



Okech (Suing on her own behalf and on behalf of the Estate of Joseph Okech Gari (Deceased)) v Onjema & 4 others (Environment & Land Case E21 of 2021) [2023] KEELC 18052 (KLR) (8 June 2023) (Judgment)

Neutral citation: [2023] KEELC 18052 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT SIAYA
ENVIRONMENT & LAND CASE E21 OF 2021
AY KOROSS, J
JUNE 8, 2023
[ORIGINALLY KISUMU ELC CASE NO. 52 OF 2020]**

BETWEEN

**SIPROSA ADERO OKECH PLAINTIFF
SUING ON HER OWN BEHALF AND ON BEHALF OF THE ESTATE OF
JOSEPH OKECH GARI (DECEASED)**

AND

**AGNES NYAMBARA ONJEMA 1ST DEFENDANT
EVERYNNES JOYCE KAWANGO 2ND DEFENDANT
GIFT NOELLE WANGO KAWANGO 3RD DEFENDANT
ANGELINE AKINYI ADUDA 4TH DEFENDANT
ATTORNEY GENERAL SUED ON BEHALF OF THE LAND REGISTRAR -
BONDO 5TH DEFENDANT**

JUDGMENT

Background of the case

1. The plaintiff is the widow of Joseph Okech Gari ('Joseph') who was registered as a tenant in common in equal shares together with his step brother one Odhoji Gari ('Odhoji') on land parcel no North Sakwa/Ajigo/1 ('suit property') which measured 13.8 Ha. Joseph and Odhoji are deceased.
2. She substituted the original plaintiff Henry Oloo Oketch ('Henry') who was Joseph's son. Henry had sued in his own personal capacity and on behalf of Joseph's estate. Upon his demise, the plaintiff substituted him. The 1st and 4th defendants are Odhoji's daughters and the beneficiaries of his estate in



respect of the one-half share of the suit property. The 4th defendant was the administrator of Odhoji's estate.

3. As administrator, the 4th defendant transferred Odhoji's one half share to herself before transferring it to his beneficiaries in accordance with the confirmed grant. The 1st and 4th defendants succeeded Odhoji's share in equal shares. All these took place on July 4, 2017.
4. Thereafter, the 1st and 4th defendants caused the severance of the tenancy in common and partitioned it into 3 portions; land parcels no North Sakwa/Ajigo/ 3015, 3016 and 3017. These properties shall collectively be referred as 'subdivisions'.
5. It would appear North Sakwa/Ajigo/ 3015 was registered as Joseph's one half share; there is no dispute on it. The 4th defendant was registered as the proprietor of North Sakwa/Ajigo/ 3016 while North Sakwa/Ajigo/ 3017 was registered in the 1st defendant's name. North Sakwa/Ajigo/ 3016 is currently registered in the names of the 2nd and 3rd defendants' who bought it from the 4th defendant.
6. Despite the attorney general filing a memorandum of appearance dated April 6, 2021, it did not file a defence.

Plaintiff's case

7. By way of a plaint dated August 13, 2020 and later amended on January 31, 2022, it was the plaintiff's case she had instituted the suit in her own capacity and as the administrator of the estate of Joseph. Beneficiaries of Joseph's estate included herself, her children, her grandson, her daughter in law and her sisters in laws (Joseph and Odhoji's 3 sisters).
8. According to the plaintiff, Joseph and Odhoji who were the sons of Gari Ngoga ('Ngoga') held the entire suit property in customary trust for the entire family of Ngoga who resided on the suit property. Ngoga had two homes; one in Alego Seje which had the homes of his 3 wives one of whom was Odhoji's mother and another on the suit property which had the homesteads of his 4 wives who were Joseph's mother one Owich Nyar Achola ('Owich') and her 3 co-wives. In total Ngoga had 7 wives. Odhoji was only entitled to an identifiable portion of 2 acres of the suit property.
9. She pleaded and particularised fraud against the defendants. In summary, the partition of the suit property was illegal and the 1st to 4th defendants were illegally registered as proprietors. The 5th defendant declined to register a caution that was lodged by the plaintiff.
10. The reliefs the plaintiff sought against the defendants were inter alia; permanent injunction restraining the defendants either by themselves or their authorised agents or assigns from alienating, trespassing, erecting beacons or a fence or in any other manner interfering with the plaintiff's quiet possession and occupation of their respective demarcated area comprised in the suit property; a declaration that entries 5 and 6 on the register of the suit property were irregular, void and should be cancelled; revocation of title documents on North Sakwa/Ajigo/ 3016 and 3017 and costs of the suit.

1st and 4th defendants' case

11. Their counsel on record, Omondi, Abande & Co advocates filed an amended defence dated June 23, 2022. They denied the averments made in the amended plaint and put the plaintiff to strict proof. They sought for dismissal of the suit.



2nd and 3rd defendants' case

12. By the firm of Odongo Awino & Co Advocates, the 2nd and 3rd defendants filed their defence dated October 23, 2020. They denied the averments made in the plaint, put the plaintiff to strict proof and stated they were strangers to the plaintiff's assertions.
13. It was their case the suit property was non-existent, they were bona fide purchasers for valuable consideration of North Sakwa/Ajigo/ 3016 which was unoccupied by the plaintiff, extended family or third parties. They prayed for dismissal of the suit with costs.

Plaintiff's evidence

14. Mary Jacinta Nyagwala testified as PW1. Her evidence was composed of her adopted witness statement dated August 13, 2020 and oral testimony. She was Ngoga's only child from his marriage with Herina Abor ('Herina'). She was born on the suit property in 1947.
15. The suit property was family land which was derived from Ngoga. Odhoji was only entitled to 2 acres which previously belonged to one of Ngoga's wives one Magdalena Oluoch Nyar Ouma ('Magdalena') who resided on the suit property. Magdalena was remarried. It was her testimony Odhoji's portion belonged to Ngoga's wives namely Herina, Magdalena and Adda Anyango together with Joseph's 1st and 2nd wives namely Rosalia Awuor and Angelina Onywera.
16. On cross examination, she testified the dispute was between Joseph and Odhoji's family. The 1st and 4th defendants had no portion in the suit property. She was unsure if she recorded her witness statement and some portions of it were untrue. Odhoji, his wife and son were buried on the suit property. She was seeking Herina's portion.
17. The plaintiff testified as PW2. Her testimony was contained in her oral testimony and adopted witness statements dated August 13, 2020 and January 31, 2022. She corroborated PW1's evidence in chief. In addition, the suit property was bequeathed to them upon Joseph's demise. Despite the suit property being wholly inherited by Joseph through Owich, Joseph accommodated extended family members including his mother, stepmothers and sisters.
18. During demarcation, Odhoji was erroneously registered as co-proprietor. Odhoji was only entitled to two acres. The rest of the suit property was tilled by Ngoga's 4 wives and her (plaintiff's family). During adjudication, Joseph and Odhoji were the only adult men on the suit property and were trustees of the whole family. The suit property belonged to her children.
19. On cross examination, she testified she was a representative of Joseph's estate. She wanted to distribute the suit property to her family. Ngoga was the initial owner. On re-examination, she testified the portions purchased by the 2nd and 3rd defendants were occupied by family members and the 4th defendant never sought her consent during partition.
20. Maurice Oyugi Oketch testified as PW3. His testimony was contained in his oral testimony and adopted witness statement dated August 13, 2020. He was Joseph's son. Several family members resided on the suit property. They had been given notice to vacate North Sakwa/Ajigo/3017. They were not involved in the partition process.
21. George Ouma Okech testified as PW4. His testimony was contained in his oral testimony and adopted witness statement dated August 13, 2020. He was Joseph's son. He lived in North Sakwa/Ajigo/3017. He was not aware how the partition took place. On cross examination, he testified the 1st and 4th



- defendants were entitled to one half portion. North Sakwa/Ajigo/3016 did not have houses but was being tilled.
22. Benta Ogombo Ochieng testified as PW5. Her testimony was contained in her oral testimony and adopted witness statement dated August 13, 2020. She was Ngoga's daughter from his marriage to Magdalena. Magdalena had resided on the suit property and had accommodated Odhoji. On cross examination, it was her testimony she had sought a portion of the suit property as Ngoga's daughter and the 1st and 4th defendants were entitled to a portion too.
 23. Henry Nyadenge Okwenda testified as PW6. His testimony was contained in his oral testimony and adopted witness statement dated August 13, 2020. Between 1974 to 1993, he had been the area Assistant chief of Ajigo sub-location in North Sakwa location. Joseph and Odhoji were known to him and was conversant with the suit property's occupancy. Joseph, Odhoji and their respective nuclear families resided on it. Herina also lived there.
 24. Odhoji's portion was located around the centre of the suit property, Joseph and his two wives on one side and Min Ochieng (one of Joseph's wives) and Herina on another far end. At adjudication, Joseph registered the suit property in his name and that of Odhoji as a block. It was for the benefit of Joseph's children and wives. On cross examination, it was his testimony the suit property was to be shared by Odhoji and Joseph.
 25. Jane Ajwang Ochieng testified as PW7. Her testimony was contained in her oral testimony and adopted witness statement dated August 13, 2020. She was Ngoga's daughter from his marriage with Magdalena. Despite Magdalena's relocation upon remarriage, she lived on the suit property prior to her (PW7's) marriage. On cross examination, it was her testimony the suit property was to be shared equally by Joseph and Odhoji. On re-examination, it was her testimony Odhoji took over Magdalena's portion which stood in the middle of the suit property and did not know how the suit property was to be apportioned.

Defendants' evidence

26. The 4th defendant testified as DW1. Her evidence was contained in her replying affidavit sworn on October 16, 2020 and oral testimony. The suit property was inherited from Ngoga by Joseph and Odhoji. PW3 consented to probate proceedings. Joseph's portion was intact. She had sought for a Land Control Board (LCB) consent. A land surveyor subdivided it. There was no fraud or illegal dealings with the land registry.
27. On cross examination, it was her testimony Joseph's family did not participate in the acquisition of the LCB consent. The land registrar executed documents on behalf of Joseph. Purchase by the 2nd and 3rd defendants took place after probate proceedings had concluded.
28. The 1st defendant testified as DW2. Her evidence was contained in her replying affidavit dated October 16, 2020 and oral testimony. She corroborated DW1's testimony. On the ground, Joseph's and Odhoji's portions were clearly demarcated but subdivision had not been done. On cross examination, it was her testimony the subdivision was done in the absence of Joseph's family.
29. The 2nd defendant testified as DW3. Her testimony was contained in her oral testimony and adopted witness statement dated August 13, 2020. She purchased North Sakwa/Ajigo/3016 measuring 3.45 Ha for Ksh 4,800,000/- from the 1st and 4th defendants and an agreement for sale was drawn up. The said portion had been vested upon the 1st and 4th defendants by a certificate of confirmation of grant dated January 11, 2017. An LCB consent had been obtained.



30. On cross examination, it was her testimony the purchase price in the LCB consent and agreement for sale varied. Though North Sakwa/Ajigo/3016 was vacant, she had not taken possession.

Plaintiff's submissions

31. Her counsel, Mr Nyanga, filed his written submissions dated April 17, 2023. He identified 3 issues for determination; (a) whether the plaintiff was the sole proprietor of the suit property; (b) whether the defendants were trespassers and (c) whether the plaintiff was entitled to the reliefs sought.
32. On the 1st issue, counsel submitted Joseph and Odhoji held the suit property as joint tenants. Probate proceedings on Odhoji's estate were marred with illegalities since it did not consider the actual occupancy of the parties. The 2nd and 3rd defendants could not be said to be innocent purchasers for value since they found houses located on the suit property and this was evident by the eviction notice issued by them. Counsel relied on Sections 91, 101, 102, 103 and 118 of the Land Registration Act and Isabel Chelangat v Samuel Tiro Rotich & 5 others [2012] eKLR where it was held: -

'The right of survivorship (*ius accrescendi*) means that when one joint owner dies, his interest in the land passes on to the surviving joint tenant. A joint tenancy cannot pass under will or intestacy of a joint tenant so long as there is a surviving joint tenant as the right of survivorship takes precedence. The four unities that must be present in a joint tenancy are

- (i) The unity of possession.
- (ii) The unity of interest.
- (iii) The unity of title.
- (iv) The unity of time.

Tenancy in common on the other hand is different from joint tenancy. In a tenancy in common, the two or more holders hold the property in equal undivided shares. Each tenant has a distinct share in the property which has not yet been divided among the co-tenants. [8] In other words they have separate interests only that it remains undivided and they hold the interest together. The largest factor that distinguishes a joint tenancy from a tenancy in common is the absence of the doctrine of survivorship in the latter. The share of one tenant is not affected by the death of one of the co-owners. The share of the deceased, devolves not to the other co-owner, but to the estate of the deceased co-owner. Although the four unities required for a joint-tenancy may be present, only one, the unity of possession is essential.'

33. On the 2nd issue, it was counsel's submission that the 1st and 4th defendants were only entitled to 2 acres of the suit property which was identifiable on the ground and had been in existence for over 40 years. Counsel submitted the plaintiff was entitled to the orders sought.

1st and 4th defendants' submissions

34. Despite directions from court, their counsel did not file written submissions. If at all they will be filed, this court will not consider them.

2nd and 3rd defendants' submissions

35. Their counsel, Mr Odongo filed written submissions dated April 17, 2023. Counsel identified the issues for determination as; (a) whether the plaintiff had the necessary locus standi (b) whether the plaintiff's suit was competent (c) whether the plaintiffs were entitled to the 1st and 4th defendants' share



- of the suit land (d) whether the 2nd and 3rd defendants were bona fide purchasers and (e) whether the plaintiff had proved her claim of trust.
36. On the 1st issue, counsel submitted the initial purported representative of Joseph's estate was Henry who had since died. It was not tenable for the plaintiff to purportedly pursue the suit on behalf of Joseph's estate by merely substituting Henry. Instead, she should have obtained grant on Joseph's estate.
 37. Counsel cited the case of *Julian Adoyo Ongunga & another v Francis Kiberenge Bondeva (suing as the administrator of the estate of Fanuel Evans Amudavi-deceased) [2016] eKLR* which stated the absence of locus standi rendered a suit null and void.
 38. On the 2nd issue, counsel submitted the suit offended the provisions of Order 2 Rule 10 of the *Civil Procedure Rules* since the plaintiff had failed to particularise trust. On the 3rd issue, counsel submitted as evidenced from probate proceedings, Joseph and Odhoji were tenants in common with separate and distinct shares.
 39. On the 4th issue, counsel submitted the purchase by the 2nd and 3rd defendants took place after the 1st and 4th defendants had obtained a certificate of confirmation of grant and therefore they could seek protection under Section 93 of the *Law of Succession Act*. On the 5th issue, counsel submitted the plaintiff had not proved customary trust and relied on the case of *Isack M'inanga Kiebia v Isaya Theuri M'lintari & another [2018] eKLR*.

5th Defendant's submissions

40. Its counsel, Ms Omondi, filed her written submissions dated April 5, 2023. The only issue she identified for determination was whether the plaintiff had proved fraud.
41. Relying on Section 107 of the *Evidence Act* and *Sarah Chesiele Barta v Kiplangat Barta & 2 others [2020] eKLR*, counsel submitted it was trite law he who alleges proves and fraud must be proved to the required standards. Counsel submitted there was no evidence the land registrar was a conduit of illegalities.

Analysis and determination

42. I have considered the pleadings, evidence by the parties including documents they produced in support of their respective cases as well as their rival submissions. Being guided by the provisions of law and judicial precedents that have been well articulated in counsels' submissions, I shall now proceed to consider the merits or otherwise of the case. The issues falling for determination are;
 - I. Whether the plaintiff's suit was competent.
 - II. Whether the plaintiff proved her claim of customary against the 1st and 4th defendants.
 - III. Whether the plaintiffs proved fraud and illegality against the defendants and whether the 2nd and 3rd defendants were innocent purchasers for value.
 - IV. What orders ought to issue.
 - V. Who shall bear costs.

I. Whether the plaintiff's suit was competent

43. The claim by Joseph's estate was in personum, appertained to land and the suit survived his death. Section 2(1) of the *Law Reform Act* stipulates that;



‘2. Effect of death on certain causes of action

- (1) Subject to the provisions of this section, on the death of any person after the commencement of this Act, all causes of action subsisting against or vested in him shall survive against, or, as the case may be, for the benefit of, his estate:

Provided that this subsection shall not apply to causes of action for defamation or seduction or for inducing one spouse to leave or remain apart from the other or to claims for damages on the ground of adultery.’

44. In the case of *Alfred Njau & 5 others v City Council of Nairobi [1983] eKLR*, the Court of Appeal, held: -

‘Locus standi’ literally means a place of standing and refers to the right to appear or be heard in Court or other proceedings and to say that a person has no locus standi means that he has no right to appear or be heard in such and such a proceeding.’

45. In a more recent decision by a court of concurrent jurisdiction in *Julian Adoyo Ongunga & another v Francis Kiberenge Bondeva (Suing as the Administrator of the Estate of Fanuel Evans Amudavi, Deceased) [2016] eKLR* the court stated: -

‘The impact of a party in a suit without locus standi can be equated to that of a court acting without jurisdiction since it all amounts to null and void proceedings. It is also worth-noting that the issue of locus standi becomes such a serious one where the matter involves the estate of a deceased person since in most cases the estate involves several other beneficiaries or interested parties.’

46. Henry’s grant on Joseph’s estate was not tendered before this court. However, from parties’ pleadings there was no dispute Henry properly represented Joseph’s estate. However, there was no evidence on record the plaintiff was ever appointed a representative of Joseph’s estate.

47. By the provisions of Order 3 Rule 7 of the Civil Procedure Rules, her personal capacity to sue was pegged on her representation of Joseph’s estate. The limited grant she obtained in respect of Henry’s estate was incompetent to maintain this suit. There being no such administrator appointed to represent Joseph’s estate, I find the suit against the defendants incompetent and I hereby strike it out. Had I not struck out the suit, I would have made my findings on the residual issues as enumerated below.

II Whether the plaintiff proved her claim of customary against the 1st and 4th defendants.

48. Section 24 (a) of the *Land Registration Act* states the registration of a person as the proprietor of land shall vest in that person absolute ownership together with all such rights and privileges thereto. Within Section 25 of this Act a registered proprietor holds title subject to leases, charges, encumbrances, conditions, restrictions, liabilities, rights and interests including overriding interests which have been recognised by Section 28 (b) of the same Act to include customary trusts.

49. As rightfully submitted by both counsels, the apex court settled the principle of customary trust. In this decision, the court analyzed previous decisions, repealed provisions of the Registered *Land Act* and those of the subsisting *Land Registration Act*. *Isaack M’Inanga Kiebia v Isaaya Theuri M’Lintari (Supra)* held in paragraph 52 as follows: -

‘We now declare that a customary trust, as long as the same can be proved to subsist, upon a first registration, is one of the trusts to which a registered proprietor...The categories of a



customary trust are therefore not closed. Each case has to be determined on its own merits and quality of evidence. It is not every claim of a right to land that will qualify as a customary trust. In this regard, we agree with the High Court in *Kiarie v Kinuthia*, that what is essential is the nature of the holding of the land and intention of the parties. If the said holding is for the benefit of other members of the family, then a customary trust would be presumed to have been created in favour of such other members, whether or not they are in possession or actual occupation of the land. Some of the elements that would qualify a claimant as a trustee are:

1. The land in question was before registration, family, clan or group land
2. The claimant belongs to such family, clan, or group
3. The relationship of the claimant to such family, clan or group is not so remote or tenuous as to make his/her claim idle or adventurous.
4. The claimant could have been entitled to be registered as an owner or other beneficiary of the land but for some intervening circumstances.
5. The claim is directed against the registered proprietor who is a member of the family, clan or group.’ Emphasis added.

50. The Court of Appeal in the case of *Juletabi African Adventure Limited & another v Christopher Michael Lockley [2017] eKLR* held: -

‘The law never implies, the Court never presumes, a trust, but in case of absolute necessity. The Courts will not imply a trust save in order to give effect to the intentions of the parties. The intention of the parties to create a trust must be clearly determined before a trust will be implied.’

See *Gichuki vs Gichuki [1982] KLR 285* and *Mbothu & 8 Others vs Waitimu & 11 Others [1986] KLR 171.*’

51. These provisions of law and settled decisions affirm that customary trust is an encumbrance on land, it is not noted in the register of the subject land, possession and occupation is irrelevant and each case has to be determined based on the quality of evidence adduced.
52. I disagree with Mr Odongo that the plaintiff’s claim was on breach of trust. It was on customary trust which was an overruling interest and the plaintiff could claim it notwithstanding Odhoji’s estate had been wound up.
53. It was common ground the suit property before demarcation belonged to Ngoga. It was common ground Joseph and Odhoji resided on the suit property. The plaintiff’s witnesses were consistent Ngoga’s four wives; Owich, Herina, Magdalena and Adda Anyango resided on the suit property. This was not controverted. Magdalena was remarried and her daughters (PW5 and PW7) were left behind and had resided on the property. All witnesses were silent on the whereabouts of Adda Anyango or her descendants. PW1 was Herina’s daughter and she sought Herina’s portion.
54. Evidence that Joseph and Odhoji were the only male representatives at the time of adjudication hence their registration was not controverted. Had I not struck out the suit, I would have found that subject to prove of where their respective homesteads stood or once stood, either Joseph and or Odhoji held their respective one half share of the suit property in trust for Magdalena’s children with Ngoga and for Herina’s daughter. See *Isaack M’Inanga Kiebia v Isaaya Theuri M’Lintari (Supra)*.



55. As for customary trust between Joseph and Odhoji, I would have found that both were adults and present at the time of adjudication. Their intention was made clear which ascertained their customary rights over a particular portion and size of the suit property. By nature of their registration as tenants in common, they each held an undivided and distinct share in the suit property subject to the overriding customary rights earlier highlighted in this judgment. See *Isabel Chelangat v Samuel Tiro Rotich* (Supra).
56. I would have found it was never the intention of Joseph and Odhoji to hold their respective one-half share of the suit property in trust for each other.

III. Whether the plaintiffs proved fraud and illegality against the defendants and whether the 2nd and 3rd defendants were innocent purchasers for value.

57. By Section 26 (1) of the [Land Registration Act](#), a title can be challenged on grounds of fraud or misrepresentation to which the person is proved to be a party; or where the certificate of title had been acquired illegally, unprocedurally or through a corrupt scheme. Section 80 of this Act allows the court to order an amendment or cancellation of title.
58. In the well cited Court of Appeal decision of [Arthi Highway Developers Limited v West End Butchery Limited & 6 others \[2015\] eKLR](#), the court held fraud must be specifically pleaded and proved higher than a balance of probability but not beyond reasonable doubt. Since fraud involves trickery, cunningness, dissembling, and other unfair way used to cheat someone, it would have been my finding the plaintiff had not proved fraud to the required standards.
59. Albeit the plaintiff merely making a header of fraud in her particularization of fraud and illegality, she particularized illegality in the manner which the 5th defendant registered the 1st and 4th defendants as proprietors of Odhoji's one-half share of the suit property.
60. Odhoji's estate was administered pursuant to probate proceedings. Odhoji's one half share was transmitted to the 4th defendant as the administrator of his estate by transmission before its transfer to the 1st and 4th defendants as beneficiaries. This was done pursuant to an order of the court and complied with Sections 61 (1) and (2) of the [Land Registration Act](#). I would have found these entries were not illegal.
61. A tenancy in common can be severed by consent of all the tenants, by some of them or by an individual tenant or by sale. In considering an application, the land registrar considers several factors such as nature and location of the land and interests of the tenants who were not interested in severance.
62. The 1st and 4th defendants were required to make an application in the prescribed form. If it was done without the consent of the co-tenant, the land registrar was required to notify the non-consenting tenant on the hearing of the application for severance. See Sections 94 and 95 of the [Land Registration Act](#) and Regulations 45 and 46 of the Land Registration (General) Regulations 2017.
63. There was no evidence these laid down procedures were adhered to in partitioning the suit property. I would have found the partitioning was illegal and cancelled all entries subsequent to the registration of the 1st and 4th defendants as proprietors. See the recent Supreme Court of Kenya decision of [Petition no. 8 \(E010\) of 2021 Dina Management Limited v. County Government of Mombasa & 5 others](#) where the apex court held courts cannot turn a blind eye on an illegality.
64. I would have found the 2nd and 3rd defendants were not innocent purchasers for value since they entered an agreement for sale without first ensuring the 1st and 4th defendants had secured a consent to sale from



Joseph's estate; at the date of the agreement the suit property had not been partitioned. See Section 91 (6) of the *Land Registration Act*.

65. It is trite law costs follow the event, because of the special circumstances of this case where the plaintiff and 1st and 4th defendants are close family relations, each party shall bear their respective costs of this suit. Ultimately, I hereby issue the following disposal orders: -

- a. The plaintiff's suit is hereby struck out.
- b. Each party shall bear their respective costs of this suit.

66. Orders accordingly.

DELIVERED AND DATED AT SIAYA THIS 8TH DAY OF JUNE 2023.

HON. A. Y. KOROSS

JUDGE

08/06/2023

Judgment delivered virtually through Microsoft Teams Video Conferencing Platform in the Presence of:

Mr. Nyanga for the Plaintiff

N/A for the 1st and 4th defendants

M/s Awuor Adipo h/b for Mr. Odongo for the 2nd and 3rd defendants.

N/A for 5th defendant

Court assistant: Ishmael Orwa

