



REPUBLIC OF KENYA



**KENYA LAW**  
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**Okode v Royal Media Serveces Ltd & another (Civil Case  
E004 of 2022) [2024] KEHC 5437 (KLR) (17 May 2024) (Judgment)**

Neutral citation: [2024] KEHC 5437 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT SIAYA  
CIVIL CASE E004 OF 2022  
DO OGEMBO, J  
MAY 17, 2024**

**BETWEEN**

**HON. GEORGE OKODE ..... PLAINTIFF**

**AND**

**ROYAL MEDIA SERVECES LTD ..... 1<sup>ST</sup> DEFENDANT**

**Jael Lieta ..... 2<sup>ND</sup> DEFENDANT**

**JUDGMENT**

1. The Plaintiff herein Hon. George Okode, has sued the two Defendants, Royal Media Services Ltd, and Jael Lieta for defamation. In the plaint filed herein on 16/12/2022 and dated 15/12/2022, the Plaintiff prays for the following reliefs:-
  - a. General damages for defamation.
  - b. Aggravated damages for defamation.
  - c. An order that the Defendants do broadcast an unqualified apology through the same medium as prominently and in similar manner as the offensive broadcast.
  - d. Costs of the suit plus interest on (a), (b) and (c) at court rates till payment in full.
2. Upon service of the summons, both Defendants entered appearance and have defended this suit. The suit proceeded by way of oral evidence.
3. While giving evidence in court, it was the evidence of the plaintiff (PW1) that his case against the Defendants is one of defamation following a news item aired by the defendant through its Ramogi Tv channel. That the same depicts him as being behind misappropriation of Ksh. 400 million from Siaya County, a fact which is not true. That the video aired on TV and played in court is of a Member of



- Parliament, Gem, Hon. Elisha Odhiambo who mentions Finance Department and not the Plaintiff or Officers in Procurement Department.
4. He went on to show the second video relating to the alleged misappropriation of the Ksh400 million from the County Executive, and which also does not mention him.
  5. The Plaintiff further went on that the task force report ordered by the county governor came out in January 2023 whereas the allegations were made in October 2022 and that the said report cannot be a basis for the statements he is aggrieved of. And that even the assessment report of the EACC Commission does not mention his name in relation to the misappropriation of the Ksh400 million as captured on TV. He confirmed that he has been elected as Speaker three times due to integrity and that to link him to corruption, especially Ksh400 million injures his reputation. And that he has been referred to by Member of the Public and competitors as corrupt because of the Citizen and Ramogi Tv news. And that even his family regards him as corrupt making him feel discriminated against.
  6. He added that whereas the MP for Gem talked generally about corruption the news reporter went on to single him and Governor Rasanga out. And also that the Respondent has failed to offer any apologies despite demand being made for the same and the offensive clips are still in Defendants' sites to date. He pleaded for both general and aggravated damages, apologies and costs of the suit and interest.
  7. On cross examination, the Plaintiff went on that he watched the clip having been tipped off by a friend. It was in Luo. That the mention of his name means he is corrupt. That Hon. Elisha did not utter the words in the video. That while he urged the Governor to investigate corruption in finance and procurement departments, the reporter went on to mention him. And on the task force report, he answered that it does not mention him as the speaker does not approve payment and is not an accounting officer.
  8. PW2 was Charles Otieno Okal whose evidence was terse that after the publication, he has formed the inference that the Plaintiff as speaker is fraudulent, dishonest and cannot be entrusted with public office, a perception he did not have before the publication. He confirmed that he has known the Plaintiff for 6 years and he watched the clip on 3/10/2022 as Hon. Elisha talked about corruption in Siaya County and urging the EACC to move in and investigate. That Hon. Elisha did not mention the Plaintiff in the clip.
  9. The third witness of the Plaintiff (PW3), was Amos Omondi Aduda, whose evidence was that he is the one who brought to the attention of the Plaintiff the issue of this clip which changed his perception of the Plaintiff.
  10. He now regards the Plaintiff as corrupt. He has known the Plaintiff from 1999, 20 years ago. And Julius Aguko, PW4, is the one who translated the clip. In court, he produced the relevant certificate of production and translation (Exh – 2 (a) (b) ).
  11. On the side of the defence DW12 was Joel Lieta who works at Royal Media Services Ltd and who is sued as 2<sup>nd</sup> Defendant. Her evidence was that her article include reporting, anchoring and production. She showed written authority to represent the 1<sup>st</sup> Defendant. She denied uttering the alleged defamatory words, but confirmed anchoring the news of Ramogi Tv on 1/10/2022, the clip produced by the Plaintiff. That in the clip, Hon. Elisha talked about corruption in Siaya and mentioned the leadership of the County and that of the County Assembly. That in her anchoring, she mentioned specific people, the former Governor and the Speaker. She also confirmed that the Plaintiff is not mentioned by name in the task force report. She was sole witness for the defence.
  12. At the close of the defence, parties filed written submission. The submissions were as follows:-



13. On the side of the Plaintiff, it was submitted that the Defendants in its programme known as “Angich welo,” at Ramogi Tv, aired a story under the caption, “ mibadhi Siaya”, wherein the 2<sup>nd</sup> Defendant uttered words in Luo language interpreted to English as follows:-

“Gem Member of Parliament Elisha Odhiambo has urged the residents of Siaya to hold demonstrations to protest the corruption that has now engulfed the finance department of County of Siaya if the officers involved with the said corruption will not resign. While addressing news reporters at the funeral in Ndori, Odhiambo said that it is sad when leaders use public funds for personal gains.

Odhiambo requested EACC to thoroughly investigate the County’s budget for the past 10 years which has fine details on the corruption that is currently implicating the former Governor of Siaya Cornell Rasanga and the County Speaker of Siaya, George Okode.

He urged Governor Orengo be strict in reforming the leadership of the county. EACC is currently investigating the misuse of Kenyan shilling four hundred million at the County of Siaya.”

14. That the said words in their natural and ordinary meanings were understood to mean that the Plaintiff is guilty of corruption and economic crimes, is fraudulent, corrupt and dishonest person, is guilty of looting public funds, unfit to hold public office, is responsible for economic regression in Siaya County, and has been or participated in the conspiracy to defraud the County Government of Siaya, the alleged Ksh400 million.
15. That the Plaintiff reputation and integrity has suffered as a result of the alleged defamatory publication and he has suffered distress, agony, mental anguish, humiliation and embarrassment.
16. With regard to the law of the tort of defamation, it was submitted that the words were defamatory and tend to lower the Plaintiff’s reputation in the minds of right minded persons and the words referred to the Plaintiff. That the words were also malicious.
17. Counsel referred the court to the case of Miguna Miguna –vs- Standard Group LTD & 4 others (2017) eKLR, in which the court held;
- “Speaking generally, a defamatory statement can either be libel or slander. Words will be considered defamatory because they tend to bring the person names into hatred, contempt or ridicule or the words may tend to lower the person names in the estimation of right thinking members of the society generally. The words must be shown to have been construed or capable of being construed by the audience hearing them as defamatory and not simply abusive. The burden of proving the defamatory nature of the words is upon the Plaintiff. He must demonstrate that a reasonable man would not have understood the words otherwise that being defamatory.”
18. And also the case of John Ward -vs- Standard LTD, HCCC NO. 1062 OF 2005, giving the ingredients of defamation as, that the statement must be defamatory, it must refer to the Plaintiff, it must be published by the Defendant and it must be false.
19. That as a result of publication, the credit and reputation of the Plaintiff as a Honourable Member of the Society and Speaker of County Assembly of Siaya, has been brought to public scandal, odium and contempt. That the said publication was not true and was made out of malice and that the defence of fair comment does not lie since the report on Corruption, Risk Assessment into Systems, Policies,



Procedures and practices of County Assembly of Siaya came in May, 2023 eight months after the defamatory publication and could therefore not be a basis for the publication.

20. On the defence of qualified privilege, the Plaintiff relied on Hulsbury's Law of England, 4<sup>th</sup> Edition that the defence would not shield a Defendant actuated by malice in the publication.

21. Similarly, on the defence of freedom of expression, the Plaintiff relied on the case of Nation Media Group Ltd -vs- George Nthenge, Civil Appeal No. 64/2013 (2017) eKLR, where it was held;

“Much as we acknowledge the intrinsic value of freedom of the press, we do not subscribe to the notion that the pen is a passport to experimentation and the taking of liberties with people's reputations. Indeed, in some instances, a good name is all that a person has when much else is lost or gone, as was so poignantly the case with the Respondent in this case who had had more than his fair share of personal tragedy as the record shows.

22. And regarding the defence of fair comment, it was submitted that the statement were of facts which the Defendants did not prove to be true and so the Defendants cannot rely on the defence. Counsel relied on the case of NATION MEDIA GROUP & ANO. VS- ALFRED N. MUTUA (2017) eKLR, in which the court held;

“To sustain the defence of fair comment, the Appelleants were required to demonstrate that the words complained of are comment, and not statement of fact; that there is a basis of fact for the comment, contained or referred to in the article complained of ; and that the comment is on a matter of public interest.”

23. And relying on the case of Raphael Lukale Vs- Elizabeth Muyabi & Another (2018) eKLR, the Plaintiff submitted on award of damages. That the court therein held;

“In defamation cases, the Court of Appeal in Standard Ltd -Vs- G.N. Kagia T/a Kagia & Co. Advocates, Civil Appeal No. 115/2003 set on the following principles to be applied in awarding damages;

1. In situation where the author or publisher of a libel could have with due diligence verified the libelous story or in other words, where the author or publisher was reckless or negligent, these facts should be taken into account in assessing the level of damages.
2. The level of damages awarded should be such as to act as deterrence and to instill a sense of responsibility on the part of the authors and publishers of libel. Personal rights and freedoms and values should never be sacrificed at the altar of profiteering by authors and publishers.”

Comparative awards were cited as follows:-

- i. Daniel Musinga T/a Musinga & Co Advocates, (Mombasa) HCCC No. 102/2000, an award of Kshs 10,000,000/= for then advocate now Judge of Appeal.
- ii. Johnson Evan Gicheru -Vs- Andrew Mortonel & Ano. A sum of 6,000,000/= was awarded for a retired Chief Justice .



- iii. Amritlal Bhagwanji Shah -Vs- Standard Ltd & Ano., HCCC No. 1073/2004, a sum of Ksh6,000,000/= was awarded for General Damages for a retired Court of Appeal Judge.
  - iv. Nation Media Group Ltd -Vs- John Joseph Kamothe & 3 Others, Civil Case No. 1073/2004, a sum of Ksh6,000,000/= was awarded for general damages and Ksh 1000,000/= as aggravated damages to a cabinet minister.
  - v. Kalya & Ano. Vs- Standard Ltd, (2002) Z eKLR, a sum of Ksh9,000,000/= was awarded to a prominent advocate, plus Ksh2,000,000/= in punitive damages and Ksh3,000,000/= in lieu of apology.
24. The Plaintiff urged for Kshs15,000,000/=in General damages and an additional Kshs 2,000,000/= as aggravated damages.
25. The Defendants on the other hand submitted that no evidence was shown of damages suffered as a result of the publication since the Plaintiff still holds his position as prior.
26. The Defendant also challenged the Affidavit of the Plaintiff in verification of the Plaintiff and that the court ought to strike out the plaintiff Solomon Software (EA) LTD & Ano. VS- Microsoft Corporation (2002 Eklr, Peter Kipyegon Kirui Vs- Afc & 2 Others (2007) eKLR, And Flystar Ltd Vs- Dephis Bank LTD, (2015) eKLR.
27. On defamation, Counsel submitted on Section 24 of the Defamation Act, that;
- “In any action for libel or slander in respect of words containing 2 or more distinct charges against the Plaintiff, a defence of shall not fail, by reason only that the truth of every charge is not proved if the words not proved to be true do not materially injure the reputation of the plaintiff having regard to the truth of the remaining charges.”
28. The Defendant also raised the defence of qualified privilege, that hose are statements made in the performance of a duty and statements made in protection of an interest. And also that the same was made in public interest, while relying on Darie & Ano. Vs- Gardiner & Ano. (2018) NZCA 278, a Newzealand Case. And again basing their submissions on Nation Media Group & Ano. Vs- Alfred N. Mutua (2017) eKLR, it was submitted that the same was fair comment on a matter of public interest ie that;
- “..... to sustain the defence of fair comment, the appellants were required to demonstrate that the words complained of are comment, and not a statement of fact, that there is a basis of fact for for comment, contained or referred to in the article complained and that the comment is a matter of public interest.....”
29. Counsel went on to refer to several other authorities including:-
- i. Jeff Otieno & Others Vs- Martin Ngang'a (2019) eKLR, that whenever a matter is such as to affect people at large so that they may be legitimately interested in or concerned at what is going or what might happen to them or others, then it is a matter of public interest on which everyone is entitled to make fair comment.”
  - ii. JAcob Mwanto Wangora Vs- Hezron Mwando Kirorio (2017) eKLR, that, there are thing which are such public concern that newspapers, the press and indeed everyone is entitled to make known the truth and make fair comment on it.



- iii. Tiechbiz Ltd Vs- Royal Media Services, Civil Suit No. 45 of 2018 (2023), a decision which was submitted, was overturned.
30. That this court ought to do a balancing at between the right to reputation and the right of the media to impart information under Article 33 of *the Constitution*.
31. On the issue of damages, the counsel for the Defendants submitted that only a small amount or nominal damages could be awarded if a tall since Plaintiff did not offer any evidence of damages (Nation Newspapers Ltd Vs- Peter Baraza Rabando (2016) Eklr. He also referred the court to the following other decided cases:-
1. “The TECHBIZ case, where a sum of Kshs.200,000/= was awarded.
  2. Jacob Kipngetich Katonon VS- Nation Media Group Ltd, (2017) eKLR, in which only nominal damages were awarded of Ksh200,000/=.
32. In all, it was submitted that the Plaintiff has failed to prove his case on a balance of probabilities and same ought to be dismissed. And that in the alternative, if in favour of the Plaintiff, an award of Kshs.200,000 would suffice in general damages for defamation.
33. I have considered the evidence on record by both the plaintiff and the Defendants’ side. I have also keenly considered the very substantive and lengthy submissions filed herein by both the Plaintiff and Defendant’s sides. Basically, the Plaintiff’s claim on defamation emanates from the publication that the Defendants caused to be aired on 1/10/2022 in the 1<sup>st</sup> Defendant Ramogi Tv, 7.00 pm News programme known as “Angich Welo”, under the caption “Mibadhi Siaya”. It was the Plaintiff’s case that in the said bulletin broadcast in Luo language were the following words;
- Jaod bura ma Gem Elisha Odhiambo Oboogo lombo oganda ma Josiaya Mondo Obag riganyo makwedo mibadhi ma sani ogo tuche Otis Omenda mar County ma Siaya ponono ni apisa ma chind mabadhi Omweno okbi gwe tao. Kanoloso kod jofwambo e liel moro Nabri, Odhiambo owachoni en gima lit ka ebero ngima gi owuon.
34. Bende Odhiambo Okwaye duol ma kiedo kod mibadhi EACC mondo onon matut budget mar County no kuom higuu apar mokalo, mowacho ni itingo malingling ewi mibadhi ma koro mieno Gavana Machon mar County no Cornel Rasanga kod Spika mar Assembly ma Siaya George Okode. Owayo Gavana James Orengo Mondo Orid Chenro mar (Woko tend County No EACC gi esani nono mibadhi mar million mia agwen mano tigo marach e County ma Siaya.”
35. The same words, translated to English are that;
- Gem Member of Parliament has urged the residents of Siaya to hold demonstrations to protest the corruption that has now engulfed the finance department of County of Siaya if the officers involved with the said corruption will not resign. While addressing news reporters at the funeral in Ndori, Odhiambo said that it is sad when leaders use public funds for personal gains.
36. Odhiambo requested EACC to thoroughly investigate the County’s budget for the past 10 years which has fine details on the corruption that is currently implicating the former Governor of Siaya Cornel Rasanga and the County Speaker George Okode.
37. He urged Governor James Orengo be strict in reforming the leadership of the County of Siaya.”



38. In his evidence in court, the Plaintiff further produced the scripted video of the words of the Hon. Member of Parliament for Gem, Elisha Odhiambo as he addressed Members of Press on material date on the issue of corruption in the County of Siaya. It was his testimony that in the said address, the Honourable Member of Parliament mentions the finance department, which is in the Executive arm of the County Government. That in the address the Member of Parliament does not mention his name at all as opposed to the news bulletin aired by the Defendants as seen above.
39. He also played a second video aired on Citizen Tv news over the same issue. That in this video the Member of Parliament never mentions his name in relation to the misappropriation of the sum of Ksh 400 million from the County of Siaya.
40. It was therefore the evidence of the Plaintiff that the said new bulletin aired by the Defendants were false and defamatory to this character in that the same portrayed him as:-
- a. That he is guilty of corruption and economic crimes.
  - b. That he is fraudulent and a dishonest person
  - c. That he is guilty of looting public funds allocated to the County of Siaya.
  - d. That he is unfit to hold public office especially that of the Speaker of the County Assembly of Siaya.
  - e. That he is responsible for the economic regression of Siaya County.
  - f. That he is a corrupt public servant who has no regard for legal process and law of this country.
  - g. That he is in one way or another a participant and or connected to fraudulent activities ie colluding with the other County Assembly of Siaya officials to defraud the County of Siaya Ksh. 400 million.
41. The Plaintiff is the sitting Speaker in the County Assembly of Siaya, first elected in 2013, and still serving in the same position. It was his case that the said false publication of the Defendants have defamed his character, injured his reputation as a Honourable Member of the Society with a truck record of public service and brought him to public scandal, adium and contempt.
42. The Plaintiff called two witnesses, Charles Otieno Okal (PW2) and PW3, Amos Omondi Aduda, whose evidence were both that they have known the Plaintiff as morally upright man and a man of good repute, but that their perception of the Plaintiff has since changed after the publication and that they now view him as changed.
43. The Defendants have not denied airing the said publication as claimed by the Plaintiff. The Defendants have also not denied the contents and translation of the said publication from the original Luo language to the English language as presented by the Plaintiff. In effect therefore, the Defendants have admitted publishing the words complained of by the Plaintiff.
44. The defence of the Defendants is however that the said words aired and published were not defamatory to the Plaintiff, as the same were a fair comment and aired in exercise of the Constitutional Right to freedom of expression under Article 33 and 34 of *the Constitution*. And that the same words were published in public interest, in view of the allegations touching on corruption and loss of public funds which is an issue of public interest.
45. The first issue therefore for determination by this court is whether the said words aired and published by the Defendants regarding the Plaintiff were defamatory to his character and repute.



46. The case of Miguna Miguna -vs- Standard Group Ltd & 4 Others (2017) eKLR, gives a guide to this court on what constitutes defamation. In the same, it was held;

"Speaking generally a defamatory statement can either be libel or slander, words will be considered defamatory because they tend to bring the person named into hatred, contempt or ridicule or the words may tend to lower the person names in the estimation of right thinking members of the society generally. The standard of opinion is that of right thinking person's generally. The words must be shown to have been construed or capable of being construed by the audience hearing them as defamatory and not simply abusive.....The plaintiff must demonstrate that the reasonable man would not have understood the words otherwise than being defamatory."

47. The definition above adopted from Gatley on Libel and Slander, 8<sup>th</sup> Edition, Paragraph 31, and relied on by the Plaintiff indeed gives a definitive definition of defamation. Adopting the same it follows that the words complained of must be bring or have the potential of bringing the aggrieved person to disrepute or hate, contempt or ridicule and the standards to be used is that of a reasonable man. In our context the reasonable man obviously is the general audience who tune into and listen to both Citizen and Ramogi Television.
48. I have carefully considered the video clip produced and played by the Plaintiff in which the Honourable Member of Parliament, Gem, is shown addressing the press on 1/10/2022. In the same, the Honourable Member of Parliament admittedly talks about the corruption within the County of Siaya and abhors the situation where the County leaders use the funds of the County to enrich or enjoy themselves. He calls on the EACC to move in to investigate the County budget for the last 10 years and urges the residents of the County to demonstrate if those responsible do not resign. He mentions a sum of ksh400 millions as having been misappropriated. He specifically singles out the finance department as he urges County Governor James Orengo to reign in the vice.
49. I have compared the above video of the Member of Parliament addressing the press and compared same with the news bulletin aired by the Defendants on 1/10/2022 (already reproduced above). It is clear that in the said news bulletins, both on Citizen Tv and Ramogi Tv, the Respondent reports what the Honourable Member of Parliament uttered. In addition, however, the bulletins go further to mention the names of the Plaintiff, the Speaker of County Assembly of Siaya, George Okode and also former Governor of Siaya Cornel Rasanga. There lies the contrast between the words of the Hon. Elisha Odhiambo and the publication made by the Defendants in the news bulletin.
50. And from the clip produced in Evidence, the Defendants directly connects the Plaintiff to the corruption in Siaya County.

The said words used are:-

Odhiambo requested EACC to thoroughly investigate the County's budget for the past 10 years which has fine details on the corruption that is currently implicating the former Governor Cornel Rasanga and the County Speaker of Siaya George Okode."

In the same bulletin, the Defendants want;

"EACC is currently investigation the misuse of Ksh 400 million at the County of Siaya."

51. Did the Hon. Elisha Odhiambo utter the above words as reported by the Defendants?



52. If course not. In his address the Honourable Member of Parliament never mention the name of the Plaintiff. Neither did he mention the name of any particular officer or official of the County Government of Siaya.
53. The evidence on record further shows that the said publication by the Defendants were made on 1/10/2022. And that the EACC was currently investigating the misuse of Ksh 400 million at the County of Siaya. Again did the Honourable Member of Parliament utter these words in his address to the press?
54. Absolutely not. The Honourable Member of Parliament never mention any amount of money as having been misused by the County of Siaya, leave alone the sum of Kshs 400 million. In his address referred to corruption in the finance department of the county of Siaya. The Plaintiff is the Speaker of the County Assembly, the Legislative arm of the County. He is in no way a member of the Executive Arm or an officer at the finance department.
55. Further, it has come out in evidence that at the time the publication was made by the Defendants on 1/10/2022, the EACC had not commenced any investigations at the County of Siaya, hence the plea of the Honourable Member of Parliament that the EACC moves in to conduct such investigations.
56. In fact, the evidence produced by the parties show that the EACC moved in and prepared a report on corruption risk assessment into the systems, policies, procedures and practices of County Assembly of Siaya, which report was prepared in May 2023, long after the publication of the words aggrieved of on 1/10/2022. The report of the EACC was not about the misuse of the Ksh.400 million and in no part of the said report is t Plaintiff mentioned in relation to any misuse, corruption or loss of Kshs 400 million or indeed any sum of the County of Siaya.
57. The publication by the Defendants of 1/10/2022 was therefore malicious and without any basis. Malicious and without basis in view of the fact that the Honourable Elisha Odhiambo never in his speech uttered the said words as reported.
58. The said words touched on the integrity, character and name of the Plaintiff.
59. The words were untruthful and defamatory as they falsely linked the Plaintiff to the vice of corruption at the County of Siaya. And the malice on the part of the Defendants is further demonstrated by the reckless act of the Defendant of publishing the patently false statements against the Plaintiff on National Tv. And any reasonable person who heard or listened obviously made the conclusion that the Plaintiff was involved in such corruption, is unfit to hold public office, fraudulent, dishonest and not deserving of the public office entrusted on him. And to prove this, the Plaintiff called two witnesses, PW2 and PW3 who demonstrated in court how their perception of the Plaintiff changed upon watching both the video clip and the news bulletins as aired by the Defendants.
60. I therefor do not find any merit in the defences raised by the Defendants of fair comment, qualified privilege and freedom of expression under Article 32 and 33 of *the Constitution*.
61. This court therefore is convinced that the Plaintiff has proved on a balance of probabilities that by publishing the aggrieved words, the Defendants defamed the character and reputation of the Plaintiff. And that the Defendants are liable to the Plaintiff in damages for defamation. I so find.
62. With regard to the issue of quantum of damages, several authorities were cited by the parties. It is important to consider the unique circumstances of the Plaintiff in determining the quantum of damages awardable to the Plaintiff. The Plaintiff is a public servant and officer, holding the position of Speaker, County Assembly of Siaya. He has held the position, an elective position since 2013. This only goes into confirming the high regard and esteem which he is held by the residents of the County of



Siaya. By the aggrieved words, his reputation has obviously been dented. He has produced the evidence of two witnesses to confirm this. But at the same time, it is worth noting that even after the offensive and defamatory words were published by the Defendants, the plaintiff has continued to occupy his position as Speaker of the County Assembly, Siaya, and enjoyed the appurtenant benefits accorded to this office.

63. It is for this reason that I find the plea by the Defendants that the Plaintiff be awarded only nominal damages to be unreasonable. I am persuaded that the Plaintiff is deserving of an award of general damages.
64. I am guided by the authorities in the case of Johnson Evan Gicheru -vs- Andrew Morton & Ano., in which a sum of Kshs.6,000,000/= was awarded, for the Judge of Court of Appeal then. Also the case of Amritlal Bhagwanji Shah -vs- Standard Ltd & Ano., in which General Damages were awarded of Ksh 6,000,000/= also for a retired court of Appeal Judge. A sum of Kshs.1,000,000/= was also awarded therein as exemplary damages.
65. Considering the circumstances herein, I am convinced that a sum of Ksh.3,000,000/= would be adequate compensation to the Plaintiff in general damages. I accordingly award the Plaintiff general damages of Kshs3,000,000/= against the 1<sup>st</sup> and 2<sup>nd</sup> Defendants jointly and severally as prayed.
66. I also award the Plaintiff the sum of Kshs1,000,000/= as exemplary damages, and or aggravated damages against the 1<sup>st</sup> and 2<sup>nd</sup> Defendants jointly and severally as prayed in view of the Defendant's failure or refusal to offer any apologies to the Plaintiff despite demand, being made. Costs to the Plaintiff. It is so ordered.

**DATED, SIGNED AND DELIVERED THIS 17<sup>TH</sup> DAY OF MAY, 2024.**

**D. O. OGEMBO**

**JUDGE**

**17/5/2024**

**Court**

Judgment read out in court in presence of Mr. Okoya for Plaintiff and Mr. Muchori for Defendants.

**D. O. OGEMBO**

**JUDGE**

**17/5/2024**

**Mr. Muchori**

We ask for copy and 30 days Stay.

Okoyo

No objection.

**Court**

Certified copies of the Judgement to be availed to the Parties as urged. Stay of execution is hereby ordered and be in place for 30 days.

**D. O. OGEMBO**

**JUDGE**

**17/5/2024**

