



REPUBLIC OF KENYA



**Kaberia & 4 others v Ekwee & 2 others (Civil Suit E008 of 2023)
[2025] KEHC 9824 (KLR) (7 July 2025) (Judgment)**

Neutral citation: [2025] KEHC 9824 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT LODWAR
CIVIL SUIT E008 OF 2023
PJO OTIENO, J
JULY 7, 2025**

BETWEEN

**ISAAC KABERIA 1ST PLAINTIFF
WILLIAM EKAI 2ND PLAINTIFF
LORE LOKITAUNG LOKORITADARA 3RD PLAINTIFF
MEHADEG 4TH PLAINTIFF
DRILL FOR LIFE, NEHEMIAH CONSTRUCTION LIMITED 5TH PLAINTIFF**

AND

**MICHAEL PEIKAI EKWEE 1ST DEFENDANT
MICHAEL KIPEL KISORIO, JOHNSTONE UTALY LIVECHI, CHRISTOPHER
LOKENO SIOKAN (SUED ON BEHALF OF CHRIST IS THE WAY
MINISTRIES) 2ND DEFENDANT
WILLIAM EMASE EKOUMWA 3RD DEFENDANT**

JUDGMENT

1. In their amended plaint dated 14.02.2024, the 1st plaintiff is described as a senior bishop and founder of Christ Dominion Church, the 2nd and 3rd plaintiffs are described as bishop and treasurer respectively of Turkana Mission Fellowship Outreach Ministry (TMF), henceforth, the ministry, the 4th plaintiff is described as a charitable organization registered in Germany with the aim of supporting the spread of Christianity throughout the world while the 5th plaintiff is described as a company operating within Turkana County to drill boreholes and provide water and food.
2. On the other hand, that plaint makes no description of the defendants.



3. In brief, the background of the relationship between the parties is explained in the amended plaint to be that the 4th plaintiff engaged with the people of Turkana through “Turkana Mission Project”, an initiative of the African Inland Church. The 1st Defendant was their coordinator until 2016 when he elected to start his own church which move was supported by the 4th plaintiff.
4. The Ministry was never formally registered because at the time of its establishment, the registration of churches in Kenya had been froze. He thus forged a working relationship with the Christ Dominion Church thus becoming its affiliate. With this affiliation, the 1st defendant was ordained as a bishop by the Christ Dominion Church and the ministry continued to grow spanning to over 102 churches and curving out its own leadership structure.
5. The 1st plaintiff avers that by virtue of the affiliation, the ministry relinquished all its assets, employees and programs to the Christ Dominion Church which assumed legal ownership thereof in trust of the ministry and the agreement was that the affiliation would determine upon the registration of the ministry as a church and a handover would eventually happen.
6. To support the mission of the church, the 4th plaintiff purchased a piece of land for the ministry in Narewa area where a mission center was constructed and the 5th plaintiff bought the adjacent land where a borehole was dug and a perimeter wall was then constructed transcending both parcels. The 4th plaintiff further supported the ministry by donating to it a sum of Kshs. 15,000,000/- every year.
7. To support the welfare of the pastors and the leadership of the ministry, the ministry on 08.08.2016 registered a self-help group by the name of Turkana Mission Fellowship Group, No. CC/TRKC/SHG/HC 1122, henceforth the fellowship, and to this end members contributed 100 or 200 shillings per month which was saved into its bank account held at Kenya Commercial Bank and Co-operative Bank in Lodwar.
8. Come December 2021, the plaintiffs aver that the 1st defendant resigned as a bishop of the ministry and an interim leadership committee comprising of the 2nd and 3rd plaintiffs among others was appointed in his place pending elections.
9. On 05.02.2022, the ministry acting through the 1st defendant called for elections where new leadership was elected as officials to serve for a period of 5 years. The outcomes of the elections were as follows: -
 - I. William Ekai (Chairman/Team Leader)
 - II. Thomas Lemuya (assistant chairperson/bishop)
 - III. Ekitoe James (General Secretary)
 - IV. Samuel Samoei (Vice secretary)
 - V. Pail Lore Lokitaung (Treasurer)
 - VI. Kevin Eragae (Co-ordinator)
 - VII. Shadrack Maraka (Youth representative)
 - VIII. David Ekwee (Education representative)
 - IX. Samson Ngasike and Charise Ewoton (Co-opted members)
10. Despite the resignation, the plaintiffs assert that the ministry continued to engage the 1st defendant and allowed him to serve amongst the trustees in advisory capacity.



11. However, the new office continued to conduct the affairs of the ministry till sometimes in the month of March, 2023 when with the alleged support of the area MP, Hon. Joseph Namuar, the 1st defendant forcefully made a comeback as the head of the ministry a move the plaintiffs contend has resulted in mismanagement of the ministry with the 1st defendant locking out duly elected officials from the mission center.
12. The plaintiffs assert that the Christian Dominion Church, under whose registration the ministry operates, through the 1st plaintiff, convened a special general meeting which affirmed the appointment of William Ekai as the overseer of the fellowship.
13. The plaintiffs then plead that in his forceful takeover, the 1st defendant has assumed the control and possession of the following assets of the ministry; mission station parcel of land, parcel of land acquired from Good News Fellowship, two storey dormitories, kitchen and the upper room meeting hall, store room, toilets, showers, sewer system, office and workshops, pit latrines, storage area, mission station walls & main gate, bore hole and water towers and a Toyota pick-up truck registration number 989G. The plaintiffs estimate the value of the assets in the sum of Kshs. 39,600,000/- as at December, 2023.
14. The plaintiffs are thus seeking the following orders from the court;
 - a. A declaration that the 1st defendant is unfit to hold any church office and leadership most especially in so far as ministry is concerned based on his actions running afoul of biblical principles.
 - b. A declaration that the elections conducted on 05.02.2022 were lawful and legally held and thus Rev. William Ekai is the chairperson/team leader of ministry as per the NEC resolution made on 30.03.2023 to which the defendant is a stranger.
 - c. A declaration that all that property purchased, procured and constructed by the 4th plaintiff belongs to the plaintiffs and any other person so holding the said property indeed holds them in trust for the 4th plaintiffs.
 - d. A mandatory injunction barring the defendants from denying/disturbing the 5th plaintiff from peaceful enjoyment of their property purchased/procured and constructed by themselves including the parcel of land gifted to them by the 4th plaintiff.
 - e. A declaration that the cover by the 1st plaintiff to the Turkana Mission Fellowship is binding and in force pending registration of the Turkana Mission Fellowship as a religious society.
 - f. A mandatory injunction compelling the defendant to give due cognizance to the officials of the plaintiff elected as at 05.02.2022 and the defendant ordered to surrender the car KBY 989G, mission house and office and any other property and all documents belonging to the plaintiffs herein.
 - g. A permanent order of injunction restraining the defendant, his servants, agents or anyone acting through him from engaging, interfering, trespassing and/or in any other manner whatsoever from dealing in any business and/or affairs of the plaintiffs save for what may be permissible by the leadership of Turkana Mission Fellowship and/or its successor.
 - h. An order compelling the refund of all, monies paid by the 4th plaintiff towards acquiring the accommodation of its mission teams visiting Lodwar, hiring of vehicles for mission, storage of maize and beans utilized by the 4th plaintiffs and the mission team since the dispute erupted, denying access to their lawful and legally owned property till the determination of the suit.



- i. General damages for trespass
- j. Costs of the suit
- k. Interest
- l. Any other relief that this court may deem fit.

Defence Case

15. By the statement of defence amended on 29.03.2024, the defendants dispute the election of the 2nd plaintiff as a bishop of Turkana Mission Fellowship Outreach Ministry and assert that the 1st Defendant started TMF singlehandedly with the assistance of Messrs, Hartmut Hagner and Wilhelm Fast.
16. The defendants aver that the cover obtained from CDC only covered the 1st defendant personally and not TMF and that the assertion by the plaintiffs that the cover gave them authority to deal with the assets of TMF is unsustainable because such authority can only be conveyed by way of a registered power of attorney and that transfer of immovable assets can only be effected by a deed of transfer. They add that the cover did not in any way nullify *the constitution* of TMF.
17. In addition, the defendants aver that they are strangers to the affiliation agreement and emphasize that all properties and assets acquired by TMF belong solely to TMF.
18. The 1st defendant further denies that the 2nd plaintiff was elected the team leader replacing him and underscores that a temporary leave of absence does not equate to vacating the office. He also denies ever being elected as a trustee.
19. In response to the remarks by the area MP, the defendants proclaim that the pronouncement made by the named politician was a statement of opinion based on his appreciation of the issues.
20. The 1st defendant then pleaded a counterclaim in which he echoes the averments in the defence and adds that in the year 2016 he made a step to formalize the operations of TMF by registering it as a self-help group. He further explains that the assets acquired by the ministry are the plots of land located at Narewa which were acquired by dint of plot sale agreements dated 03.06.2018 and 30.11.2013 measuring 29 by 78 meters and 33 by 67.8 meters respectively which aggregate and constitute that entire piece of land located at Narewa in Nawaitorong' where the ministry is domiciled.
21. The plaintiffs are then accused of trespass and nuisance for entering the suit property without permission, for storing and abandoning machines in the property and for destroying the defendant's structures, fences and property in the suit land.
22. For these reasons, the 1st defendant prayed for the following orders;
 - a. The plaintiff's suit be dismissed with costs.
 - b. A declaration that the cover letter dated 10.02.2017 is null, void and of no legal consequence.
 - c. A declaration affirming the 1st defendant as the rightful bishop and leader of Turkana Mission Fellowship Outreach Ministry.
 - d. A declaration that the plots located at Narewa which were acquired by dint of plot sale agreements dated 03.06.2018 and 30.11.2013 measuring 29 by 78 meters and 33 by 67.8 meters respectively and which when joined together constitute that entire piece of land located at



Narewa in Nawaitorong' where the ministry is domiciled and all the improvements thereon belong to Turkana Mission Fellowship Outreach Ministry.

- e. An order compelling the 5th plaintiff to remove all his materials and instruments from the property at Narewa belonging to Turkana Mission Fellowship Outreach Ministry and end the nuisance.
- f. An injunction restraining the plaintiffs by themselves, their servants or agents otherwise howsoever from the continuance or repetition of the nuisance or the commission. of any nuisance of a like kind in respect of the same property
- g. Accrued rent from the period starting 1st June 2019 at Kshs. 840,000/- at the rate of Kshs. 20,000/- per month.
- h. General damages for trespass.
- i. Interest at court rates on (f)(g) and (h) from the date of filing this suit till payment in full.
- j. Any other or further relief this Honourable Court may deem fit.

Response To the Defence and counterclaim

- 23. When served with the defence and Counter-claim, the plaintiffs filed a Response (sic Reply) to Defence and Defence to Counterclaim and denied all the allegations in the defense and counter-claim. In particular the invitation to strict proof was accepted then denied that the 1st defendant was the bishop of the ministry or that he possessed any proprietary interests over the suit assets. That the defendants were ambivalent in their position on the cover letter was underscored, it being added that the alleged self- help group has no power to own land just as much as it has not been made a party to the proceedings. It was then stressed that the property having been donated for the work of the ministry to the people of Turkana, whoever possesses or holds the property does so in trust and on behalf of the People of Turkana. It was added that the 1st defendant had no authority to bind the ministry in seeking the cover letter by Christ is The Way Ministry. They also suspect how a cover was sought and obtained the same day.
- 24. That the ministry conducted elections for its leadership presided over by the 1st defendant was reiterated with an addition that there was no evidence that the leadership of the church ever exited the cover and association with Christ Dominion Church.
- 25. After the Reply to defence and Defense to counter claim was filed and served, parties appeared before the court and the defendant elected to withdraw the counter-claim. This development was never captured by the court while preparing the initial draft judgment and it took the professional duty counsel for the plaintiff, with confirmation from the counsel for the defense, to remind the court of the status of the record. The plaintiff counsel, urged the court to employ its mandate under section 99 of the *Civil Procedure Act* and amend the judgment. That request was resisted by the defence counsel who took the position that the court had become functus officio and that the mistake was beyond cure under the slip rule.
- 26. By its ruling of issued on spot, the court notified the parties that it would employ the tool of slip rule to correct the slip that stared on the face of the court and the record and would expunge from the record every reference and determination on the counter-claim which had been withdrawn. This judgment thus conforms to the ruling of the court on its decision to expunge every reference to the counter-claim in its analysis and determination.



The Evidence led

27. For the plaintiff, Bishop William Ekai testified under oath as PW1. He being the leader of the ministry having been elected on 05.02.2024. He adopted his witness statement which reiterates the averments in the amended plaint and further produced the following documents; minutes of 05.02.2022 as PEXH 1, minutes of 31.05.2022 as PEXH 2 , minutes of 04.01.2023 as PEXH 3, minutes of 09.02.2023 as PEXH 4, minutes of 04.03.2023 as PEXH 5, minutes of 09.03.2023 as PEXH 6, minutes of 10.02.2023 as PEXH 7, minutes of 14.05.2023 as PEXH 8, license of pastorage as PEXH 9, Leadership certificate as PEXH 10, diploma in ministerial studies as PEXH 11, educational transcripts as PEXH 12, letter confirming ministerial studies as PEXH 13, certificate of ordination as PEXH 14, certificate of ordination as PEXH 15, certificate of completion of school as PEXH 16, letter dated 21.03.3023 as PEXH 17, letter from Christ Dominion Church as PEXH 18, Identity Card as PEXH 19 and acceptance of house bishop association as PEXH 20.
28. On cross examination he stated that although he held a diploma from Shilo college, he did not study up to form 4 and that he was elected as the leader of the ministry in line with *the constitution* of the Christ Dominion Church which provides that for one to contest in an election one had to be a paid-up member. He confirmed that he had never paid any membership fee to be a member of the Christ Dominion Church.
29. It was his further evidence that he was a bishop of ministry under the affiliation agreement and that the license issued to him under the *Marriage Act* was issued by the Registrar of Marriages recognizing him as a minister with Christ Dominion Church.
30. PW2 was Lore Lokitaung Lokoritadara who also gave sworn evidence and adopted his statement dated 21.02.2024 supporting the averments of the amended plaint. He added that the ministry was earlier on known as Turkana Volunteer Ministry having been started by himself and four others and that as a group, they elected the 1st defendant to be their leader. He narrated that in the year 2011, German Missionaries visited Turkana to bring donations and supplies and that is when they started the ministry then decided to buy land with the assistance of the missionaries. Come January 2017, the group sent the 2nd plaintiff to Nairobi to get an affiliation which he secured with Christ Dominion Church.
31. He then produced; certificate of ordination as PEXH 21, National Identity Card as PEXH 22, membership for Tukana Fellowship Ministry as PEXH 23, Trusteeship card as PEXH 24, authority to pleas as PEXH 25 and Reservation Certificate for Turkana Mission Fellowship, Kenya as PEXH 26.
32. On cross examination he stated that the structure and leadership of the ministry was similar to that of the Christ Dominion Church. He added that he was not familiar with *the constitution* of the Christ Dominion Church and on further interrogation he stated that the structure of the two churches was different because whereas the Christ Dominion Church makes reference to a Bishop, assistant bishop, secretary, assistant secretary and treasurer, the structure of the ministry according to its constitution comprised of the chairman, vice chairman, secretary, vice secretary and the mission coordinator. He once again reiterated that the elections of 05.02.2022 were conducted in accordance with *the constitution* of the Christ Dominion Church.
33. On reexamination he stated that though the ministry was formed in the year 2017, *the constitution* exhibited was dated 16.05.2016 and that he had never seen the alleged constitution of the ministry.
34. On being questioned by the court he stated that they had not held any elections prior to the elections conducted on 05.02.2022.



35. PW3, Kachinga Ekeno Ngisanyan, gave a sworn testimony and elected to adopt his statement dated 21.02.2024 which reiterates the averments in the plaint. He further testified that he was one of the founders of the Turkana Mission Fellowship Outreach Ministry having curved out from the African Inland Church. On establishing the ministry, the witness became the treasurer as the 1st defendant became the chairman and leader. He added that on 05.06.2022, after the elections, they accepted the invite of the 1st defendant and together with the 2nd defendant they visited him at his home where they learnt that he had married a second wife and that this second marriage had gone against the dictates of the church and by dint thereof, he could not continue being the bishop. He then produced the documents as exhibits which were marked as below; membership card as PEXH 27, diploma certificate as PEXH 28, certificate of merit as PEXH 29, certificate for course completion as PEXH 30, certificate of church leadership as PEXH 31 and certificate of ordination as PEXH 32.
36. On cross examination the witness stated that the ministry does not have a constitution and that they use the bible and *the constitution* of Christ Dominion Church. He added that the only elections they conducted was on 05.02.2022 and that the earlier officials were appointed by the coordinator.
37. On being questioned by the court he stated that due to the dispute he left the church in Narewa and now worships in Kanam.
38. PW4, Jonathan Erakan Ekiru, gave evidence that he is a former a chief of Nakurio sub-location who retired in the month of June 2024. He testified that he knew the 1st plaintiff and the 1st defendant as people who resided in his area and the 1st defendant further as a son of his aunt. He stated that he knew that the 1st defendant was the founder of the ministry and a former pastor of AIC Church. As a pastor, he knew that the 1st defendant would lead efforts to get donations to the community from donors. He added that he heard that the 1st defendant had other wives and he also knew that he was a village administrator for about 3 years now. His evidence elicited no cross examination from the defence.
39. PW5 was Isaac Kaberia. He gave a sworn testimony and introduced himself as the leader and founder of the Christ Dominion Church. He adopted his statement dated 25.04.2024 in support of his case adding that he first met the 1st defendant in the year 2008. In the year 2017, the 1st defendant approached him with an explanation that the Turkana Mission Fellowship Outreach Ministry had grown as a ministry and thus needed a cover letter to operate legally until they could obtain their own registration. Bases on such request, on 10.02.2017, he wrote a letter recognizing the 1st defendant as a leader of the Turkana Mission Fellowship Outreach Ministry under the Christ Dominion Church and ordained the 1st defendant and several other people on 23.04.2017 to serve in the ministry.
40. His further evidence was that the 1st defendant got a second wife against the dictate that a church leader must be monogamous. He then produced as exhibits; Letter from MGM advocates as PEXH 33, official search for the Christ Dominion Church as PEXH 34, letter from the AGs office dated 12.02.2023 as PEXH 35, letter from Kiarie & Co. Advocates dated 27.10.2023 as PEXH 36, letter to the 1st defendant indicating that he had ceased to be a bishop as PEXH 37, minutes of the Christ Dominion Church meeting of 30.03.2023 as PEXH 38, letter by CDC to the 4th plaintiff as PEXH 39, certificate of registration for CDC as PEXH 40, amended constitution of CDC as PEXH 41, letter from MGA Advocates dated 10.01.2024 as PEXH 42, letter from the AGs office as PEXH 43, certificate of ordination as PEXH 44, letter from CDC to the 1st defendant dated 10.02.2017 as PEXH 45, bundle of correspondence between the 1st defendant and the 4th plaintiff as PEXH 46, minutes of CDC dated 30.03.2023 as PEXH 47 and minutes of Turkana Fellowship Ministry held on 10.03.2023 as PEXH 48.



41. On cross examination he stated that the letter from the Attorney General dated 12.02.2024 referred to him as a treasurer as at 01.01.2017 and that the affiliation with the ministry made its members become adherents of the church. On being questioned by the court he stated that the ministry was autonomous to mean that it was responsible for its own affairs.
42. The last plaintiff's witness, PW6 was Jacob Etheri. He equally gave sworn testimony by which he adopted his witness statement dated 21.02.2024. The witness introduced himself as the presiding bishop of Agape Church of Destiny and formerly a pastor with AIC in Turkana until the year 2007. He added that he was the secretary general of the house of bishops. He recalled that on 10.03.2023 the house of bishops received a report from one of the pastors concerning the conflict at the Turkana Mission Fellowship Outreach Ministry. The house of bishops sought to resolve the dispute and held the first mediation session on 23.03.2023 attended by representatives of the 2nd plaintiff and those of the 1st defendant. Of the trustees present 4 out of the 5 trustees told the session that while partnering with the Germans, it was agreed within the ministry that all properties and assets acquired through Turkana Mission Fellowship Outreach Ministry was God's and belonged to the churches and not the self-help group.
43. He added that a follow up meeting was scheduled for the 01.04.2023 to conclude the mediation process but was interrupted after the 1st defendant and his hired goons stormed the meeting resulting to its postponement till 17.04.2023. He stated that in the last meeting held on 17.04.2023, it was resolved that the 1st defendant had left the ministry to work with the county, that he had sinned by marrying three wives and the 2nd plaintiff had been duly appointed as the head of the ministry. He then produced eight documents as exhibits and marked; marriage officiating license as PEXH 49, certificate of theology as PEXH 50; letter from the Attorney General dated 30.05.2024 on Agape church as PEXH 51, certificate of registration of Agape Church of Destiny as PEXH 52, mediation minutes of Turkana Mission Fellowship Outreach Ministry dated 18.03.2023 as PEXH 53, minutes of meeting with bishop and 1st defendant dated 23.03.2023 as PEXH 54, mediation minutes for meeting of 17.04.2023 as PEXH 55 and position statement by Turkana Bishops on Turkana Fellowship Outreach Ministry as PEXH 56.
44. On cross examination he stated that at the mediation meeting, they asked for the constitution of Turkana Mission Fellowship Outreach Ministry but it was not available and they resolved that the elections were done in accordance with the constitution of Christ Dominion Church. He also confirmed that PEXH 53, 54 and 55 did not make reference to the Christ Dominion Church constitution but stressed that he had never seen the constitution of Turkana Mission Fellowship Outreach Ministry before the suit was filed.
45. DW1 was Ekwee Michael Peikai who gave sworn testimony. He introduced himself as a village administrator. He adopted his witness statement dated 28.03.2024. In the evidence he asserted being an ordained bishop and founder of the Turkana Mission Fellowship Outreach Ministry which he singlehandedly started in August, 2011. At the time of founding the ministry, he said, he was a licensed pastor of the African Inland Church where he initiated the engagement in the ministry and humanitarian assistance.
46. He asserted that he met two German missionaries during his ministry work with AIC church and that as his relationship with the Germans blossomed. Following his disagreement with the AIC in the year 2016, he requested the support of the two Germans to start his own ministry which they agreed to. This resulted in the Germans building for him a store and a mission center. On 31.12.2016, the Turkana Mission Fellowship Outreach Ministry was born and the ministry continued to flourish but he was unfortunately unable to complete its registration and the 2nd plaintiff who had since become a member



- of the fellowship sought the cover of the Christ Dominion Church. He asserts that the purpose of the cover was to provide religious services and that it did not transfer the assets of Turkana Mission Fellowship Outreach Ministry to its control. He maintained that that the ministry continued to receive the support of the two Germans in the purchase of the two parcels of land and a Toyota Land Cruiser Registration No. KBY 989G.
47. He adds that everything ran smoothly until sometime in February, 2022 when he stepped back momentarily as the regional head overseeing day to day operations to attend to his failing health and the 2nd plaintiff stepped in on as the regional chair in his absence though as per *the constitution* of the ministry, he continued to remain the overall leader, founder and bishop.
 48. His statement is that while he was away, the 2nd plaintiff made an arrangement with the Christ Dominion Church which arrangement was costly as they incurred exorbitant travel and accommodation costs. As the leader and founder of the ministry, he decided to seek cover from another church, Christ is the Way Ministry, presided over by the 3rd defendant and that this move discontinued the relation of the fellowship with Christ Dominion Church. He proclaims that the Christ Dominion Church has become a nuisance and continues to trespass onto the property of Turkana Mission Fellowship Outreach Ministry without permission. He further proclaims that no elections were held to oust him as the leader of Turkana Mission Fellowship Outreach Ministry.
 49. Before concluding his testimony, he produced as exhibits the following documents; his certificate of ordination as DEXH 1, certificate of completion for Christian mission dated 14.11.2015 as DEXH 2, academic transcripts as DEXH 3, diploma certificate in theology as DEXH 4, certificate in public administration as DEXH 5, certificate of merit dated 14.22.2015 as DEXH 6, pastoral certificate as DEXH 7, minutes of TMFOM held on 04.03.2023 as PEXH 8, cover letter dated 10.2.2017 as DEXH 9, constitution of TMOF as DEXH 10, letter dated 31.01.2023 as DEXH 11, request for cover letter dated 11.01.2023 as DEXH 12, minutes of meeting of 05.05.2023 for TMOF as DEXH 13, minutes of conflict resolution meeting held on 10.04.2023 as DEXH 14, letter by Ekai to TMOF officer dated 03.01.2020 DEXH 15, letter of declaration by William Ekai dated 30.12.2016 as DEXH 16, letter from Christ is the Way Ministries as DEXH 17, minutes of TMOF of 05.04.2022 as DEXH 18 and marriage certificate for 1st defendant as DEXH 19.
 50. On cross examination he refuted claims that he resigned from the ministry and conceded that the cover letter he received from the Christ Dominion Church gave him authority to lead and that he was ordained together with others but was a stranger to the affiliation agreement between the ministry and Christ Dominion Church. He added that the process of registering TMOF was ongoing
 51. DW2, William Emase Ekoumue, also gave a sworn testimony and introduced himself as a pastor with Christ is the Way Ministries. He then adopted his statement dated 28.03.2024 as evidence in chief. In the statement, he describes himself to be in charge of all churches under Christ is the Way Ministries in Turkana. He stated that he first met DW1 in the year 2011 while he was a reverend at the AIC Church, Milimani, Lodwar.
 52. He added that in the year 2022 he heard of the unrest within the ministry and DW1 approached him and confirmed the dispute among the leadership and decried the actions of the 1st plaintiff who in his view had overstepped the mandate bestowed upon him under the Cover agreement and so he asked him whether his church would provide him with legal cover which they agreed. He went ahead to produce a cover letter dated 11.01.2023 as DEXH 20 and a revised constitution of the Christ is the Way Ministries as DEXH 21.



53. On cross examination he admitted having attended the meeting of 10.04.2023 at which the 1st defendant was made an automatic leader, being the founder, the plaintiffs were never represented and adding that DEXH 20 was written long after he had given cover to the defendant although he failed to disclose that he had given out the cover. He further stated that Turkana Mission Fellowship Outreach Ministry has and operates under its constitution but with control from Christ is the answer because the cover document grants control over the staff and assets of the ministry.
54. On reexamination he added that he had the authority to provide the cover and that he sought the permission of his bishop who consented.
55. On being questioned by the court he stated that had DW1 informed him that the fellowship had held elections and was operating on another cover letter, he would not have issued the cover.
56. DW3, Thomas Lemuya Emeyua, in his sworn evidence stated that he was the vice chairman of Turkana Mission Fellowship Outreach Ministry. It was his statement that he joined the fellowship in 2019 when the 1st defendant was the bishop and the 2nd plaintiff as his assistant. He added that on 05.02.2022, DW1 convened an executive meeting where he explained that he was not in good health and he appointed leaders to be in charge of the day-to-day operations of the ministry during his temporary leave of absence. He stated that in the ensuing elections, the 2nd plaintiff was elected the chair of the region, the witness was himself elected the vice chair while the 3rd plaintiff was elected the treasurer. He claims that the 2nd plaintiff sidelined him and claims of misappropriation of funds and failing to offset bill began to rise forcing DW1 to return from his leave.
57. Though the minutes of the meeting of 04.03.2023 captured his attendance and him informing DW1 to let the church leadership do its work, he could not recall attending the meeting. This was also his position for the meeting held on 05.05.2023. In effect, he admitted attending the two meetings but could not remember the ongoings.
58. On being questioned by the court he stated that they became dissatisfied with the Christ Dominion Church cover even before DW1 went on leave.
59. DW4, Dr. Bishop Moses Kipler Kisorio gave sworn evidence and stated that he was a preacher and a bishop of the Christ is the Way Ministries Church. He confirmed that the church issued a cover letter to the ministry vide a letter he wrote and signed on 17.05.2023 and which he produced as DEXH 17. He stated that he issued the cover in line with *the constitution* of the church and that it was a term of the cover that each institution would not interfere with the affairs of the other.
60. On cross examination he stated that the ministry was bound by its own constitution. He added that he was not aware of the elections held 05.02.2022 and that he had not heard anything about the integrity of DW1. He also stated that the process of ordaining DW1 as a bishop was ongoing.
61. On being questioned by the court he stated that had he been aware of the existence of a dispute or an existing affiliation, he would have been hesitant in granting the affiliation.
62. By consent, the parties agreed on the issues for determination by this court. to be;
 - a. Whether or not the 2nd plaintiff is the bishop/chairperson/coordinator of the Turkana Mission Fellowship Outreach Ministry (TMFOM)?
 - b. Whether or not a valid election took place on 05.02.2022 and what was the purpose and outcome of that election if in the affirmative?
 - c. Which constitution governs the Turkana Mission Fellowship Outreach Ministry?



63. At the close of production of evidence, the counsel took time to file and exchange submissions. The plaintiff filed submissions dated 14th April 2025 while the defendants are dated 30th May 2025. The court has had the benefit of time to peruse the submissions, has given due regard to both and may only give a summation as below.

Submissions by the Parties

64. For the plaintiffs, it is their submission that the 1st defendant having resigned from the leadership of the Turkana Mission Fellowship Outreach Ministry, called for the election of 05.02.2022 and publicly endorsed the new leadership is estopped in law and equity from disowning the very process he birthed. It is further submitted that the leadership of the ministry is in support of this suit and even though the 1st defendant claims to be a bishop, no congregation follows him, no leadership affirms him and that no spiritual office receives him.
65. On which constitution governs the Turkana Mission Fellowship Outreach Ministry, the plaintiffs submit that since PW1, PW2 and PW3 confirmed to the court that upon lifting of the moratorium the plaintiffs are at an advanced stage of registering the church that will succeed the Turkana Mission Fellowship Outreach Ministry that is, Trust Mission fellowship Kenya, *the constitution* of Christ Dominion Church covers the church until the church completes its registration.
66. The plaintiff cited to court the Singaporean decision in BMG VS BWF (2020) SGCA 36 on the rule against reprobation and approbation; the treatise by Gikungu David Main titled; Dynamism in church Governance with Special Reference to Leadership Conflict in the Full Gospel Churches of Kenya, establishing that most conflicts are founded on control of resources and the decision in Bethlehem church and Rephio Chirumbwa vs Zacharia Caleb Gemu, HH 406-24 HC 9055/19 where one was disqualified for having been nominated while not a member of the of the General Board.
67. The defendants commence their submissions with the last issue on which constitution governs the Turkana Mission Fellowship Outreach Ministry, and submit that it is *the constitution* of Turkana Mission Fellowship Outreach Ministry appearing at page 51 of the 1st defendant's bundle of documents that must be applied. It is asserted that the mere fact of poor draftsmanship of *the constitution*, having been done by lay people, is not enough to warrant its ouster. It is then added that unlike *the constitution* of the Christ is the Way Ministries, *the constitution* of Christ Dominion Church does not envisage affiliations such as the one between it and ministry. Additionally, they argue that the 1st plaintiff on cross examination did not provide evidence to show that he was the presiding bishop or chairman of Christ Dominion Church duly authorized to enter into the affiliation agreement.
68. As to whether a valid election took place on 05.02.2022 and whether the 2nd plaintiff is a bishop of the ministry, it is submitted that whereas the bishop is the overall leader of the Ministry, the chairman heads a region or a zone and that by dint of section 18 of *the constitution* ministry, the bishop is not elected thus making the proposition that the elections of 05.02.2022 culminated in the election of a bishop erroneous.
69. It is then argued that the elections purportedly conducted in line with *the constitution* of Christ Dominion Church contravened section 17 of Societies as it failed to report the change in leadership with the Registrar of Societies and a departure from the laid procedures is fatal and in support thereof, they cite Constitutional Petition No. 14 of 2024 James Marangu & 1750 others v Samuel Muguna where it was held that a departure from procedure is fatal.
70. The plaintiff suit is then faulted for the reasons that; there is an inconsistency in the pleadings and evidence where the plaintiffs allege on one hand that the 1st defendant's mandate ended when he



stepped aside following the elections of 05.02.2022 while on the other hand they say that he was removed from office on account of misconduct following a meeting held on 30.03.2023, the 2nd plaintiff's certificate of ordination shows that he was ordained as a bishop of Christ Dominion Church on 17.05.2023 and not 05.02.2022 and that the illiteracy cadre of the 2nd defendant casts doubts on his credentials as presented to court. It is thus prayed that the plaint be dismissed with costs.

Analysis And Determination

71. The court is disappointed that a dispute between confessed Christians and, ordained ministers and leaders in the Christian faith have had to remain in controversy basically clothed as a fight of faith but is otherwise a contest over who between the 2nd plaintiff and the 1st defendant controls some material possessions, land and motor vehicle, and other resources of an endeavor set up by a Christian ministry. It is sadder that attempts by peers, the house of bishops in Lodwar, also yielded no reprieve and the courts urge to try mediation could not be embraced.
72. From the pleadings and the testimonies proffered, what comes out is a contestation of the management and ownership of assets acquired for the benefit of Turkana Mission Fellowship Outreach Ministry. That dispute as of necessity invite the questions whether the ministry being unregistered could operate independently without running affront the law. It also begs the question under what legal instrument it relied for its operations. Those issues point to the court that it is important to start with the question of legality; what instrument the ministry has been operating under.
73. It is a common ground that with effect from 11th November, 2014, the then Attorney General, Prof. Githu Muigai, issued a moratorium on the registration of new religious organizations pending gazettment of new regulations to govern churches and religious organizations. The ban has since been lifted culminating in the Religious Organization Bill, 2024 aimed at regulating religious organizations.
74. It is not disputed by the parties that the 1st defendant, with others, founded or formed the Turkana Mission Fellowship Outreach Ministry in the year 2016. This was during the existence of a moratorium against the registration of new churches. As mutually put forth by the parties, this was the reason why the ministry sought cover from the Christ Dominion Church. A cover which both sides took and believed to mean affiliation.
75. From the testimonies tendered by both sides, the ministry appreciated that it was to operate as a church, thus a society, and therefore sought to be covered in its operations, while it awaited its own registration, from a registered/lawful society. That cover was granted by Christ Dominion Church.
76. By definition, pursuant to section 4 of the *Societies Act*, a society that is neither registered nor granted exemption is defined as an unlawful society. Therefore, the reason for the need of a cover letter is the obvious one that it is not legal, but a crime, under both section 5 and 6 of the Act, to manage or belong to an unlawful society.
77. It is thus obvious that before registration, Turkana Mission Fellowship Outreach Ministry had no capacity to operate or indeed recruit members of its own. It could only operate under a registered church that had agreed to cover its operations as their own. To operate otherwise would have inevitably qualified it as an unlawful society with the known penal consequences.
78. The rationale of registration of societies in Kenya is found on the objects of the *Societies Act*; the control of societies by registration, suspension, deregistration and even winding up. At registration the objects and office bearers of the society are put to scrutiny so as to pass the test of compliance with section 11 of the Act. That underscores the importance of a constitution of a society.



79. It is the opinion of the court that a constitution of a society only becomes operational once it is approved to comply with the law upon the act of registration. Before it is registered, it is but just a proposal or draft that cannot be the basis of operation by the society. In fact, to suggest that a society operates with a document which ought to be registered but has not been registered is to own up that it is operating unlawfully.
80. Throughout the proceedings, the defendants made great endeavour to show that they were keen to operate within the law hence the pursuit for cover from Christ is the answer ministry when the difference between the 2nd plaintiff and the 1st defendant arose. It thus follows that a constitution yet to be put to scrutiny by the registrar cannot be said to have been the operating one. That leads the court to the conclusion that once the ministry obtained the cover from Christ Dominion Church and agreed to hold its hand, and responsible to the registrar for the actions of the ministry, the ministry became an associate of a ministry of the Christ Dominion Church, pending the attainment of its own registration.
81. The last issue is thus resolved that it was *the Constitution* of Christ Dominion Church that guided the ministry while the cover from that Church remained in place.
82. On the same vein, the court notes that having chosen to vacate his seat voluntarily, the 1st defendant had a change of mind and opted to walk back to the same seat after a valid election had taken place, with his full blessing, with the hope that by mere personal fiat, the outcome of the elections would be wished away. When that attempt was resisted, he chose the rather dexterous route of getting another cover letter from Christ is the Way Ministry. The request that cover-letter was expeditiously responded to the same. Quite an efficient way to transact. However, all that happened, was initiated and executed by a person with no authority to act for and on behalf of the ministry. The court finds and holds that the ministry having chosen the democratic route of choosing leadership and deciding governance, could only undo the outcome of the elections of 5.2.2022 by another election and not by personal fiat.
83. For the reason that the cover letter from Christ is the Way Ministry was sought and obtained by a person without authority of the ministry, that document had no basis of binding or affecting the ministry and its hitherto established dealing and associations.
- Whether or not valid election took place on the 05.02.2022, its purpose and outcome?
84. In both statement and oral evidence in court, the 2nd defendant affirmed that due to personal reasons including engagement as a sub-county administrator, he offered to stay aside and thus allowed a group headed by the 2nd plaintiff to take charge at the ministry. He reiterated just as his witness, DW3, the person who successively served as vice chair, that the 1st defendant stepped aside due to sickness, an election was conducted and the 2nd plaintiff given the mandate to take the seat of the 1st defendant. The court finds the evidence of DW3 to be cogent, impartial and inviting no tag of being incredible.
85. While the 1st defendant maintain that the 2nd plaintiff was only elected the chair of the region, DW3 provides the much-needed clarity of the nature and purport of the elections. He said that the ministry has no presence outside Turkana County and that the elections of 5.2.2022, even though regional, were indeed the overall election for the apex governance of the ministry. That evidence when added to the aggregate evidence on the part of the plaintiff leaves no doubt but guides the court to the conclusion that the 1st defendant appreciated that in his chosen absence, the ministry needed leadership, qua ministry, even when operating under the guidance and shadows of the Christ Dominion Church.
86. With such conclusion, the 1st and second issues are settled. Settled on the term that there were valid elections for the governance of the ministry conducted on the 5.2.2022 in which the 2nd plaintiff was duly elected the ultimate head of the ministry. The court adds that having been the assistant to the



founding leader and bishop, he was the heir apparent and with no challenge by another qualified person, his elevation by the adherents of the ministry leaves no per adventure that the 2nd plaintiff was elected and remains a bishop/chairman/leader of the ministry.

87. Up to this level, the questions isolated for court determination stand resolved. What remains is an appropriate order that addresses the root of the disagreement; control and possession of the assets and resources of the ministry.
88. It is common ground that the tangible resources attributable to the ministry are the piece of land on which the mission center sits, together with the developments and structures erected and being thereon, and the motor vehicle Registration number KBY 989G. Both sides agree that the property was acquired with the assistance of a group called the Germans for the purposes of the ministry in Turkana.
89. That the property must remain for the benefit of the ministry is common place when the defendants' pleadings at paragraphs 55 and 56 of the statement of defense and counter-claim is taken into account. The court finds that both sides agree on the object and goal of the donation was the ministry, however actioned, even before registration. Being a common position, that must be respected.
90. The court respects the wishes of the two sides and declare that the parcel or piece of land at Narewa and the motor vehicle Registration number KBY 989G is the property of the ministry and shall be maintained and held as such by the Christ Dominion Church, on behalf of the recognised leadership of the ministry.
91. The consequence is that the plaintiff claim is allowed in terms of prayers b, c, e, f, and g.
92. On costs, the court gives regard to the fact that the dispute, even if propelled by narrow interests over control of financial resources, is a group interest case, grounded on Christian faith which underscores restoration of relationships and brotherhood. It is equally noted that the defendants desire that the assets remain for the objects of the ministry has been upheld.
93. It is thus ordered that each party shall bear own costs.

DATED, SIGNED AND DELIVERED AT LODWAR THIS 7TH DAY OF JULY, 2025.

PATRICK J O OTIENO

JUDGE

