



Mutua & 2 others v Superior Homes Kenya Ltd & 3 others (Environment & Land Case E059 of 2022) [2023] KEELC 15886 (KLR) (1 March 2023) (Ruling)

Neutral citation: [2023] KEELC 15886 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT MACHAKOS
ENVIRONMENT & LAND CASE E059 OF 2022**

**A NYUKURI, J
MARCH 1, 2023**

BETWEEN

**JULIUS MUTIE MUTUA 1ST PLAINTIFF
ALEX KYALO MUTEMI 2ND PLAINTIFF
PASCAL KISELI BASILIO MUNGUI (SUING AS THE OFFICIALS OF AIMI MA
LUKENYA SOCIETY) 3RD PLAINTIFF**

AND

**SUPERIOR HOMES KENYA LTD 1ST DEFENDANT
THE HON. ATTORNEY GENERAL 2ND DEFENDANT
THE CHIEF LAND REGISTRAR 3RD DEFENDANT
EAST AFRICAN PORTLAND CEMENT LIMITED 4TH DEFENDANT**

RULING

Introduction

1. This ruling is in respect of the Preliminary Objection dated 1st September 2022 filed by the 1st Defendant, the Notice of Motion dated 18th August 2022 filed by the 4th Defendant and the Notice of Motion dated 2nd August 2022 filed by the Plaintiff.

The Application dated 2nd August 2022

2. Vide an application dated 2nd August 2022, the Plaintiff sought the following orders;
 - a. Spent
 - b. Spent



- c. That pending the hearing and determination of this suit, an order of temporary injunction does issue restraining the Defendants in person and by any other person working for the Defendants benefit or acting under their instructions from accessing, constructing houses, or fencing the suit land Parcel or a portion thereof being L.R. No. 10424 or further committing the said acts on the suit land or digging, demolishing structures, surveying or interfering with the suit property in any other manner.
 - d. That copies of the orders be served upon the Officer Commanding Station Athi River Police Station to provide security to the Plaintiff/Applicant in ensuring these orders are complied with.
 - e. Costs of this application be provided for.
3. The application is premised on the grounds on its face as well as the supporting affidavit sworn on 2nd August 2022 by Julius Mutie Mutua, the 1st Plaintiff. It was the Plaintiff's case that Land Parcel No. 10424 is registered in the name of the Plaintiff as the absolute proprietor and that the 1st Defendant being assisted by the OCPD and OCS Athi River Police Division and Police Station respectively have disobeyed orders issued in ELC No. 74 of 2014 on 13th May 2016 and 15th February 2019 by trespassing on LR No. 10424.
4. They further stated that the Defendants have continued to exert unwarranted harassment on the Plaintiff's members and Third Parties as they have demolished structures belonging to the Plaintiff's members and Third Parties. The Plaintiffs were apprehensive that they were at risk of permanent injury not capable of being compensated by an award of damages. They maintained that the 1st Defendant had no right over the suit property and intends to obtain title thereto fraudulently, while the 4th Defendant has purported to subdivide and transfer a portion of the suit property to the 1st Defendant in breach of the orders stated hereinabove.
5. The application was opposed. Florence Mitey, the 4th Respondent's Company Secretary and Legal Services Manager swore a replying affidavit on 24th August 2022. She stated that the application was premised on non disclosure of material facts, was misconceived, defective and unmerited. She stated that at all material times, the 4th Defendant was the registered proprietor of L.R. No. 10424 measuring 4,298 acres since the year 1960 and there has been no agreement to sell the same to the Plaintiffs.
6. That the Plaintiff filed Elc No. 74 Of 2014 Aimi Ma Lukenya & Others Vs. East Africa Portland Cement Company PLC & 3 Others Consolidated with Petition No. 10 of 2018 Aimi Ma Lukenya Society vs. East Africa Portland Cement Company PLC, seeking a declaration of ownership and permanent injunction against the 4th Defendant. Further, that in that suit, the Plaintiffs sought for an injunction vide an application dated 9th September 2014 which was dismissed vide a ruling of 31st October 2014, which decision has not been appealed against or reviewed. Therefore, she stated that this application was res judicata and contrary to Section 7 of the *Civil Procedure Act*. That the Plaintiffs has not disclosed this fact.
7. The 4th Respondent further stated that the Plaintiffs in further abuse of the court process filed numerous applications for injunctions against the 4th Defendant over the same property including application dated 13th April 2016 which resulted to the exparte orders of 13th May 2016 and orders made on 21st July 2016. They took the position that those orders lapsed by operation of law as they were only in force for a maximum period of 12 months in accordance to Order 40 Rule 6 of the Civil Procedure Rules and that no application for their extension has ever been made, and the Plaintiffs continue to delay the hearing of the said suits.



8. According to the 4th Defendant, the Plaintiffs had not demonstrated any legal or legitimate ownership document or interest in the suit property. Further that the National Land Commission and the Directorate of Criminal Investigations have held that the alleged documents of ownership held by the Plaintiffs are forgeries. That the Registrar of Societies confirmed that the Plaintiff was registered on 25th September 2014 and therefore that the purported sale agreement of 1979 was signed by a non-existence society.
9. The 4th Defendant therefore maintains that the Plaintiffs have not established a prima facie case to warrant grant of the orders sought. They contended that they ought to have filed this application in ELC No. 74 of 2014. Further that the orders sought will prejudice the 4th Defendant as they will conflict with orders issued in ELC No. 931 of 2013 Superior Homes (Kenya) Limited vs East African Portland Cement PLC, where the 4th Defendant was required to transfer 100 acres to the 1st Defendant in settlement of Nairobi Civil Appeal No. 158 of 2014.
10. On the part of the 1st Defendant, one Shiv Anoop Arora, the 1st Defendant's CEO, filed a replying affidavit sworn on 1st September 2022 in opposition to the application. It was the 1st Defendant's case that the Plaintiff obtained the orders of 3rd August 2022 through material misrepresentation calculated to mislead the court. He stated that in the Plaintiff's documents, the official search shows that the suit property is registered in the 4th Defendant's name and that they failed to produce documents to prove ownership of the suit property.
11. It was further deponed on behalf of the 1st Defendant that this suit was sub judice as ELC No. 74 of 2014 is still pending and the matters in issue are the same. Further that the application before court was res judicata as a similar application was determined in ELC No. 74 of 2014.
12. He maintained that the sale between the 1st Defendant and the 4th Defendant was sanctioned in Nairobi Civil Appeal No. 158 of 2014 and therefore interim orders of 3rd August 2022 will interfere in the performance of the court order in Civil Appeal No. 158 of 2014 and ELC No. 931 of 2013.

The Notice of Motion dated 18th August 2022

13. The Notice of Motion dated 18th August 2022 was filed by the 4th Defendant seeking the following orders;
 - a. Spent
 - b. Spent
 - c. That pending hearing and determination of the suit, this Honourable Court be pleased to discharge, set aside and/or vary the exparte injunction orders issued on 3rd August 2022.
 - d. That the suit herein filed on 3rd August 2022 be dismissed for being an abuse of the process of the court.
 - e. That costs of this application be borne by the Plaintiffs.
14. The application was supported by the affidavit sworn on 24th August 2022 by Florence Mitey, the Company Secretary and Legal Services Manager of the 4th Defendant. The 4th Defendant's case was that on 3rd August 2022, the Honourable Court issued orders of temporary injunction restraining the Defendants from interfering with the suit property, which orders were obtained irregularly and unlawfully by concealing material facts. That the Plaintiffs did not disclose that a similar application was dismissed on 31st October 2014 in ELC NO. 74 of 2014; that they misled the court that they were



- the owners of the suit property when the same is owned by the 4th Defendant and that they misled the court that there were temporary injunctions when the same had lapsed by operation of law.
15. It was further averred that the Plaintiff was using ex parte orders to circumvent the law and that the application dated 2nd August 2022 was res judicata. Further that the orders of 3rd August 2022 were prejudicial to the 4th Defendant for denying the 4th Defendant who is the legitimate owner of the suit property its use.
 16. The 4th Defendant also averred that the orders of 3rd August 2022 were in conflict with the orders in Nairobi ELC No. 931 of 2013 and Nairobi Civil Appeal No. 158 of 2014 requiring the 4th Defendant to transfer 100 acres to the 1st Defendant. Therefore that the orders of 3rd August 2022 have put the 4th Defendant at the risk of disobeying court orders.
 17. The application was opposed. Mr. Julius Mutie Mutua an official of the Plaintiff filed a replying affidavit sworn on 1st September 2022. It was his case that Aimi Ma Lukenya Society was registered in 1962. He maintained that the suit land belongs to the Plaintiff having been registered in 1980. It was his averment that the title was subjected to forensic examination and it was found that the signature were not by the same person.
 18. It was the Plaintiff's position that the 4th Defendant sold the suit property to the Plaintiff in 1980 at Kshs. 5,000,000/-. That the Plaintiff filed ELC 74 of 2014 consolidated with Petition No. 10 of 2014 to stop the Defendants herein from grabbing the suit property. Further that there are several injunction orders against the 4th Defendant namely orders of 13th May 2016, 21st July 2016, 16th July 2018 and 26th March 2019.
 19. That on 18th September 2019, orders were issued directing the OCPD Athi River to enforce compliance of earlier orders and on 19th December 2019, the 4th Defendant issued notice to vacate. That on 10th July 2022, the 3rd Defendant's agents including CIPU, SGB and AP Officers, OCPD and OCS Athi River Police Division and Station respectively forcefully demolished structures belonging to the Plaintiff's members.
 20. On the issue of the application dated 2nd August 2022 being res judicata, he stated that the issues raised are different because the 3rd Defendant is not a party in ELC No. 74 of 2014 and that in the present suit, trespass was only on a part of the suit property and not the entire land as shown in ELC No. 74 of 2014. That the order in ELC No. 931 of 2013 was a consent judgment entered on 22nd August 2022 to transfer 100 acres to the 1st Defendant. That the consent was entered into despite the parties being aware of the pendency of this suit and that therefore the 1st and 4th Defendants are guilty of non disclosure of material facts.
 21. The 4th Respondent filed a further affidavit sworn by Florence Mitey on 26th September 2022 as a rejoinder to the Plaintiff's replying affidavit. They stated that it was not true that the Plaintiff was registered in 1962 as the certificate of registration was a forgery. The 4th Respondent pointed out that the certificate of registration showed that the registration was in 1962 pursuant to the Societies Rules, when those rules were enacted in 1968. Further that the certificate of registration does not bear the signature of the Registrar.
 22. The 4th Respondent pointed out that in their application for injunction dated 2nd August 2022, the title attached showed that the registered proprietor of the suit property was the 4th Defendant, but in the response herein, they now attached a title in their name. Further that the attached title under Entry No. 7 does not bear the signature of the Land Registrar and that therefore the same is a forgery. They stated that the Plaintiff relied on forged documents.



The Preliminary Objection dated 1st September 2022

23. The Preliminary Objection dated 1st September 2022 was filed by the 1st Defendant seeking to have the application dated 2nd August 2022 and the suit stayed on the following grounds;
- (1) The application dated 2nd August 2022 is res judicata, the same issues raised therein having been raised, heard and determined pursuant to the Plaintiffs' similar application dated 9th September 2014 in Machakos ELC No. 74 of 2014 Julius Mutie Mutua & 2 Others suing as officials of Aimi Ma Lukenya Society vs. East African Portland Cement Company Limited where the Plaintiffs are suing in the same capacity and were seeking the same orders.
 - (2) Application dated 2nd August 2022 is incurably defective for being res judicata contrary to the provisions of Section 7 of the [Civil Procedure Act](#) and accordingly ought to be struck out.
 - (3) The suit dated 2nd August 2022 is sub judice Machakos ELC NO. 74 of 2014 Julius Mutie Mutua & 2 Others suing as officials of Aimi Ma Lukenya Society vs. East African Portland Cement Company Limited where the Plaintiffs are suing in the same capacity seeking the same orders.
 - (4) This suit contravenes Section 6 of the [Civil Procedure Act](#) which bars this court from proceeding with the trial of any suit or proceeding in which the matter in issue is also directly and substantially in issue a previously instituted suit or proceedings between the same parties.
 - (5) This Honourable Court should therefore stay the proceedings in this suit pending the determination of Machakos ELC No. 74 of 2014.
24. The Preliminary Objection and the applications dated 2nd August 2022 and 18th August 2022 were canvassed together by way of written submissions. On record are the Plaintiffs' submissions dated 7th September 2022, the 1st Defendant's submissions dated 26th September 2022 and the 4th Defendant's submissions dated 1st September 2022. The court has duly taken into account all submissions filed.

Analysis and Determination

25. I have carefully considered the Preliminary Objection and the two applications, the supporting affidavits and replying affidavits as well as their respective annexures and the submissions filed by the parties. The issues that emerge for determination are;
- (a) Whether the Preliminary Objection is a proper Preliminary Objection.
 - (b) Whether the Preliminary Objection is merited.
 - (c) Whether the application dated 2nd August 2022 is res judicata.
 - (d) Whether the suit herein is sub judice.
 - (e) Whether the orders of 3rd August 2022 ought to be set aside, reviewed or varied.
 - (f) Whether the Plaintiff has met the threshold for grant of temporary injunction.
26. A Preliminary Objection is an objection to pleadings based on a pure point of law which flows from the pleadings where there is no dispute on the facts. A Preliminary Objection cannot be premised on



disputed facts. In the case of *Mukisa Biscuits Manufacturing Ltd vs. West Distributors* [1969] EA 969, the court observed as follows;

....a Preliminary Objection consists of a 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. Examples are an objection to the jurisdiction of the court or a plea of limitation or a submission that the parties are bound by a contract giving rise to the suit to refer the dispute to arbitration.

In the same Case Sir Charles Newbold P. stated as follows;

a Preliminary Objection is in the nature of what used to be 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. The improper raising of Preliminary Objections does nothing but unnecessarily increase costs and on occasion, confuse the issue, and this improper practice should stop.

27. Similarly, in *Hassan Ali Joho & Another vs. Suleiman Said Shabal & 2 Others* [2014] eKLR, the Supreme Court of Kenya stated as follows;

a Preliminary Objection consists of a 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.

28. It is therefore clear that a Preliminary Objection can only be raised where the point of law raised is not blurred by facts and is based on undisputed facts. Disposing a suit on a Preliminary Objection must be done with caution as parties are entitled to the non-derogable right to be heard on merit but at the same time, the court should be vigilant to safeguard itself from abuse of its processes.

29. From the Preliminary Objection filed by the 1st Defendant, it can be gleaned that their argument is that this suit is sub judice in view of the pendency of ELC No. 74 of 2014. They also argue that the application filed by the Plaintiff and dated 2nd August 2022 is res judicata as similar matters were raised in the application dated 9th September 2014.

30. Section 6 of the *Civil Procedure Act* provides for the doctrine of sub judice as follows;

Stay of Suit

No court shall proceed with the trial of any suit or proceedings 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 proceeding is pending in the same or any other court having jurisdiction in Kenya to grant the relief claimed.

31. In the case of *Kenya National Commission on Human Rights vs. Attorney General; Independent Electoral & Boundaries Commission & 16 Others (Interested Parties)* [2020] eKLR, the Supreme Court 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 case are filed between 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. A party that seeks to invoke the doctrine of sub judice must therefore establish that; there is more than one suit over the same subject matter; that one suit was instituted before the other; that both suits are pending before courts of competent jurisdiction and lastly; that the suits are between the same parties or their representatives.

32. It therefore follows that the sub judice rule aims to prevent abuse of the court process where parties file multiple suits against the same Defendants seeking the same orders. To prove sub judice, the party raising the same must show that;
- (a) The matter in issue is directly and substantially in issue in a matter filed earlier;
 - (b) That the proceedings in the previous suit are between the same parties or their representatives;
 - (c) That the previously instituted suit is pending in the same court or any other court having jurisdiction to grant the orders sought.

33. While the 1st Defendant has in the Preliminary Objection argued that this suit is sub judice, the face of the Preliminary Objection cannot and has not proved the elements under Section 6 of the [Civil Procedure Act](#) as no pleadings in the previously instituted suit can be presented to this court by way of Preliminary Objection. The ground of sub judice ought not be raised through a Preliminary Objection as evidence is required to prove the same.

34. On the issue of Res Judicata, Section 7 of the [Civil Procedure Act](#) bars this court from trying issues that have already been determined between the same parties or their representatives over the same subject matter by a court of competent jurisdiction. It provides as follows;

No court shall try any suit or issue in which the matter directly and substantially in issue in a former suit between the same parties, or between parties under whom they or any of them claim, litigating under the same title, in a court competent to try such subsequent suit or the suit in which such issue has been subsequently raised, and has been heard and finally decided by such court.

35. In the case of *The Independent Electoral and Boundaries Commission vs. Maina Kiai & 5 Others* [2017] eKLR, the court discussed the doctrine of Res Judicata as follows;

For the bar of res judicata to be effectively raised and upheld on account of a former suit, the following elements must 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 the 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.



36. In that case, the court proceeded to discuss the purpose of the doctrine of res judicata as follows;

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 commonsensical 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 or calumny. The foundations of res judicata thus rest in the public interest for swift, sure and certain justice.

37. To prove elements of res judicata as particularized in Section 7 of the *Civil Procedure Act*, there must be evidence of pleadings of a former suit and a final determination of a former suit, which will show that the issues in the subsequently filed suit were the same as those in the former suit; that the matter was between the same parties or their representatives over the same subject matter and that those issues were determined with finality by a court of competent jurisdiction. Proof of these elements cannot be done and was not done by the Preliminary Objection, which must only deal with pure points of law. Those elements can better be proved by way of affidavit supporting a notice of motion and not by a Preliminary Objection.
38. It is therefore my finding that the Preliminary Objection dated 1st September 2022 is not a proper Preliminary Objection as the same was based on contested facts. The contest being manifest in the Applications dated 2nd August 2022 and 18th August 2022. The Preliminary Objection having raised the twin questions of whether this suit is sub judice and whether the application dated 2nd August 2022 was res judicata was totally unnecessary and a waste of the courts precious time as the same issues were raised and adequately addressed by way of affidavits filed in respect of the applications dated 2nd August 2022 and 18th August 2022. If the 1st Defendant deemed it necessary to raise the issues also, he ought to have filed a Notice of Motion and filed the evidence proving the two doctrines. In the premises, as the Preliminary Objection is not a proper Preliminary Objection the same is struck out with costs.
39. The two applications herein have raised the issue of whether the application dated 2nd August 2022 is sub judice. The 1st Defendant and the 4th Defendant in their affidavits stated that the Plaintiffs filed an application dated 9th September 2014 seeking to injunct the 4th Defendant from interfering with LR No. 10424 pending hearing and determination of ELC No. 74 of 2014; and that that application was dismissed vide this court's ruling delivered on 31st October 2014.
40. The Plaintiff has on their part contended that the issues herein are not the same, as the trespass herein is only on part of the suit property and that the 2nd Defendant has been added as a party.
41. I have perused the ruling dated 31st October 2014 in ELC No. 74 of 2014, which is annexure marked FM-2 attached to the 4th Defendant's affidavit sworn on 24th August 2022. In the ruling, the Plaintiff therein is the Plaintiff herein and the Defendant is the 4th Defendant herein. The subject matter in that suit is LR No. 10424 and the issue in the application was whether the 4th Defendant should be injuncted from interfering with the suit property pending hearing and determination of that suit.
42. In the application dated 2nd August 2022, the issue for determination is whether the Defendants should be injuncted from interfering with the suit property. It is therefore my finding that the issue in the former application is directly and substantially the same as the issue in the application dated 2nd August 2022.



43. The subject matter in the former application and in the current application is the same; that is LR No. 10424. The court that dismissed the application dated 9th September 2014 is this court and it had jurisdiction to hear and determine that application. The only issue therefore raised by the Plaintiffs is that the parties are different because they have introduced the Attorney General herein alleging that their officers (police officers) assisted the 4th Defendant to demolish the Plaintiffs' houses. It is trite law that addition or substitution of parties to a subsequent suit cannot be used to circumvent the doctrine of res judicata.
44. In the case of *Rose Njeri Munoru & 13 Others vs. Hannah Mwihaki Muturi & 4 Others* [2016] eKLR, the court held that;
- Parties cannot evade the doctrine of res judicata by merely adding other parties on causes of action in a subsequent suit.
45. In view of the above, it is my finding that the Plaintiffs herein cannot evade the doctrine of res judicata on their application merely because police officers were alleged to have been involved and the Attorney General sued on their behalf.
46. The Plaintiff also took the view that because the alleged trespass in 2022 occurred on part of the suit land which prompted the application dated 2nd August 2022, while the application dated 9th September 2014 in ELC No. 74 of 2014 was in reference to trespass on the entire parcel, then the application herein was not res judicata. This argument is merely mischievous and only amounts to splitting hairs as the injunction sought in the current application is not on part of the suit land but on the entire land and it is immaterial if trespass is on part or the entire suit property. If this court dismissed a similar application for injunction in respect of an injunction sought to bar the Defendants from interfering with the entire suit property, then what justification would cause the court to change its mind just because now the trespass is just on a section of the suit property?
47. The dispute herein is basically between the Plaintiff and the 4th Defendant. The Attorney General comes in only on the basis that police officers were assisting the 4th Defendant's claim. The 1st Defendant's claim is through the 4th Defendant. Therefore, it is the finding of this court that the issue as to whether the Plaintiffs herein had met conditions for grant of temporary injunction as against the 4th Defendant in respect of the suit property was the same issue that was heard on merit and determined in ELC No. 74 of 2014. There is no allegation or evidence that that decision was set aside on appeal, varied, set aside or reviewed by this court and therefore that matter was determined with finality by a competent court and this court cannot entertain the same matter whether it is raised in the same suit or any other suit.
48. It is therefore my finding that the Plaintiffs' application dated 2nd August 2022 is res judicata and the same is hereby dismissed with costs to the 1st and 4th Defendants.
49. On whether this suit is sub judice, having set out the elements of sub judice earlier in this ruling, I note that the subject matter herein is the same as that in ELC No. 74 of 2014. That case is pending before this court. From the ruling of 31st October 2014, it is clear that the issue in ELC No. 74 of 2014 was ownership of LR No. 10424 as between the Plaintiff and the 4th Defendant. That is the same issue in this suit. The argument that new parties have been added herein is untenable as the Plaintiff is at liberty to add the new parties to the previously filed suit; namely ELC No. 74 of 2014, instead of filing another similar suit. There is no dispute that ELC No. 74 of 2014 is pending. Section 6 of the [Civil Procedure Act](#) provides that where a subsequent suit is filed in respect of the same issue and parties, the new suit should be stayed. It is therefore my finding that the 1st and 4th Defendants have proved



that this suit is an abuse of the court process, that the same is sub judice and I hereby order that the same be and is hereby stayed pending hearing and determination of Machakos ELC No. 74 of 2014 and Machakos ELC Petition No. 10 of 2018.

50. Orders accordingly.

DATED, SIGNED AND DELIVERED AT MACHAKOS VIRTUALLY THIS 1ST DAY OF MARCH, 2023 THROUGH MICROSOFT TEAMS VIDEO CONFERENCING PLATFORM

A. NYUKURI

JUDGE

In the Presence of;

Ms Wakoli for Plaintiff

Mr. Muturi for 4th Defendant

Ms Onchangwa holding brief for Mr. Nyacholi for 1st Defendant

No appearance for Attorney General

