person or body of persons.

(2) Where a person or body of persons is entitled to a right of reply under subsection (1) a correction shall be printed in the next possible edition of the Newspaper.

(3) The correction shall be printed free of charge and be given similar prominence as the item complained of and shall appear at a similar place in the Newspaper.

(4) The correction must be of such length as is necessary to identify the original item.”

While it is true the defendants published in the Newspaper of 22/6/2002 an article under the heading “Diocese Clarifies Position” that article did not meet the requirements of Section 7A of the Defamation Act. The defamatory article was published on the back page while the clarification was published on page 3. When the first Defendant was asked by the plaintiff’s advocate why the clarification was not published on the back page of the Newspaper, his reply was that page 3 is as prominent as the back page which I do not think is true. Every reader of any Newspaper knows that the most prominent pages are the first and the back pages. And as I have already stated earlier, the defendants did not offer any apology at all. An apology cannot be inferred, it must be express and should include a full and frank withdrawal of the defamatory words and in my view it should also express regret that such words were published. Section 7A therefore cannot avail any defence to the defendants. In any event, even if the defendants had published an appropriate apology, that would only have been relevant as a factor in mitigation of damages.

I now turn to assessment of damages. The award of general damages in defamation cases acts as a consolation to the Plaintiff for the distress which he suffered from the publication of the statement and repairs the harm to his reputation and further acts as a vindication of his reputation. In **JOHN VS M.G.N. LTD [1997] Q.B. 586 at Page 607** it was stated that the most serious defamations are those that touch the core attributes of the plaintiff’s personality, matters such as integrity, honour, courage, loyalty and achievement. The Plaintiff in this case is a catholic priest and his divine calling demands that he should be a man of unquestionable integrity, level headed and sober among personality attributes. He was falsely accused of misusing church funds and of extreme drunkenness. There is no telling how far the defamation went and particularly in these days of the Internet when Newspapers published in one country can be read the world over within hours of their publication. Indeed the Plaintiff testified that many people called him from different parts of the world wondering what had become of him. He explained that his duties as a priest demand that Christians confide in him deep issues of their lives and also had to offer spiritual guidance and as such people must have trust and confidence in him.

The plaintiff’s learned counsel, Mr. Mugambi, urged the court to award a sum of Kshs.5 million and cited several local authorities among them being:-

**HCCC NO. 72 OF 1999 AT NYERI, REGISTERED TRUSTEES OF CATHOLIC ARCHDIOCESE OF NYERI & FATHER JOHN MWANGI MAIMBA VS THE STANDARD LIMITED (Unreported) consolidated with HCCC NO. 73 OF 1999 AT NYERI, REGISTERED TRUSTEES OF CATHOLIC ARCHDIOCESE OF NYERI & FATHER JOHN MWANGI MAIMBA VS ZACHARY MAINA & NATION NEWSPAPERS LTD** (unreported) where the Plaintiff was falsely accused of having raped a minor in a church, the court awarded him compensatory damages of Kshs.1.5 million and a similar amount as aggravated damages.

He also relied upon HCCC NO. 42 OF 1997 ABRAHAM KIPSANG KIPTANUI VS FRANCIS

MWANIKI & 4 OTHERS where the Plaintiff was falsely accused of having been involved in a big property scandal and was awarded Kshs.3.5 million as general damages and Kshs.1.5 million as aggravated damages.

The Plaintiff's learned counsel also cited **HCCC NO. 5 OF 2000 AT MERU, CHARLES KARIUKI T/A CHARLES KARIUKI & CO. ADVOCATES VS THE STANDARD LTD & ASSOCIATION OF KENYA INSURERS** where the Plaintiff was awarded Kshs.20 million for having been branded "a crooked lawyer" who misappropriated insurance and his clients' money.

On the other hand, the learned defence counsel Mr. Saende also referred to the aforesaid Nyeri High Court decisions as well as **HCCC NO. 160 OF 2001 AT KISII, JARED AMONDE KISERA VS THE STANDARD LIMITED** where the plaintiff was awarded Kshs.800,000/- as compensatory damages and no exemplary damages were granted, **HCCC NO. 6393 OF 1996 AT NAIROBI, ZABLON OLANG VS THE STANDARD LIMITED** where the Plaintiff was awarded Kshs.500,000/- as compensatory damages.

Mr. Saende submitted that in the Nyeri High Court decisions, the allegation was of a very grave offence and there had been no apology or clarification made. He submitted that in the present case, there was a clarification which was published a few days after the defamatory article was done. He therefore submitted that a sum of Kshs.700,000/- was sufficient as compensatory damages. He further submitted that there was no case for punitive damages made out. He said that the plaintiff did not show that there was intention to persist in repeating the libel and further, no deliberate intention to profit from the libel was shown.

Punitive damages or exemplary damages are awarded to punish the defendant for the wilful commission of the tort of defamation. The Plaintiff has to prove the Defendant's state of mind and the standard of prove is on a balance of probabilities as in all civil cases. Punitive damages have been awarded where a Defendant or defendants acted recklessly by publishing a story without cross checking to verify its truth and accuracy.

The first Defendant, knowing that the person who narrated to him the events that took place had deep seated differences with the Plaintiff, should have sought the Plaintiff's version of the story if he cared about writing a well balanced article. I have already stated that the defendants did not publish any apology and even the right of reply which they accorded the Plaintiff was not sufficient and did not comply with the provision of Section 7A of the Defamation Act.

The media plays a very important role and its freedom should not be fettered unnecessarily but at the same time it has a duty to report fairly and accurately. Where the issue which is desired to be published touches on a person's integrity and generally his moral standing in society, it behoves the members of the press to employ the greatest care and diligence before proceeding to publish the same. However, in my view, it is undesirable to award excessive punitive damages except where the Defendant's tortious act has been done with express malice and in the knowledge that the economic advantage of the defamation outweighs the chances of financial loss.

In **ROOKES VS BERNARD [1 964] AC 1129 at Page 1228**, commenting on punitive or exemplary damages, it was stated that:-

"Principle requires that an award of exemplary damages should never exceed the minimum sum necessary to meet the public purpose underlying such damages, that of punishing the Defendant, showing that tort does not pay and deterring others ... Freedom of speech should not be restricted by awards of exemplary damages save to the extent shown to be strictly necessary for the protection of reputations".

This English decision was cited with approval by the Court of Appeal in **OBONGO AND ANOTHER VS MUNICIPAL COUNCIL OF KISUMU [1971] E.A. 91**.

Having said that, I consider a sum of Kshs.2,500,000/- to be reasonable for compensatory damages and a

sum of Kshs.250,000/- for punitive damages and I hereby award the said sums respectively.

There will be judgment for the plaintiff against the defendants jointly and severally for:-

- (a) Kshs.2,500,000/- as compensatory damages
- (b) Kshs.250,000/- as punitive damages
- (c) Costs of this suit
- (d) Interest on (a) (b) and (c) at court rates

DATED, SIGNED & DELIVERED at Nakuru this 6th day of May 2004.

DANIEL MUSINGA

AG. JUDGE

6/5/2004