REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT OF KENYA

AT ELDORET

ELC. NO.372 OF 2014 (OS)

IN THE MATTER OF SECTION 38 OF THE LIMITATION OF ACTIONS ACT CAP 22

-AND-

IN THE MATTER OF ORDER 37 RULE 7 OF THE CIVIL PROCEDURE RULES

AND

IN THE MATTER OF ORDER 40 RULE 2 OF THE CIVIL PROCEDURE RULES

WILSON K. CHEPYEGON.....PLAINTIFF

VERSUS

KIMOSOP CHEPYEGON.....DEFENDANT

JUDGEMENT

1. The Plaintiff approached the court by way of the originating summons dated the 18th December, 2014, as amended on 17th April, 2019, seeking for orders that;

a. "The defendant's/respondent's claim/interest to that portion measuring 0.45 hectares comprised in that parcel of land known as **SACHO/KABASIS/475** stands extinguished by lapse of time;

b. That the plaintiff/applicant has obtained title and ownership of that portion of land measuring 0.45 hectares or thereabouts comprised in that parcel of land known as **SACHO/KABASIS/475** by virtue of the doctrine of adverse possession;

c. Pursuant to the foregoing, the Lands Registrar Baringo County or the Land Registrar currently in lawful custody of the land register in respect of parcel number **SACHO/KABASIS/475** be ordered to delete the name of KIMOSOP CHEPYEGON from the register and replace it with that of WILSON K. CHEPYEGON and issue him with a fresh title to the land;

d. A declaration that the plaintiff (sic) holds one half of parcel number **SACHO/KABASIS/475** in trust for the applicant herein;

e. Spent;

f. Spent;

g. For an order that the applicant is entitled to the costs of this suit;

h. Any order that the honourable court shall deem fit to grant."

The originating summons is supported by an affidavit sworn by the plaintiff wherein he deposed that he is the son of the late Chepyegon Chesire, who passed on the 8th October, 1978, and Sokome Chepyegon. That his deceased father left him the suit property, wherein he erected both permanent and semi-permanent structures that he lives in together with his family and mother. The plaintiff averred that he had been in exclusive and uninterrupted occupation of that portion of the suit property measuring 0.45 hectares for over 12 years prior to the filing of the suit, and thus has acquired title virtue of adverse possession. He stated that his claim had been before a council of elders which determined that he was entitled to a half share of the suit land, but the decision could not be implemented due to the existing charge

registered against the title by the defendant. That the defendant has obtained title to the suit property illegally and has been threatening them with eviction from the suit property. He further stated that the defendant had brought down his barbed wire fence, cut his trees and commenced construction on the disputed portion of the suit property.

2. The claim is opposed by the defendant through his replying and further affidavits sworn on the 26th January, 2015 and 4th July, 2019 respectively. He deponed that the plaintiff was his brother, and that his registration with the property was subjected to succession proceedings before the Resident Magistrate's court Kabarnet, following a family meeting held on 4th May, 1985 after the demise of their father. That the plaintiff was the secretary during the family meeting agreed that the suit property goes to him, and other beneficiaries were given other properties. That all family members including the plaintiff consented to the agreement, and appended their signatures on the agreement. That he had charged the suit property in 1986 to Standard Bank Kenya Ltd to secure a loan of Kshs.20,000/- to meet the education needs of the plaintiff, and has been unable to clear it due to the interests accrued. That the dwelling house and structures that plaintiff alleges are on the suit land were actually erected on the neighboring land parcel **SACHO/KABASIS/767,** that belongs to the plaintiff**.** That the plaintiff had previously sued him over the suit property in Kabarnet RMCC No. 13A of 1993, which was referred to elders who made an award, though without jurisdiction, that was adopted by that court in favour of the plaintiff on the 15th December, 1994. That the plaintiff attempted to obtain execution orders in that case in 2013 but his application was rejected. That the plaintiff then filed this suit without disclosing the existence of the lower court case. That the plaintiff is not in occupation of the suit property and any possession thereof was forceful as they had been disputing over the suit property since 1993. He therefore urged the court to dismiss the suit.

3. That in support of his case, the plaintiff testified as PW2 and called William Kipkoech Chepkonga and Richard Kiptui Chepyegon, a cousin and brother, who testified as PW1 and PW3 respectively. PW1's evidence was that after the death of the late Chepkonga Chesire, the plaintiff requested from his mother for a place to settle, and was directed to the suit property in 1990, where he lives on to date. He testified that the plaintiff and defendant were immediate neighbors, and during cross examination he maintained that the plaintiff had been given the suit property by their mother. PW3 denied that any succession proceedings had been carried out over their late father's estate in relation to the suit property, but added that that the plaintiff had been residing thereon since 1990, utilizing half of the property. That during cross examination, he was pressed to explain how another parcel of land identified as 639 that was originally in his father's name came to be registered in his name, he claimed that there was a succession whose proceedings were gazetted in the Kenya Gazette, that was conducted before a council of elders, that gave him that land. He later claimed that he bought that parcel and others identified as numbers 25 and 21. That the demeanor of PW3, and his sifting position on the material facts like whether succession proceedings took place or not makes him an unreliable witness, whose evidence do not deserve much weight unless corroborated by other admissible evidence. That in his evidence the plaintiff, PW2, first clarified that the defendant did not actually live on the suit property and that it was his son, John Kimosop, who lived on his portion. He reiterated that he lived on the suit land even before he bought the neighboring parcel 767, and that his house was actually on the suit property. That as corroborated by the surveyor's report, only a toilet and store stood on parcel 767. During cross examination, the plaintiff denied a family meeting took place in 1985 and that he was the secretary to any such meeting. He denied that any succession proceeding resulted from the family meeting, or that he had signed the minutes document as an acknowledgement of the alleged agreed manner of distribution of their late father's estate. He reiterated that the elders had given him half share of the suit land, and asked him to give the defendant a gift for amicably settling the dispute, but added that the defendant frustrated the execution thereof by outrageously demanding that he first helps clear the charge registered against the title, and then gifts him a heifer worth Kshs.100,000. That he rejected the offer as the defendant's demands effectively amounted to purchasing the land. He claimed that he did not seek to execute the 1994 decree because the defendant allowed him stay on the suit land in peace from that year, and it was not until the 2013 when defendant resumed the disruptions over the suit land that he tried to execute it.

4. That the defendant testified as DW1, and called John Kimosop, his son, who testified as DW2. It was the testimony of DW2 that he was living on one half of the suit property, while the defendant lives on the other half. That he was born in 1992. That his grandmother lived with the plaintiff, but in a separate house marked H4 on the surveyor's map, until her death and was buried on the suit land. That he erected his house on the suit land in 2000. That under the Kalenjin culture, a mother is buried in her last son's land, or that of the son she was last staying with. That the plaintiff is not the last born son of his mother. He agreed with the surveyor's report that showed that the plaintiff had structures on the suit property. That in his testimony the defendant testified that his late father gave him the suit property, parcel 475, in 1974, and parcel 639 to his brother Richard, PW3, as they were then the only adult sons. He stated that on his death, the father was buried on the suit property, and that he and Richard (PW3) initiated succession proceedings in 1979 enabling them to get titles to their respective parcels. That on cross-examination, he agreed that the plaintiff was not provided for in the 1979 succession as he was then in school. That the plaintiff was given his property during the family meeting of 1985. He agreed that the plaintiff began cultivating the suit property in 1988, and it was on his attempt to occupy the said land in 1990 that prompted the dispute that gave rise to the 1993 suit. That it was his sons who resided on the suit property while he lived on parcel 636.

5. That following the directions issued by consent on the 16th July, 2018, the Land Registrar and Surveyor visited the suit property and Sacho/Kabasis/767 to ascertain the position of the plaintiff's structures and to draw a sketch thereof. The report dated 3rd October, 2018, and sketch were consequently filed, showing among others that only two structures, W1 and S1, that belongs to the plaintiff are wholly on the suit land. That his third structure, H3, is partially on the suit land and the larger part on the public road. That his fourth structure, H4, is wholly on the public road, while two other structures, H1 and H2, are wholly on parcel 767. The other six structures, H5, W2, H6, H7, H8 and H9, on the suit land belongs to the defendant's sons.

6. The learned counsel for the plaintiff filed their written submissions dated the 21st September, 2021, and a date for judgement was fixed and by then no submissions had been filed by the defendant. The record however shows that the learned counsel for the defendant thereafter filed the written submissions dated the 5th November, 2021 without the court's leave and there is no confirmation that the counsel for the plaintiff has been served with a copy.

7. The plaintiff in his submissions restated his claim to the suit property disputing that he had participated in family agreements as he was a minor in 1985. He raised issue with the succession proceedings that were relied upon by the defendant noting that he had not produced any details of the proceedings or of the administrators of the estate following those proceedings. He interestingly submitted that even if his earlier claim in Kabarnet RMCC 13A of 1993, and the consequent award became stale in December 2008, that means the duration lapsed between then and the filing of the amended originating summons was 13 years that is in line with the statute of Limitation of Actions Act. The plaintiff however emphasized that the 1993 suit was concerned with cancellation of the illegal registration of the title held by the defendant

and therefore that the instant claim of adverse possession is properly in court. The plaintiff clarified that he purchased the neighboring property **SACHO/KABASIS/767** after he occupied the suit property. The plaintiff extensively discussed the question of trusts in his analysis. He urged the court to consider the fact that the suit property was initially land in the name of their father and that the succession proceedings alleged by the defendant were vaguely explained or substantiated. He pointed out that the fact that during court proceedings in 1994, the defendant was initially agreeable to division of the suit property in half, but on condition of being helped repay the charge thereon. He cited *Section 28 of the Land Registration Act* that provides that customary trusts are some overriding interests in land that need not be registered. In the circumstances, he argued that the court to find that the suit property was trust land. The plaintiff also discussed the question of adverse possession. He urged the court to consider that he had been in occupation of the suit property since 1988. He averred that he stayed there with his family and that was confirmed through the surveyor's report following the visit to the locus carried out pursuant to the court's order, which showed he had structures on the suit property. He therefore urged the court to also find that he is entitled to a portion of the suit property under adverse possession.

8. The following are the issues for the court's determinations;

a. Whether the plaintiff is entitled to the suit property by virtue of adverse possession; and

b. Whether the plaintiff is entitled to the suit property by virtue of customary trust

c. Who pays the costs of the suit.

9. That having considered the affidavit, oral and documentary evidence tendered, pleadings, and written submissions, the court comes to the following findings;

a. THAT adverse possession is a way of acquisition of title to immovable property negatively. It is based on section 7 of the Limitation of Actions Act, chapter 22 of Laws of Kenya, that bars an action for recovery of land from being raised 12 years after the cause of action arose. Section 13 of the Act explains when a cause of action arises stating it happens when the suit land is in possession of a person in whose favour the limitation of actions runs. Section 17 goes further to state that at the expiry of the period prescribed for a person to bring an action to recover land (including a redemption action), and subject to equitable interests under the Act, the title of that person to the land is extinguished. It is the sum total of the above provisions that is the basis of the doctrine of adverse possession in Kenya's legal regime. The superior courts have severally pronounced themselves on the elements that need to be established for a claim of title by way of adverse possession to stand. In the case of ***RUTH WANGARI KANYAGIA Vs JOSEPHINE MUTHONI KINYANJUI [2017] eKLR*** the Court of Appeal stated as follows;

> **"11. The onus is on the person or persons claiming adverse possession-**
>
> > **".. to prove that they have used this land which they claim as of right: Nec vi, nec clam, nec precario (No force, no secrecy, no evasion). So, the plaintiffs must show that the company had knowledge (or the means of knowing, actual or constructive) of the possession or occupation. The possession must be continuous. It must not be broken for any temporary purpose or by any endeavours to interrupt it or by any recurrent consideration; see Wanyoike Gathure v/s Berverly (1965) EA 514, 519, per Miles J. and Kneller J (as he then was) in Kimani Ruchine v/s Swift, Rutherford & Co. Ltd (1980) KLR 10."**

And in the case of **CELINA MUTHONI KITHINJI Vs. SAFIYA BINTI SWALEH & 8 OTHERS [2018] eKLR**, the court stated;

> **"10. The requirements for adverse possession in Kenya, has also been set out in the case of Mbira –v- Gachuhi (2002) IEALR 137 in which the court held that:**
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> > **"……. a person who seeks to acquire title to land by the method of Adverse Possession for the applicable statutory period must prove non-permissive or non-consensual actual, open, notorious, exclusive and Adverse use by him or those under whom he claims for the statutory prescribed period without interruption…."**

Likewise, in the case of **JANDU –Vs- KIRPLAL & ANOTHER (1975) EA 225**, it was held:

> **" … to prove title by adverse possession, it is not sufficient to show that some acts of adverse possession must be adequate in continuity, in publicity and in extent to show that it is adverse to the owner. It must be actual, visible, exclusive, open and notorious."**

The Court of Appeal in the case of **MTANA LEWA –Vs- KAHINDI NGALA MWANGANDI (2005) eKLR** held that:

> **"Adverse Possession is essentially a situation where a person takes Possession of land, asserts rights over it and the person having title to it omits or neglects to take an action against such person in assertion of his title for a certain period, in Kenya 12 years."**

That it is therefore a well settled principle that a party claiming adverse possession ought to prove that this possession was "*nec vi, nec clam, nec precario,*" that is, peaceful, open and continuous. The possession should not have been through force, not in secrecy, and without the authority or permission of the owner.

b. THAT this being a claim for adverse possession, the plaintiff must show that he has been in continuous possession of the suit land for 12 years or more; that such possession has been open and notorious to the knowledge of the owner, and that he has asserted a hostile title to that of the owner of the property. Therefore, the main question to deal with is whether the plaintiff's claim satisfies these prerequisites.

c. THAT as regards possession, the plaintiff's case is that he has been in occupation of the suit property since 1988. The court takes note that an ownership dispute was filed in the lower court in 1993 that ended in 1994 affirming the right of the plaintiff to a portion of 4.5 hectares of the suit property. The parties are in agreement that the failure to execute the lower court order, led to the decree becoming stale by December 2006, as confirmed by the lower court ruling of 2014. The plaintiff asserted and submitted that even if the period from 15th December 1994 when the lower court decision in his favour was delivered, to the 14th December 2006 when the decree thereof became stale, is not considered in computing the time he has been in adverse possession of the suit land, the court should still find in his favour by considering the five (5) years from 1988, when he took possession of the suit land to the 1994 when the court delivered its decision, and the eight (8) years from 2006 when the decree became stale to the date of filing the instant suit in 2014. That the five years between 1988 to 1994, and eight years between 2006 and 2014, totals over twelve (12) years. That court however finds the computation of time proposed by the plaintiff does not amount to continuous possession as defined by the superior courts in their decisions, including those cited herein above. It clearly does not meet the mettle of what amounts to possession for the purposes of adverse possession, for example in the Environment and Land Court case in ***Celina Muthoni Kithinji*** (supra), that possession must be continuous. The foregoing leads the court to find that the plaintiff has not established that he had been in uninterrupted possession without permission of the defendant, as the registered proprietor, for the term of 12 years sufficient to extinguish the defendant's claim on the disputed portion of the suit property, **SACHO/KABASIS/475**. The court is inclined to reject the plaintiff's application for title to that portion of land on the basis of adverse possession.

d. The next question for determination is whether the circumstances in this suit warrant a finding that the suit property is trust property, and that the plaintiff is entitled to half share. That though the defendant is the one registered as proprietor of the suit land, the plaintiff has sought for a declaration that one half of the suit land is his under trust. Section 28 of the Land Registration Act No. 3 of 2012 provides that registration is subject to trusts, including customary trusts. The Supreme Court of Kenya has pronounced itself on what amounts to a customary trust in ***Isack Kieba M'Inanga Vs Isaaya Theuri M'Lintari & Another, SCoK No 10 of 2015***, wherein the court stated:

> **"….. 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:-**
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> > **(a) The land in question was before registration, family, clan or group land;**
> >
> > **(b) The claimant belongs to such family, clan, or group; (c) 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;**
> >
> > **(c) The claimant could have been entitled to be registered as an owner or other beneficiary of the land but for some intervening circumstances; and,**
> >
> > **(d) The claim is directed against the registered proprietor who is a member of the family, clan or group." (emphasis added).**

That it should be noted however that the burden of proving a trust lies with the one claiming it, and courts shy away from implying trusts. This was expounded upon by the Environment and Land Court sitting in Murang'a in ***ALICE WAIRIMU MACHARIA V KIRIGO PHILIP MACHARIA [2019] eKLR,*** which I cite with approval, wherein the court stated:

> **"21. A trust can never be implied by the court unless there was intention to create a trust in the first place**.

In **PETER NDUNGU NJENGA Vs. SOPHIA WATIRI NDUNGU [2000] eKLR** where the Court held,

> **"The concept of trust is not new. In case of absolute necessity, but only in case of absolute necessity, the Court may presume a trust. But such presumption is not to be arrived at easily. The Courts will not imply *a trust save in order to give effect to the intention of the parties. The intention of the parities to create a trust must be clearly determined before a trust is implied."***

And in the case of **JULETABI AFRICAN ADVENTURE LIMITED & ANOTHER Vs CHRISTOPHER MICHAEL LOCKLEY [2017] eKLR**, the court also held that …. It is settled that the *onus* lies on a party relying on the existence of a trust to prove it through evidence. That is because-

> **"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."**

That going by the decision of the Supreme Court of Kenya decision referred to above, it follows that evidence must be led that points to the root of the land in dispute. The green card in respect of **Sacho/Kabasis/475** shows the land was first registered on the 17th

June, 1973 in the name of Kimosop Chesire, who was agreed to be the late father to both parties. That registration confirms that the suit property was family land. That it is not disputed that the plaintiff and defendant are brothers, and therefore part of the family of the late Kimosop Chesire, who owned the suit property before it was registered with the defendant. That the plaintiff herein is the direct sibling of the defendant and his trust claim is not adventurous, as it is directed at another member of their family who is the registered as proprietor of the suit property. That the next issue to settle is whether the plaintiff could have been entitled to be registered as an owner or other beneficiary of the land but for some intervening circumstances. It is this element that is the basis of the inquiry into whether a trust was meant to be created or whether there are strong reasons for implying the existence of a trust.

e. That on the part of the plaintiff, he averred that he was a minor at the time of the death of the father and thus could not have been registered as an owner of the suit property. He claimed that upon coming of age in 1988, he asked his mother for a place to settle and was directed to the portion of the suit property, which portion he still occupies to date. He claimed that his claim to the property had been raised before a council of elders pursuant to directions in Kabarnet RMCC 13A of 2013, and the elders had affirmed his entitlement to half of the suit property. He urged the court to consider the fact that the defendant was initially willing to transfer half of the suit property to him but declined to actualize the transaction after the plaintiff failed to adhere to his demand for help in repayment of the charge on the property. The defendant challenged the finding of the council of elders first on the basis that he never consented to their dispute being referred to the council, second on the basis that he was not afforded a chance to challenge the finding and thirdly, that in any case, the council lacked jurisdiction over the dispute. The defendant's challenge to the elders' award at this time is problematic as the award was adopted by the court. That if the defendant wished to challenge the award, all he had to do was file a judicial review or an appeal, but none was filed. The failure to challenge the award through an appeal or judicial review application precludes him from challenging the validity of the elders' award and adoption thereof by the lower court in the instant suit. In any event, the fact that he was agreeable to sharing the suit property with the plaintiff but for the failure by the plaintiff to clear the loan so as to have the charge over the title discharged negates the position that he has now exhibited that he was always discontent with the award. That though the defendant appears dissatisfied with the lower court having referred the dispute to the elders, a perusal of the proceedings in Kabarnet RMC Land Case No. 13A of 1993 shows it was Mr. Kipkech, counsel for the defendant, who applied for the dispute to be forwarded to the council of elders on 25th April 1994 amid protests by Mr. Cheptarus, the plaintiff's advocate.

f. That the defendant's claims to have been registered with the suit property after undertaking the succession proceedings that followed after the land was bequeathed to him during the family meeting of 4th May 1985, which the plaintiff attended. He produced a written document with names of several persons and signatures, with parcels of land appearing alongside them, which names he alleged belonged to his siblings. The plaintiff challenged that assertion claiming that to his knowledge, no succession proceedings were undertaken, as no documentary evidence has been tendered. That the claim by the defendant that only properties of their deceased's father that had been registered were subjected to succession proceedings and that the unregistered ones, like his, were simply handed over to the beneficiaries clearly does not help his defence. This is because the suit land's green card clearly shows that the property was registered in 1973 and the defendant's claim that it was among the properties handed over to him without succession proceedings cannot be true unless he wanted the court to take it that he obtained the title without following the due process of the law. That property having been registered with the parties' father before he passed on, could not have simply been handed over to defendant in a family meeting in 1985 without adhering to the Law of Succession Act chapter 160 of the Laws of Kenya. That as the defendant seemed to change position on whether he got the suit land through the family meeting resolution in 1985 or through a gift from his late father in 1974, and in the absence of documentary evidence that he acquired the title procedurally, the fact that the defendant admitted that the plaintiff was not provided for during the family meeting as he was in secondary school lends credence to the plaintiff's claim that the land was registered in the defendant's name to be held in trust.

g. That the plaintiff has indicated that parcel Sacho/Kabasis/767 was his land which he purchased while the defendant asserted that it was the land that plaintiff inherited from their father's estate. That the only documentary evidence availed to the court relating to that parcel is a copy of the certificate of official search which shows that Wilson Kipkuyot Chepyegon, the plaintiff, become the registered proprietor under entry number 2 of 11th December 1997. The defendant has therefore failed to prove as expected of him by section 107 of the Evidence Act chapter 80 of Laws of Kenya that the said land was part of the properties of their late father. That the plaintiff's assertion that he acquired parcel **SACHO/KABASIS/767** after already being in occupation of the suit property appears reasonable and believable. That as there is no evidence tendered to confirm that the plaintiff had been provided for from his late father's estate then the court has no difficulty in finding that the registration of the suit property in the defendant's name was to be in trust for the plaintiff, who is his younger brother.

h. The document the defendant presented to the court as evidence of what the family agreed during their meeting, which the plaintiff disputed, did not impress the court. The document has some five (5) names with signatures and some numbers written against them. It does not indicate the identity of the persons in attendance of the alleged meeting. The defendant did not endeavor to call any witness to proof that the meeting indeed took place, and that the plaintiff was in attendance. The court on a balance of probabilities, is inclined to accept the plaintiff's assertion that there was never such agreement on the suit land in any such family meeting.

i. That the court therefore finds in the circumstances of this case, the plaintiff has established that an implied trust exists in his favour over the suit property. That as it is a fact that the title is still charged and none of the parties can get title to his portion before the same is discharged. That as the plaintiff did not dispute that the defendant met his education expenses, through the loan subject matter of the charge, then it is only fair that both parties equally pay the outstanding loan from their funds.

j. That even though the plaintiff has emerged successful in his trust claim which was only raised through the amendment of the summons of the 17th April, 2019 and the fact that the parties are siblings makes this an appropriate case where each party should bear his own costs so as to promote cordial relations among them, the provision of *Section 27 of the Civil Procedure Act chapter 21 of Laws of Kenya* notwithstanding.

10. That from the foregoing the court finds in favour of the plaintiff against the defendant and order as follows;

a. THAT a declaration is hereby issued that Wilson K. Chepyegon, the plaintiff, holds one half of land parcel Sacho/Kabasis/475,

that is registered in the name of Kimosop Chepyegon, the defendant, in trust.

b. THAT so as to have the title to the said land discharged of the charge registered on the 8th June 1984, the plaintiff and defendant shall each pay half of any outstanding amount. That should the parties fail to agree on the logistics of raising the outstanding amount together, either of the two be at liberty to pay and recover half of the amount from the other as unpaid debt.

c.THAT each party shall meet his own costs.

Orders accordingly.

DATED AND VIRTUALLY DELIVERED THIS 9TH DAY OF FEBRUARY, 2022

S. M. KIBUNJA, J.

ELC ELDORET.

IN THE VIRTUAL PRESENCE OF;

1. PLAINTIFF: Absent

2. DEFENDANT: Absent

3. COUNSEL: -Ms. Kimeli for Tororei for Plaintiff

-Mr. Chebii for Defendant

ONIALA: COURT ASSISTANT

S.M.KIBUNJA,J

ELC ELDORET.