



**Takdir (Suing as the Administrator of the Estate of the Late Khamis Mohammed Takdir) v Kiembeni Baptist Primary School & 6 others (Environment & Land Case 144 of 2022) [2023] KEELC 20403 (KLR) (3 October 2023) (Ruling)**

Neutral citation: [2023] KEELC 20403 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT MOMBASA  
ENVIRONMENT & LAND CASE 144 OF 2022  
LL NAIKUNI, J  
OCTOBER 3, 2023**

**BETWEEN**

**SALIM KHAMIS MOHAMMED TAKDIR (SUING AS THE ADMINISTRATOR OF THE ESTATE OF THE LATE KHAMIS MOHAMMED TAKDIR) PLAINTIFF**

**AND**

**KIEMBENI BAPTIST PRIMARY SCHOOL ..... 1<sup>ST</sup> DEFENDANT  
CHIEF NICOLAS KAMBUCHU KIEMBENI BAPTIST CHURCH OF  
KENYA ..... 2<sup>ND</sup> DEFENDANT  
ANGLIGAN CHURCH OF KENYA ..... 3<sup>RD</sup> DEFENDANT  
CATHOLIC CHURCH OF KENYA ..... 4<sup>TH</sup> DEFENDANT  
SAFARICOM COMPANY LIMITED ..... 5<sup>TH</sup> DEFENDANT  
PETRO CITY LIMITED ..... 6<sup>TH</sup> DEFENDANT  
LAND REGISTRAR, MOMBASA ..... 7<sup>TH</sup> DEFENDANT**

**RULING**

**I. Introduction**

1. The Ruling of this Honourable Court relates to the objection raised by the 6<sup>th</sup> Defendants herein – “Petro City Limited”. The objection seeks to have the Plaintiff’s suit to be struck out on the following grounds:-
  - a. The suit is time barred, having been filed after the lapse of the statutory period set out under Section 7 of the Limitations of Actions Act, Cap 22.



- b. Therefore, this Honourable Court does not have Jurisdiction to entertain the suit herein.

## II. Court's directions on submissions

2. On 16<sup>th</sup> March, 2023, the Honourable Court directed That the parties canvass the Notice of Preliminary Objection dated 25<sup>th</sup> January, 2023 by way of written submissions. Having satisfied itself That the parties had complied with the directions on 15<sup>th</sup> May, 2023, the Honourable Court set down the Preliminary objection for a ruling on notice.

### A. The Written Submissions By The 6<sup>th</sup> Defendant

3. The 6<sup>th</sup> Defendant through the law firm of Messrs. Munyao Muthama & Kashindi Advocates filed their written submissions dated 15<sup>th</sup> May, 2023. Mr. Amakobe Advocate commenced by stating That the submissions were pursuant to the directions of the Honourable Justice L.L. Naikuni on 16<sup>th</sup> March, 2023. These were the written submissions in support of the Notice of Preliminary Objection dated 25<sup>th</sup> January, 2023 by 6<sup>th</sup> Defendant and filed in Court on 27<sup>th</sup> January, 2023.
4. The Learned Counsel submitted That by the said Notice of Preliminary Objection, the 6<sup>th</sup> Defendant sought the Plaintiff's suit to be struck out on grounds That:-
  - a. The suit was time-barred, having been filed after the lapse of the statutory period set out under the provision of Section 7 of the *Limitation of Actions Act*, Cap.22.
  - b. Thus, this Honourable Court does not have jurisdiction to entertain the suit herein.
5. According to the Learned Counsel, flowing from the aforestated grounds, the following issues fell for determination in the Preliminary Objection dated 25<sup>th</sup> January, 2023 by the 6<sup>th</sup> Defendant's:
  - i. Whether the 6<sup>th</sup> Defendant Notice of Preliminary Objection was sustainable; and
  - ii. Whether the 6<sup>th</sup> Defendant Notice of Preliminary Objection was merited.
6. To begin with, the Learned Counsel submitted That without belabouring the issue of what constitutes a preliminary objection, it was well settled That a preliminary objection consists of points of law That have been pleaded or which arise by clear implication out of pleadings and which if argued as a preliminary point may dispose of the suit. He argued That no probing of evidence before the Court was required in order for the preliminary objection to be proved.
7. The Learned Counsel argued That from the above position, they were guided by a long line of the decisions by the Court of Appeal and the Supreme Court of Kenya on what constituted a preliminary objection as observed in the succinct discourse led at Paragraphs 35 to 40 in the case of "David Nyekorach Matsanga & Another – Versus - Philip Waki & 3 Others [2017] eKLR".
8. The Preliminary Objection herein raises points of law in regards to whether of Section 7 of the Limitations of Actions Act Cap. 22. He indicated That the grounds for raising the objection was founded under the contents of the filed Plaint dated 25<sup>th</sup> November, 2022 and at Paragraph 14 of the undated Witness Statement. Thus, the 6<sup>th</sup> Defendant's Preliminary Objection was sustainable and should be disposed of at the earliest opportunity and in priority to any other proceedings before the Court.
9. Further, on the issue of whether the Notice of Preliminary Objection was merited, the Learned Counsel submitted That the provisions of Section 7 of the *Limitation of Actions Act*, Cap. 22 stated That an action for recovery of land may not be brought after the end of twelve (12) years from the



date on which the right of action accrued to him or it first accrued to some persons through whom he claimed, to That person. In addition, the provisions of Section 26 of *Limitation of Actions Act*, Cap. 22 was instructive in That an action based upon the fraud of the Defendant, the period of limitation never begun to run until the Plaintiff had discovered the fraud or could with reasonable diligence have discovered it.

10. Guided by the above principles, the Learned Counsel submitted That the Plaintiff's suit being one for recovery of land could only have been brought to Court before the expiry of the twelve (12) years from when such an action accrued and/or 12 years from when the Plaintiff claimed to have discovered the alleged fraudulent activities over the suit property. The Plaintiff had pleaded at Paragraph 20 of the Plaintiff and at Paragraph 14 of his Witness Statement That he became aware of the Defendant's alleged fraudulent activities in respect of the suit property in the year 2001.
11. On the basis of such averments made out by the Plaintiff, it was evident That the suit herein was statute-barred by dint of the provisions of Sections 7 and 26 of Limitation of Action Cap. 22 because over 21 years had already elapsed from the year 2001 when the Plaintiff allegedly discovered the fraudulent activities to the time of filing of the present suit. The Counsel argued That the question of whether or not the Plaintiff's suit was barred by statute on account of limitation went to the Jurisdiction of the Court to entertain the suit. The same could be derived and/or clearly implicated from the pleadings before the Court without any probe as to evidence. Thus, the Learned Counsel submitted That the Court lacked the jurisdiction to entertain the Plaintiff's suit and should take no further step as there was no further basis for sustaining the suit herein.
12. The above notwithstanding, the Learned Counsel argued That based on the provisions of Order 8 Rule 3 of the Civil Procedure Rules, 2010 clothed the Court with discretion to allow amendments to pleadings at any stage of the proceedings and That where an application to the Court for leave to make an amendment was made after any relevant period of limitation current at the date of filing of the suit had expired, the Court may nevertheless grant such leave in the circumstances if it thinks just so to do.
13. To buttress the point, the Learned Counsel referred to the case of "James Ochieng' Oduol T/A Ochieng Oduol & Co.(Supra)" with an Appeal against a Trial Court's decision allowing amendments after a Defence had been filed, rendered itself as follows:

"It is quit clear from decided cases That a trial court has power to allow amendments of a Plaintiff disclosing no cause of action (See *Motokov – Versu - Auto Garage Ltd. And Another* [1971]EA.353. In special circumstances amendment of a plaintiff may be allowed, notwithstanding That the effect will be to defeat a defence of limitation (*Barclays Bank D.C.O. - Versus - Shamsudin* [1973] E.A. 451). However, such amendments can only be allowed where peculiar circumstances are present.

What are the circumstances in this case? We earlier reproduced Paragraph 5 of the plaintiff. It said nothing about republication of the alleged defamatory words. It was not until a defence was filed alleging That no action lies and further denying publication, That the Respondent moved the trial court for leave to amend the plaintiff. The facts which were introduced in the amended Plaintiff were not new. The Respondent was all along aware of them but failed to plead them in the Plaintiff. The amendment appears to have been allowed in effect to aid a negligent pleader. The provisions of Order VIA Rule 5 (1) of the Civil Procedure Rules are not intended to aid a negligent pleader, more so where its effect will be to defeat an accrued Defence. A careful reading of Order VIA Rule 3 of the Civil Procedure Rules clearly shows That amendments to defeat an accrued defence may only be allowed in exceptional and peculiar circumstances, which in our view are lacking here. We appreciate



That particulars were requested for and furnished; and That by dint of the provisions of Order VI Rule 8 (b), the particulars now form part of the pleadings. However, in a case as this one where a Plaintiff is reacting to a defence raised, the court should be slow in allowing amendments to the Plaintiff which prima facie have the effect of defeating That defence. In exercising his discretion in this matter, Visram, J. failed to appreciate this fact and for That reason we think That he erred. Consequently, we allow the appeal, set aside the order allowing the amendment of the Plaintiff and substitute therefor an order dismissing the Respondent's application for leave to amend the Plaintiff, dated 4<sup>th</sup> January, 2000 with costs both of this appeal and the application to abide the outcome of the respondent's suit in the High Court."

14. Guided by the above legal principles, the Learned Counsel submitted That in choosing whether to exercise its discretion to freely allow amendments, the Honourable Court is hamstrung in the face of several insurmountable hurdles obtaining in the suit herein which point towards disallowing the amendments sought by the Plaintiff.
15. Firstly, from the instant case, there was no Amended Plaintiff on the Court Record. When parties appeared before the Court on 16<sup>th</sup> March, 2023, the Plaintiff made an application That he had amended his Plaintiff dated 25<sup>th</sup> November, 2022 and thus he sought leave to have the same deemed as duly filed. However, the Honourable Presiding Judge confirmed to the Plaintiff That the said Amended Plaintiff was not on Court Record and thus the same was not filed.
16. As it stood, there was no Amended Plaintiff on the court record as confirmed by the Court and there was also no evidence of service of the same upon the 5<sup>th</sup> Defendant. Therefore, the Court was solely seized with the disposal of the Notice of Preliminary Objection as raised against the institution of the Plaintiff's suit commenced vide the Plaintiff dated 25<sup>th</sup> November, 2022. Nonetheless, the Learned Counsel stated for argument sake, even if there was an Amended Plaintiff on the Court record, the same had been filed without the leave of Court because by dint of the provisions of Order 2 Rule 13 of the Civil Procedure Rules, 2010 the filing of pleadings in the suit herein closed 14 days after the 6<sup>th</sup> Defendant filed its statement of defence dated 25<sup>th</sup> January, 2023 on 27<sup>th</sup> January, 2023.
17. Secondly, the Learned Counsel submitted That even assuming there was a duly filed Amended Plaintiff on record, the purported amendments sought by the Plaintiff were provoked by the filing and service of the 6<sup>th</sup> Defendant's Statement of Defence and Notice of Preliminary objection which raised points of law That the Plaintiff's suit was barred by statute on account of limitation of time.
18. Indeed, a perusal of the Court Record would show That it took the Plaintiff over 2 months for them to seek amendments to the Plaintiff and even more importantly, only after having placed sight to the 6<sup>th</sup> Defendant's pleadings and Notice of Preliminary Objection. It was from That juncture That they hastened to amend the Plaintiff so as to bring his claim within the period of limitations. The Learned Counsel submitted That the Court ought to be slow in granting the proposed amendments by the Plaintiff as they would enable the Plaintiff to maliciously alter the nature of the suit as well as the original cause of action in the Plaintiff so as to defeat an accrued defence of the 6<sup>th</sup> Defendant. The Plaintiff was clearly reacting to a defence raised by the 6<sup>th</sup> Defendant and hence he prayed for the Court to disallow such amendments to the Plaintiff. Thirdly, the amendments sought by the Plaintiff were aimed at altering the averments made out at Paragraph 20 of the Plaintiff and Paragraph 14 of the Witness Statement of the Plaintiff so as to bring the Plaintiff's suit within the period of limitations.



19. The Counsel opined That the question That one would beg was whether such facts which the Plaintiff sought to introduce in the Amended Plaintiff were new and whether the Plaintiff was aware of them but failed to plead in the Plaintiff. The Learned Counsel submitted That in the affirmative.
20. The Learned Counsel submitted That the Plaintiff exhibited laxity in preparing pleadings for the institution of the suit herein. It was routine practice and trite law That the issue of jurisdiction was at the front and centre to any litigant who was preparing pleadings before the Court. Even more so, the Court being an Environment and Land Court and the Plaintiff's suit being a suit for recovery of land such an issue of period of limitations was inescapable to the Plaintiff. The Plaintiff was acting mala fides in seeking amendments only after the filing of a defence which raised the issue of limitations. The alleged blunder by the Plaintiff was bound to cause injury to the 6<sup>th</sup> Defendant which could not be compensated by the payment of costs or otherwise because the 6<sup>th</sup> Defendant shall have to abandon its accrued defence contained in its Statement of Defence dated 2<sup>nd</sup> May, 2023 and be forced to defend a new and inconsistent cause of action That would directly affect its vested interests or accrued legal rights at the time of filing the Plaintiff dated 25<sup>th</sup> November, 2022.
21. To the extent of the foregoing, the Learned Counsel humbly submitted That the Court allows the 6<sup>th</sup> Defendant's preliminary objection as prayed. By the Court allowing the same, two purposes of shielding the Defendants herein against the profligate deployment of time and other resources only to deserving litigants shall have been served.
22. Consequently, the Learned Counsel prayed for the Court to find and hold That the Plaintiff's suit is statute barred and the 6<sup>th</sup> Defendant's Notice of Preliminary objection be allowed as prayed and the suit herein be dismissed with costs to the 5<sup>th</sup> Defendant.

### III. Issues for determination

23. I have considered the gist of both the preliminary objection as well as That of the Notice of Preliminary objection application thereon, the relevant constitutional and statutory frameworks together with the prevailing jurisprudence on the key question falling for determination in the preliminary objection. Ideally, the salient issues for determination are three (3) namely:-
  - a. Whether the objections raised by the 6<sup>th</sup> Defendant herein meets the threshold of a Preliminary objection and if so is merited.
  - b. Whether the 6<sup>th</sup> Defendant is entitled to the relief sought from the raised objection, and what are the further directions of the Court thereof.
  - c. Who will bear the costs of the objection.

### IV. Analysis and Determination

#### ISSUE No. a). Whether The Objections Raised By The 6<sup>th</sup> Defendant Herein Meets The Threshold Of A Preliminary Objection And If So Is Merited.

24. In the case of:- "Mukisa Biscuit Manufacturing Limited – Versus - West End Distributors [1969] EA 696", the Court of Appeal defined a Preliminary Objection as follows;

“So far as I am aware, a preliminary objection consists of a point of law which has been pleaded, or which arises by clear implication out of pleadings, and if 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 the contract giving rise to the suit to refer the dispute to arbitration.

...A Preliminary Objection is in the nature of what used to be a 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 had to be ascertained or if what is sought is the exercise of judicial discretion.”

25. In the case of “Republic – Versus - Eldoret Water & Sanitation Company Ltd Ex - Parte Booker Onyango & 2 Others (2007) eKLR”, the Court stated That an Objector cannot introduce any factual dispute or controversy and must stick to pure points of law.
26. Therefore, a Preliminary Objection can only be premised on undisputed facts, must raise pure points of law and cannot be raised where facts have to be ascertained or where the Court is asked to exercise judicial discretion. For a Preliminary Objection to be maintained, the pure points of law raised must sprout from the pleadings. In the case of “Avtar Singh Bhamra & Ano. – Versus - Oriental Commercial Bank HCC No 53 of 2004”, the Court stated as follows:-

“ A preliminary objection must stem or germinate from the pleadings filed by the parties and must be based on pure points of law with no facts to be ascertained.”

27. The 6<sup>th</sup> Defendant has stated in the Preliminary objection That the suit is time barred after the lapse of the statutory period set out under the provision of Section 7 of the Limitations of Actions Act, Cap 22.
28. The question of limitation is a question That go to the jurisdiction of this Court. It is a clear point of law, which if argued as preliminary point may dispose of the suit. In the case of: “Bosire Ongero – Versus - Royal Media services [2015] eKLR, the Court stated That the question of limitation touches on the jurisdiction of the Court, which means That if a matter is statute barred, the Court would lack jurisdiction to entertain it. I therefore find and hold That the Preliminary Objection raised in the instant case is on a point of law, and the same is validly and properly taken.

**ISSUE No. b). Whether The 6<sup>th</sup> Defendant Is Entitled To The Relief Sought From The Raised Objection, And What Are The Further Directions Of The Court Thereof.**

29. Under this sub heading, the Honourable Court wishes to assess the merit of the objection raised by the 6<sup>th</sup> Defendant in the instant case. From the pleadings, the 6<sup>th</sup> Defendant argued That there is no Amended Plaintiff on the Court Record. When parties appeared before the Court on 16<sup>th</sup> March, 2023, the Plaintiff made an application That he had amended his Plaintiff dated 25<sup>th</sup> November, 2022 and thus he sought leave to have the same deemed as duly filed. However, the Honourable Presiding Judge confirmed to the Plaintiff That the said Amended Plaintiff was not on Court Record and thus the same was not filed. The Learned Counsel for the 6<sup>th</sup> Defendant submitted That the provisions of Section 7 of Cap. 22 state That an action for recovery of land may not be brought after the end of 12 years from the date on which the right of action accrued to him or it first accrued to some persons through whom he claims, to That person. In addition, the provisions of Section 26 of Cap. 22 are instructive That in an action based upon the fraud of the Defendant, the period of limitation does not begin to run until the Plaintiff has discovered the fraud or could with reasonable diligence have discovered it.
30. The 6<sup>th</sup> Defendant contended That the provisions of Section 7 of Cap. 22 state That an action for recovery of land may not be brought after the end of 12 years from the date on which the right of action accrued to him or it first accrued to some persons through whom he claims, to That person. In addition, the provisions of Section 26 of the Limitation of Action Cap. 22 are instructive That in an



action based upon the fraud of the Defendant, the period of limitation does not begin to run until the Plaintiff has discovered the fraud or could with reasonable diligence have discovered it. The Plaintiff has pleaded at paragraph 20 of the Plaintiff and at paragraph 14 of his Witness Statement That he became aware of the Defendant's alleged fraudulent activities in respect of the suit property in the year 2001. On the basis of such averments of the Plaintiff, it is evident That the suit herein is statute-barred by dint of the provisions of Sections 7 and 26 of Cap.22 because over 21 years have elapsed from the year 2001 when the Plaintiff allegedly discovered the fraudulent activities to the time of filing the present suit. The Plaintiff had not controverted these averments.

31. A Preliminary Objection is a pure point of law raised on undisputed facts from pleadings. The question as to when the cause of action arose can be answered from the pleadings. I have perused the pleading in the instant case. I agree with the 6<sup>th</sup> Defendant That the Plaintiff at paragraph 20 of the Plaintiff and at paragraph 14 of his Witness Statement That he became aware of the Defendant's alleged fraudulent activities in respect of the suit property in the year 2001.

32. A cause of action is a set of facts sufficient to justify a right to sue to obtain money, property or the enforcement of a right against another party. It also refers to a legal theory upon which a Plaintiff brings suit. See "Dickson Ngige Ngugi (supra)". In the case of "Edward Moonge Lengusuranga – Versus - James Lanaiyara & Another [2019] e KLR", it was held as follows:-

“Section 7 of the Limitation of Actions Act, provides That an action to recover land may not be brought after the end of twelve years from the date on which the right accrued. This means That the first Defendant having bought the suit land in the year 1999 (as per Paragraph 6 of the Plaintiff) and taken possession of the same, the Plaintiff herein could only seek to recover it from the 1st Defendants, but only if he did so within twelve years after the Sale Agreement.”

33. In view of the undisputed facts in both the Plaintiff and the Defence, I find That the causes of action in respect of the suit property arose in 2001. The provision of Section 7 of the Limitation of Actions Act, Cap. 22 provides as follows:-

“An action may not be brought by any person to recover land after the end of twelve years from the date on which the right of action accrued to him or, if it first accrued to some person through whom he claims, to That person.”

34. The purpose of the Law of Limitation was stated in the case of "Mehta – Versus - Shah [1965] E.A 321", as follows;

“The object of any limitation enactment is to prevent a Plaintiff from prosecuting stale claims on the one hand, and on the other hand protect a Defendant after he has lost evidence for his defence from being disturbed after a long lapse of time. The effect of a limitation enactment is to remove remedies irrespective of the merits of the particular case.”

35. In the case of "Gathoni – Versus - Kenya Co-operative Creameries Ltd [1982] KLR 104", the Court of Appeal held as follows;

“The Law of Limitation of Actions is intended to protect Defendants against unreasonable delay in the bringing of suits against them. The statute expects the intending Plaintiff to exercise reasonable diligence and to take reasonable steps in his own interest.”



36. A suit barred by limitation is a claim barred by law, hence by operation of law, the Court cannot grant the relief sought. In the case of “Iga – Versus - Makerere University [1972] EA”, the Court had this to say on the Law of Limitation;

“A Plaintiff which is barred by limitation is a Plaintiff barred by law. Reading these Provisions together it seems clear That unless the Applicant in this case had put himself within the limitation period by showing grounds upon which he could claim exemption, the Court shall reject his claim. The Limitations Act does not extinguish a suit or action itself, but operates to bar the claim or remedy sought for and when a suit is time barred the Court cannot grant the remedy or relief sought.”

37. The provision of Section 7 of the Limitation of Actions Act, Cap. 22 provides That an action for recovery of land may not be brought after the lapse of 12 years from the date the right of action accrued to the Plaintiff. Therefore, the averments made at paragraph 20 of the Plaintiff and paragraph 14 of the Witness Statement of the Plaintiff, the limitation period lapsed in 2013. Essentially therefore, the Plaintiff’s suit having been filed the Plaintiff dated 25<sup>th</sup> November, 2022.

38. The provision of Section 26 of the Limitation of Actions Act provide as follows:-

“Where in the case of an action for which a period of limitation is prescribed, either-

- (a) The action is based upon the fraud of the Defendant or his agent, or of any person through whom he claims or his agent; or
- (b) The right of action is concealed by the fraud of any such person as aforesaid; or
- (c) The action is for relief from the consequences of a mistake, the period of limitation does not begin to run until the Plaintiff has discovered the fraud or the mistake or could with reasonable diligence have discovered it.

39. I have perused the Plaintiff in this matter. I note That fraud is pleaded in paragraph 20 of the plaintiff and in the circumstances therefore, I find and hold That Section 26 of the Limitation of Actions Act is applicable in this matter as fraud is pleaded by the Plaintiff.

40. Thus, in the instant case, it is evident That the Plaintiff filed made a claim That is time barred. Pursuant to this, the said suit has been struck out from the adduced reasons and justifications from this ruling. Resultantly, it will only be fair and just to award them costs of the lawsuit to be borne by the 6<sup>th</sup> Defendant.

#### **ISSUE No. c). Who Will Bear The Costs Of The Objection**

41. It is trite law That costs is at the discretion of the Court. Costs means the award That a party is granted at the conclusion of a legal action or proceeding in any litigation. The proviso of the Section 27 ( 1 ) of the Civil Procedure Act, Cap. 21 holds That costs follow the events. By the events it means the result or outcome of the said legal action.

42. In the instant case, the preliminary objection raised by the 6<sup>th</sup> Defendant herein has been found to have strong legal basis. Hence, the 6<sup>th</sup> Defendant is entitled to costs of the objection and the filed suit.



## **V. Conclusion & Disposition**

43. Having conducted an in depth analysis of the framed issues herein, the Honourable Court proceeds to make the following findings. Specifically, these are: -
- a. That the Notice of Preliminary Objection dated 25<sup>th</sup> January, 2023 raised by the 6<sup>th</sup> Defendant herein be and is hereby found to have merit and hence allowed accordingly.
  - b. That an order be and is hereby made striking out of the suit instituted by the Plaintiff pursuant the lapse of the statutory period set out under Section 7 of the Limitations of Actions Act, Cap 22.
  - c. That based on the aforesaid orders, this matter be and is hereby closed.
  - d. That the costs of the objection and this matter to be awarded to the 6<sup>th</sup> Defendant to be borne by the Plaintiff.

It is so ordered accordingly.

**RULING DELIVERED THROUGH MICROSOFT TEAMS VIRTUAL MEANS SIGNED AND DATED AT MOMBASA THIS 3<sup>RD</sup> DAY OF OCTOBER.2023.**

**HON. JUSTICE L. L. NAIKUNI**

**ENVIROMNENT AND LAND COURT AT MOMBASA**

