



REPUBLIC OF KENYA



**KENYA LAW**  
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**Abdirahim (Suing in his capacity as the Administrator of the Estate of Sharff Abdirahim - Deceased) v Abdirahim (Environment & Land Case 77 of 2019) [2025] KEELC 4457 (KLR) (5 June 2025) (Judgment)**

Neutral citation: [2025] KEELC 4457 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT ISIOLO  
ENVIRONMENT & LAND CASE 77 OF 2019**

**JO MBOYA, J**

**JUNE 5, 2025**

**BETWEEN**

**HUSSEIN SHARIFF ABDIRAHIM (SUING IN HIS CAPACITY AS THE ADMINISTRATOR OF THE ESTATE OD SHARFF ABDIRAHIM - DECEASED) ..... PLAINTIFF**

**AND**

**ABDULKADIR SHARIFF ABDIRAHIM ..... DEFENDANT**

**JUDGMENT**

1. The Plaintiff herein [ who contends to be the legal administrator of Shariff Abdirahim- deceased] approached the court vide Plaint dated 9<sup>th</sup> December 2019 and wherein [Plaintiff] has sought the following reliefs;
  - I. A declaration that IR NO. 5313 or LR NO. 12255/22 or Plots No. 130 or UNS Residential Plot No. 188 Moyale Town is part of the Estate of the Deceased Shariff Abdirahim and the same should be remitted back to the said estate and distributed equitably to all the beneficiaries and heirs of the deceased according to the applicable law.
  - II. An order does issue nullifying, revoking and invalidating the illegal and fraudulent registration dated 28<sup>th</sup> December 1995 in favor of the Defendant.
  - III. A permanent injunction against the Defendant by himself servants, agents, proxies and any other person claiming right or interest under his name or on his behalf from evicting, demanding vacant possession and accessing IR NO. 5313 or LR NO. 12255/22 or Plots No. 130 or UNS Residential Plot No. 188 Moyale Town from the plaintiff and, or subdividing, transferring, disposing, selling the suit property to 3<sup>rd</sup> parties and or interfering with its boundaries and enjoyment of the same by the Plaintiff and his mother.



- IV. Cost of this suit and interest
2. The Defendant herein duly entered appearance and thereafter filed a statement of defense and counterclaim dated 19<sup>th</sup> February 2020. Suffice it to state that the Defendant has sought the following reliefs;
    - I. A declaration that the Defendant is the bona fide owner of parcel of land known as IR NO. 5313 or LR NO. 12255/22 or Sic LR. NO. 5313 Moyale Town.
    - II. Cost of the Counterclaim and interest thereupon at such rate and for such period as this honorable court may deem fit to grant.
    - III. Such further or other reliefs as may be appropriate in the circumstances.
  3. The instant suit came up for the usual case conference on the 20<sup>th</sup> of December 2021; whereupon the advocate[s] for the parties confirmed that same had filed and exchanged the respective pleadings, list of bundles of documents, list of witnesses, and witness statements. Furthermore, the advocates also posited that the suit was ready for hearing.
  4. The Plaintiff's case is premised on the evidence of three [3] witnesses namely, Hussein Shariif Abdirahim, Sadiah Sharrif Abdurahman, and Hassan Shariff Abdirahim. Same testified as PW1, PW2, and PW3 respectively.
  5. It was the testimony of PW1 [Hussein Shariif Abdirahim] that same is the plaintiff in respect of the present matter. Furthermore, the witness averred that by virtue of being the plaintiff, same is therefore conversant with and knowledgeable of the facts of the matter. Besides the witness testified that the same has recorded a witness statement dated 9<sup>th</sup> Dec 2019 and which witness statement the Witness sought to adopt and rely on as his evidence in chief. To this end, the witness statement was duly adopted and constituted as evidence in chief of the witness.
  6. The witness further averred that same has since filed a list and bundle of documents dated the 9<sup>th</sup> of December 2019; containing Eight [8] documents and which documents same sought to adopt and rely on as exhibits before the court. There being no objection to the production of the documents at the foot of the list dated 9<sup>th</sup> December 2019, same were tendered and produced as exhibits P1 to P8 respectively.
  7. It was the further testimony of the witness that the suit property belonged to and was registered in the name of Sharrif Abdirahim [Now Deceased]. In addition, the witness averred that himself and his mother [PW2] have been in occupation of the said property. In any event, the witness averred that the deceased never transferred the suit property to the defendant herein. In this regard, the witness testified that the suit property was fraudulently registered in the name of the defendant albeit after the death of Shariff Abdirahim.
  8. Moreover, the witness averred that there is no document demonstrating how the suit property was transferred to the defendant. In this regard, the witness reiterated the fact that the transfer and registration of the suit property in the name of the defendant was fraudulent.
  9. On cross examination by learned counsel for the defendant, the witness testified that the suit property was allocated to his late father namely; Shariff Abdirahim. Nevertheless, the witness averred that same has no document to show that the suit property was allocated to his late father. Furthermore, the witness reiterated that same does not know if Plot no. 130 was allocated to his late father.



10. While still under cross examination, the witness averred that his main concern relates the allotment for Plot number 188. In any event, the witness posited that same has no claim over Plot Number 130. In addition, the witness testified that same did not claim for Plot 130 in the Kadhi Court.
11. It was the further testimony of the witness that same is aware that the Kadhi rendered a decision and found that Plot Number 130 did not belong to the deceased. Furthermore, the witness conceded that no appeal was lodged against the decision of the Kadhi.
12. The witness further testified that same does know anything about Plot No. 130. In any event, it was the position of the witness that his concern is the allotment for Plot Number 188. Besides, the witness averred that same has since provided a plan showing where plot number 188 is situated. Nevertheless, the witness testified that same is not aware whether the plan is not stamped by the Director of Physical Planning and by the commissioner of lands.
13. On re-examination the witness averred that same is claiming LR No. 5313. Furthermore, the witness testified that Plot No. 130 is not what has brought him to court. Moreover, the witness averred that the title in respect of the property was registered on the 28<sup>th</sup> December 1995 yet his father [the deceased] died on 23<sup>rd</sup> December 1995.
14. The second witness who testified on behalf of the Plaintiff was Sadiah Sharif Abdurahman [Same testified as PW2].
15. It was the testimony of the witness that same is widow of Shariff Abdirahim [ the deceased]. Furthermore, the witness averred that the deceased was married to 4 wives and that the same was survived with several children. In addition, the witness testified that the Plaintiff herein is her son.
16. Additionally, it was the testimony of the witness that same is conversant with the facts of the case. To this end, the witness averred that the same has since recorded and filed a witness statement dated the 9<sup>th</sup> December 2019 and which witness statement the witness [PW2] sought to rely on as her evidence in chief. In this regard, the statement was duly adopted and constituted as the evidence in chief of the witness.
17. On cross examination by learned counsel for the defendant, the witness averred that all her children were born on the suit land. Furthermore, the witness testified that the Defendant caused the suit land to be transferred and registered in his name without her knowledge.
18. The third witness who testified on behalf of the Plaintiff was Hassan Shariif Abdirahim [same testified as PW3].
19. It was the testimony of the witness that same is a son of Shariff Abdirahim [Deceased]. Moreover, the witness averred that same is a step brother of the Defendant herein.
20. It was further testimony of the witness that same is conversant with the facts of the case. Furthermore, the witness further testified that same has recorded and filed a witness statement dated 9<sup>th</sup> December 2019 and which witness statement the witness sought to adopt and rely on as his evidence in chief. To this end, the statement was duly adopted and constituted as the evidence in chief of the witness.
21. It was the further testimony of the witness that same is conversant with the property known as LR. 12255/2 [IR 5313]. In particular, the witness averred that the same property belonged to and was registered in the name of his father.



22. While still under cross examination, the witness testified that same is conversant with the Defendant herein. Moreover, the witness averred that the Defendant herein is his elder brother who resides in Nairobi.
23. It was the further testimony of the witness that the suit property was illegally and fraudulently transferred to and registered in the name of the Defendant. In any event, the witness testified that the transfer and registration of the suit property in the name of the Defendant transpired long after the death of their father. To this end, the witness posited that the transfer was fraudulent.
24. On cross examination by learned counsel for the Defendant, the witness averred that the suit property belonged to the deceased. However, the witness added that the transfer to and in favor of the Defendant was fraudulent. In addition, the witness averred that even though the land was transferred from his father [deceased] there are no transfer documents to show how the land was registered in the name of the Defendant. Furthermore, the witness testified that the Defendant merely had the land transferred to himself.
25. While under further cross examination, the witness averred that same was disregarded and ignored by the Kadhi. In particular, the witness testified that the Kadhi did not want to make the land in question as part of his [witness] father's estate.
26. On further cross examination, the witness testified that there was no PDP that was issued in respect of the said plot. To this end, the witness averred that same did not object to the PDP. Furthermore, the witness testified that the PDP was neither stamped nor signed by the director of Physical Planning or at all. In addition, the witness averred that the said PDP was not stamped by the commissioner of lands.
27. With the foregoing testimony, the Plaintiff's case was closed.
28. The Defendant's case is premised on the evidence of two [2] witnesses namely; Dahir Shariff Abdikadir and Mohammed Abdirahim Mohammed. Same testified as DW1 and DW2 respectively.
29. It was the testimony of DW1 [Dahir Shariff Abdikadir] that same is a son of the Defendant. Furthermore, the witness averred that the Defendant passed on during the pendency of the suit. Moreover, the witness averred that following the death of the Defendant, same [witness] procured and obtained grant of letters of administration ad litem. To this end, the witness referenced the grant of letters of administration dated 29<sup>th</sup> December 2023.
30. Furthermore, the witness testified that same is privy to and knowledgeable of the facts of the matter at hand. Besides, the witness averred that same has since recorded and filed a witness statement. In addition, the witness testified that same is also privy to the witness statement that was filed by the deceased. To this end, the witness sought to adopt and rely on the witness statement dated 20<sup>th</sup> May 2021 and the witness statement dated 7<sup>th</sup> June 2021. Suffice it to state that the two [2] sets of the witness statements were adopted and constituted as the evidence in chief of the witness.
31. Moreover, the witness referenced the list and bundle of documents dated 20<sup>th</sup> May 2021; and thereafter sought to tender and produce the same documents as exhibits before the court. There being no objection to the production of the documents, same were produced and marked as exhibits D1 to D6 respectively.
32. Additionally, the witness referenced the statement of defense and counterclaim dated the 19<sup>th</sup> February 2020 and thereafter sought to adopt and rely on the contents thereof. Furthermore, the witness implored the court to grant the reliefs thereunder.



33. On cross examination by learned counsel for the Plaintiff, the witness averred that same is aware that the Defendant filed a statement of defense and counterclaim. Nevertheless, the witness admitted that the counterclaim has not been verified by any verifying affidavit.
34. It was further testimony of the witness that same has tendered and produced before the court a copy of certificate of title in respect of the suit property. In addition, the witness averred that the said certificate of Title showed that the same was issued on 16<sup>th</sup> November 1995.
35. Regarding the certificate of death contained at the foot of page one of the Plaintiff's list and bundle of documents, the witness averred that same relates to his grandfather. Furthermore, the witness averred that the certificate of death showed that his grandfather died on the 23<sup>rd</sup> December 1995.
36. While still under cross examination, the witness averred that the suit property did not belong to his grandfather. On the contrary, the witness averred that the suit property belonged to his [DW1's] father.
37. The second witness who testified on behalf of the Defendant was Mohammed Abdirahim Mohammed [Same testified as DW2].
38. It was the testimony of the witness that same is a brother of the Plaintiff herein. Furthermore, the witness averred that DW1 is his nephew [son of his brother]. Besides the witness averred that as pertains to the instant matter, same has since recorded and filed witness statement. To this end, the witness referenced the witness statement dated 20<sup>th</sup> May 2021 and whose contents the witness sought to adopt and rely on.
39. Instructively, the witness statement dated 20<sup>th</sup> May 2021 was duly adopted and constituted as the evidence in chief of the witness.
40. On cross examination, the witness averred that the document at page 9 of the plaintiff's list and bundle of documents is a letter of allotment. Furthermore, the witness averred that the letter of allotment is dated the 2<sup>nd</sup> March 1999.
41. Regarding the document at page 1 of the Plaintiff's list and bundle of document[s], the witness averred that same is a copy of certificate of death of his late father. Besides, the witness testified that the certificate of death shows that his late father died on 23<sup>rd</sup> December 1995.
42. While still under cross-examination, the witness averred that the suit property was registered in the name of Abdulkadir Shariif Abdulrahim in the year 1996.
43. On re-examination, the witness averred that plot number 188 [un-surveyed] is different from plot number 130. Furthermore, the witness averred that Plot number 130 which was duly surveyed belonged to and was registered in the name of the father of the Defendant [DW1] herein. In addition, the witness testified that Plot number 130 was never registered in the name of the grandfather of the current defendant. Besides the witness testified that the Plaintiff's claim before the court is not legitimate.
44. With the foregoing testimony the defendant's case was closed.
45. Upon the close of the hearing, the advocates for the parties sought to file and exchange written submissions. To this end, the court proceeded to and issued directions pertaining to the filing and exchange of the written submissions.
46. The plaintiff proceeded to and filed submissions dated 24<sup>th</sup> March 2025 and wherein same has highlighted three [3] issues namely; whether this honorable is seized of the requisite jurisdiction to entertain and adjudicate upon the subject suit; whether the plaintiff is entitled to the orders sought



- in the Plaintiff; and whether the Defendant's counterclaim raises/discloses as reasonable cause of action or otherwise.
47. The Defendant filed written submissions and wherein the same has highlighted two [2] key issues namely; that the suit beforehand is barred by the doctrine of res judicata; and that the suit property was never registered in the name of Shariff Abdirahim [Deceased] and thus same did not form part of the estate of the deceased.
  48. Having appraised the pleadings filed by the parties; having taken into account the evidence tendered [both oral and documentary] and upon consideration of the written submissions filed, I come to the conclusion that the determination of the dispute beforehand turns onto two [2] key issues, namely; whether the suit beforehand is barred by the doctrine of res judicata and by extension section 7 of the Civil Procedure Act, Chapter 21 Laws of Kenya, and whether the Plaintiff has established and proved the plea of fraud to the requisite standard or otherwise.
  49. Regarding the first issue; namely, whether the suit beforehand is barred by the doctrine of res judicata and by extension section 7 of the Civil Procedure Act, Chapter 21 Laws of Kenya, it worthy to recall that the plaintiff herein was party to the proceedings that were undertaken before the Kadhi Court at Moyale and which touched on and concerned the estate of Shariff Abdirahim Mohammed [deceased]. Instructively, the said proceedings touched on and concerned the distribution of the estate of Shariff Abdirahim Mohammed [deceased].
  50. During the course of the said proceedings before the Kadhi, one Hassan Shariff Abdirahim filed an application dated 28<sup>th</sup> October 2024 wherein various/diverse issues were raised. One of the issues that was raised and canvassed before the Kadhi was the issue pertaining to and concerning whether LR No. 12255/2 [IR NO. 5313] or better still Plot Number 130 belonged to Shariff Abdirahim [the Deceased] or otherwise.
  51. Having been raised and canvassed before the Kadhi court, the Kadhi was called upon to interrogate whether that the suit property constituted part of the estate of the deceased. Suffice it to state that the Kadhi returned a verdict that the suit property did not form part of the estate of the deceased. On the contrary, the Kadhi found and held that the suit property lawfully belonged to Abdulkadir Shariff Abdirahim, namely; the defendant herein.
  52. It is worthy to recall that upon the delivery of the ruling under reference, Hassan Shariff Abdirahim who testified before the court as PW3 and say [any of the representatives of the estate of Shariff Abdirahim] were at liberty to appeal. However, there is no gainsaying that no appeal was ever mounted and filed.
  53. To the extent that no appeal was ever filed and mounted against the findings of the Kadhi, it is imperative to state and underscore that the same issue cannot now be canvassed afresh before this court. In any event, there is no gainsaying that this court cannot under the guise of this matter purport to vary and set aside the decision of the Kadhi. For good measure, the said decision remains in situ and is thus binding on the parties herein, the dependents/beneficiaries of the estate of Shariff Abdirahim [Deceased] and their representatives.
  54. The issue as pertains to ownership of and title to the suit property having been determined before the Kadhi Court, same is therefore res judicata. To this end, the Plaintiff who was privy to and knowledgeable of proceedings before the Kadhi cannot now feign ignorance and approach this court in an endeavor to procure and obtain a separate and distinct judgement.
  55. Without belaboring the point, it suffices to cite and reference the decision of the court of Appeal in the case of Independent Electoral & Boundaries Commission v Maina Kiai & 5 Others [2017] KECA



477 (KLR) where the Court of Appeal expounded on the ingredients underpinning the doctrine of res judicata and the legal implication[s attendant thereto.

56. For coherence, the court stated as hereunder;

“Thus, for the bar of res judicata to be effectively raised and upheld on account of a former suit, the following elements must all be satisfied, as they are rendered not in disjunctive, but conjunctive terms;

- (a) The suit or issue was directly and substantially in issue in the former suit.
- (b) That former suit was between the same parties or parties under whom they or any of them claim.
- (c) Those parties were litigating under the same title.
- (d) The issue was heard and finally determined in the former suit.
- (e) The court that formerly heard and determined the issue was competent to try the subsequent suit or the suit in which the issue is raised.

The learned Judges were fully aware and applied their minds to these elements when, applying this Court’s decision in Uhuru Highway Development Ltd v Central Bank of Kenya [1999] eKLR they rendered the elements as;

- “(a) the former judgment or order must be final;
- (b) the judgment or order must be on merits;
- (c) it must have been rendered by a court having jurisdiction over the subject matter and the parties; and
- (d) there must be between the first and the second action identity of parties, of subject matter and cause of action.”

The rule or doctrine of res judicata serves the salutary aim of bringing finality to litigation and affords parties closure and respite from the spectre of being vexed, haunted and hounded by issues and suits that have already been determined by a competent court. It is designed as a pragmatic and common-sensical protection against wastage of time and resources in an endless round of litigation at the behest of intrepid pleaders hoping, by a multiplicity of suits and fora, to obtain at last, outcomes favourable to themselves. Without it, there would be no end to litigation, and the judicial process would be rendered a noisome nuisance and brought to disrepute and calumny. The foundations of res judicata thus rest in the public interest for swift, sure and certain justice.”[Underlining supplied].

57. My answer to issue number one [1] is to the effect that the suit beforehand is barred by the doctrine of res judicata and by extension the provisions of section 7 of the *Civil Procedure Act*, Chapter 21 Laws of Kenya.

58. Regarding the second issue, namely, whether the Plaintiff has established and proved the plea of fraud to the requisite standard or otherwise, it is imperative to recall and reiterate that it is the Plaintiff herein



who contended that the suit property namely Plot NO. 130[ LR. NO. 12255/22; IR NO. 5313] belonged to the deceased but that the same was fraudulently transferred and registered in the name of the Defendant. Furthermore, it is the Plaintiff who contended that the impugned transfer of the suit property and registration thereof in the name of the Defendant took place long after the death of the deceased.

59. Nevertheless, it is not lost on this court that despite contending that the suit property belonged to and was registered in the name of the deceased, the Plaintiff herein neither tendered nor produced any evidence that the suit property was ever allocated to the deceased. For good measure, the Plaintiff did not produce before the court any letter of allotment or at all.
60. Moreover, it is important to highlight that the Plaintiff did not also tender or produce before the court any grant or certificate of title to show that the suit property was ever registered in the name of the deceased. Quite clearly, the Plaintiff failed to demonstrate that the suit property belonged to the deceased or at all.
61. Notwithstanding the foregoing, evidence abound that the suit property lawfully belonged to and was registered in the name of the Defendant. In particular, the Defendant was issued with a Grant pertaining to and concerning LR. NO. 12255/22. Further and in addition, the grant under reference indicates that same was duly registered on 10<sup>th</sup> January 1996.
62. It is worth pointing out that the grant under reference and which was introduced by Plaintiff as exhibit P4 clearly show[s] that the Defendant was the first Grantee of the suit property. In this regard, the contention that the suit property was transferred from deceased to the defendant long after the death of the deceased is therefore mistaken and premised on deliberate falsehoods.
63. Other than the foregoing, it is also imperative to underscore that the suit property namely Plot NO. 130[ LR. NO. 12255/22; IR NO. 5313], is separate and distinct from un-surveyed residential plot number 188 Moyale. Pertinently, un-surveyed residential plot 188 Moyale was allocated at the foot of the letter of allotment dated 2<sup>nd</sup> March 1999 whereas the suit property stood granted to the Defendant based on the Grant issued on the 28<sup>th</sup> December 1995.
64. To my mind, the suit property, namely; Plot NO. 130[ LR. NO. 12255/22; IR NO. 5313] was private land belonging to the defendant, same having been issued with a certificate of title. In this regard, it is a serious misconception of the law for the Plaintiff to imagine that the suit property could have been the basis of the impugned letter of allotment.
65. Notwithstanding the foregoing, it is also important to remind ourselves and by extension counsel of the Plaintiff, that a letter of allotment by and of itself cannot found a basis to lay a claim to ownership of land. [See *Wreck Motors Enterprises Limited vs The Commissioner of Land* [1997] eklr; see *Dr. Joseph N.k Arap Ngok vs Justice Moiyo Ole Keuwa* [1997] eklr; see supreme court decision in *Torino Enterprises Limited v Attorney General (Petition 5 (E006) of 2022)* [2023] KESC 79 (KLR) (22 September 2023) (Judgment)].
66. Back to the question of whether the Plaintiff proved fraud. It is instructive that whosoever wishes to convince a court of law on the question of fraud is obliged to tender plausible, credible, and cogent evidence. Furthermore, it is not lost on the court that fraud must be proven to the intermediate standard, namely, beyond balance of probabilities, but below the standard of beyond reasonable doubt.
67. The law as pertains to pleading, particularization and proof of fraud is now well settled. Suffice it to cite and reference the recent decision in the case of *Doshi v Chemutut & 7 others* (Civil Appeal E020



of 2023) [2025] KECA 776 (KLR) (9 May 2025) (Judgment) where the Court of Appeal stated as hereunder;

“41. Apart from the omission to plead fraud, nor particulars of fraud against the named defendants, Mr. & Mrs. Walker, were provided. In the often-cited decision of this Court in the case of *Vijay Morjaria v Nansingh Madhusingh Dabar & Another* [2000] eKLR, Tunoi, JA. stated that:

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

42. In the same vein, the Court in the case of *Kinyanjui Kamau v George Kamau Njoroge* [2015] eKLR reiterated that:

“It is trite law that any allegations of fraud must be pleaded and strictly proved. See *Ndolo v Ndolo* [2008] 1 KLR (G&F) 742 wherein the Court stated that:

“...We start by saying that it was the respondent who was alleging that the will was a forgery and the burden to prove that allegation lay squarely on him. Since the respondent was making a serious charge of forgery or fraud, the standard of proof required of him was obviously higher than that required in ordinary civil cases, namely proof upon a balance of probabilities; but the burden of proof on the respondent was certainly not one beyond a reasonable doubt as in criminal cases...”

68. From the foregoing analysis, I am afraid that the Plaintiff has not proved the plea of fraud or at all. In any event, there is no gainsaying that the Plaintiff’s claim based on fraud was clearly premised on misapprehension of the documents tendered and the law underpinning fraud.

### **Final Disposition:**

69. Having analyzed the two thematic issues [details highlighted in the body of the judgement] it must have become crystal clear that the Plaintiff’s case was not only premature and misconceived but same is equally untenable. In this regard, the Plaintiff’s claim is devoid and bereft of merit.

70. In the premises, the final orders that commend themselves to the court are as hereunder;

- i. The Plaintiff’s suit be and is hereby dismissed.
- ii. Costs of the suit be and are hereby awarded to the Defendant.
- iii. The Costs in terms of clause [ii] shall be agreed upon and in default be taxed in the conventional manner.
- iv. For the avoidance of doubt and considering the provisions of section 13(7) of the *Environment and Land Court Act*, it is hereby declared that the suit property namely; Plot NO. 130 [LR. NO. 12255/22; IR NO. 5313] belongs to the Defendant and does not constitute part of the Estate of Shariff Abdurahim [Deceased].

71. It is so ordered.



**DATED, SIGNED AND DELIVERED AT ISIOLO THIS 5<sup>TH</sup> DAY OF JUNE 2025 .**

**OGUTTU MBOYA, FCIArb, CPM [MTI-EA].**

**JUDGE.**

In the presence of:

Mutuma/Mukami – Court Assistant.

Ms Jepkosgei h/b for Mr. John Abwuor for the Plaintiff.

Mr. Otieno. C. for the Defendant.

