



**REPUBLIC OF KENYA**

**IN THE ENVIRONMENT AND LAND COURT**

**AT NAIROBI**

**ELC JR NO. 86 OF 2018**

**[FORMERLY JR 550 OF 2016]**

**IN THE MATTER OF AN APPLICATION FOR JUDICIAL REVIEW ORDERS OF MANDAMUS AND PROHIBITION**

**IN THE MATTER OF THE LAND REGISTRATION ACT NO. 3 OF 2012, LAND ACT, 2012, NATIONAL POICE SERVICE ACT, FAIR ADMINISTRATIVE ACTION ACT, NO.4 OF 2015, THE LAW REFORM ACT, CAP 26, ORDER 53 OF THE CIVIL PROCEDURE RULES, 2010, THE CONSTITUTION OF KENYA, 2010 AND ALL OTHER ENABLING PROVISIONS AND PROVISIONS OF THE LAW**

**BETWEEN**

**REPUBLIC.....APPLICANTS**

**VERSUS**

**1. THE CHIEF LAND REGISTRAR**

**2. THE NATIONAL LAND COMMISSION**

**3. THE PERMANENT SECRETARY, MINISTRY OF LANDS,**

**HOUSING AND URBAN DEVELOPMENT**

**4. DIRECTOR OF CRIMINAL INVESTIGATIONS DEPARTMENT**

**5. INSPECTOR GENERAL OF THE**

**NATIONAL POLICE SERVICE.....RESPONDENTS**

**EX PARTE**

**SHISHIRKUMAR KANTILAL SHAH**

**NAINESH KANTILAL SHAH**

**KARTIC KANTILAL SHAH**

**BENJUNE ANIL SHAH.....EX PARTE APPLICANTS**

**JUDGMENT**

1. On 14<sup>th</sup> November 2016, leave was granted to the Ex Parte Applicant to file Judicial Review proceedings of which the substantive motion was filed on 23<sup>rd</sup> November 2016 seeking the following orders:

**i. An order of Mandamus compelling the 1<sup>st</sup> to 3<sup>rd</sup> Respondents whether by themselves or through their agents or employees to forthwith issue and or deliver up the original Certificate of Lease for the Property known as L.R. No. 209/91/18, Wambugu Road, Parklands in Nairobi to and or in the name of the Ex parte Applicants.**

**ii. An order of Mandamus to compel the 4<sup>th</sup> and 5<sup>th</sup> Respondents whether by themselves or through their agents or officers to forthwith release and or deliver to the Ex parte Applicants the original copies of the Lease Extension Letter to the Ex parte Applicants dated 7<sup>th</sup> March 1997 together with the annexures therein, dated 22<sup>nd</sup> July 2003 , the Assent to Bequest and Assignment dated 25<sup>th</sup> July 1983, the Grant of Probate issued on the 13<sup>th</sup> July 1981, Letter of Extension of Lease from the Nairobi County to the Ex parte Applicants dated 23<sup>rd</sup> May 1996 and the Memorandum of Registration of Transfer of Lands dated 25<sup>th</sup> July 1983 being the original documents that they had confiscated from the Ex parte Applicants herein in the month of October 2016 or thereabouts.**

**iii. An order of Prohibition to prohibit or to restrain the 1<sup>st</sup> to 3<sup>rd</sup> Respondents whether by themselves or through their agents or employees from releasing and or issuing the Certificate of Lease for the property known as L.R. No. 209/91/18, Wambugu Road, Parklands in Nairobi to any third parties apart from the Ex parte Applicants herein.**

**iv. An order of Prohibition to prohibit or restrain the 4<sup>th</sup> and 5<sup>th</sup> Respondents whether by themselves or through their agents or officers from harassing, intimidating, threatening, arresting, detaining, and or charging the Ex parte Applicants for fraud, trespass and or any charges related to proof of ownership and or failure to produce Certificate of Lease/Title to the property known as L.R. No. 209/91/18, Wambugu Road, Parklands in Nairobi.**

**v. Costs.**

2. The suit is premised on the grounds on the face of the substantive motion, the statutory statement of facts and the Verifying affidavit sworn by Shishirkumar Kantilal Shah dated 11<sup>th</sup> November 2016. He averred that on 2<sup>nd</sup> March 1973, the suit property was jointly assigned to Kantilal Motichand Shah and Varshi Bhimji Shah. Following the demise of Motichand Shah in September 1978, the property was duly transferred to three (3) of the Ex parte Applicants namely Shishirkumar Kantilal Shah, Nainesh Kantilal Shah and Kartic Kantilal Shah through probate proceedings in Probate and Administration Cause No. 258 of 1981. The Grant of Probate dated 13<sup>th</sup> July 1981 was confirmed to Kanta Kantilal Shah and Shishirkumar Kantilal Shah as executors of the estate of the deceased. The Executors signed a Memorandum of Registration of Transfer of Lands in favour of the applicants above, registered against the title an Assent to the Bequest (assignment) dated 7<sup>th</sup> September 1983 and obtained the Title entry. The *Ex-parte* Applicants took possession of the property and have since occupied, developed it and have duly made rate payments to the Nairobi County Government.

3. The deponent avers that in 1995, the *Ex-parte* Applicants applied to the Respondents to extend the lease of the suit property for 50 years. The Grant of Extension was approved via a letter dated 7<sup>th</sup> March 1997 upon the surrender of the original title by the Applicants to the Respondents in exchange for a new title.

4. The deponent further avers that following the death of Mr. Bhimji Shah, the name of Rekha Varshi Shah, the beneficiary of the deceased, was duly registered to the title of the suit property through entry of the Grant of Probate of Written Will dated 19<sup>th</sup> July 1997 in the register and registration of an Assent (conveyance) dated 18<sup>th</sup> September 1977. Upon the demise of Rekha Vershi Bhimji Shah, his share in the property was registered to Benjune Anil Shah, through a Grant of Probate of Will. This is indicated in an extract of the register entry.

5. The deponent received a letter dated 16<sup>th</sup> July 2003 from the then Nairobi City Council confirming the extension of lease. However, no Certificate of Lease or document of title has ever been issued to the Applicants. Further, no reasons have been given for the Respondents' refusal to release the title to the suit property. He further averred that the Respondents had released or were about to secretly release the property's title documents to third parties without their knowledge or consent.

6. He also averred that the Applicants had faced intimidation, harassment and threats from officers of the Criminal Investigations Department of the National Police Service at Kiambu who alleged that the applicants were trespassers who had fraudulently acquired the property. In October 2016, the said officers summoned the Ex parte Applicants and asked them to produce original copies of the following documents on grounds that they were carrying out investigations:

**i. the Grants of Probate for the Estates of Kantilal Motichand Shah, Varshi Bhimji Shah and Rekha Vershi Shah;**

**ii. the Assent to Bequest in favor of Mr. Motichand Shah's beneficiaries;**

**iii. the Assents (conveyance) in favour of the late Rekha Vershi Shah and Banjune Anil Shah and the title entries and register entries thereto;**

**iv. the letter dated 7<sup>th</sup> March 1997 from the Ministry of Lands granting extension of lease;**

**v. the letter dated 22<sup>nd</sup> July 2003 from the Nairobi City Council confirming extension of lease; and**

**vi. a property rates payment request for outstanding rates of Kshs. 2,897/- from the Nairobi City County dated 16<sup>th</sup> October 2016.**

7. The deponent avers that the officers have however refused to return these original documents and instead insist that the applicants produce

the original certificate of lease or risk being arrested and charged for land fraud and trespass.

8. No pleadings were filed by the Respondents despite the fact that their advocates were present during the lifespan of the suit.

### **Submissions**

9. The Applicants filed their submissions on 16<sup>th</sup> November 2020 arguing that they are the duly registered proprietors of the suit property and are therefore legally entitled to the issuance of a title documents to the property to the exclusion of any other parties. They submit that their right to administrative action that is expeditious, efficient, lawful, reasonable and procedurally fair under Article 47 of the Constitution and Section 4 of the Fair Administrative Actions Act have been breached by the Respondents by the refusal to issue a title document for the last 17 years since 2003.

10. The Applicants further submitted that no written reasons have been given for the delay and this infringes the Applicants' constitutional right to information under Article 35 as well as their right to quiet possession of property under Article 40 of the Constitution. They relied on the case of **Nairobi Law Monthly Company Limited v Kenya Electricity Generating Company & 2 others [2013] eKLR** which found that a state agency has an obligation to provide access to information on a citizen's request, unless it can show reasons related to a legitimate aim to not disclose such information.

11. They submit that this decision was also taken without adequate notice denying them the opportunity to seek redress from the relevant forums in law. The Applicants quoted the case of **Judicial Service Commission v Mbalu Mutava & another [2014] eKLR**, where the Court of Appeal considered the importance of the right to fair administrative action under Article 47 of the Constitution.

12. The Applicants stated that by failing to issue them with the certificate of lease, the 1<sup>st</sup> Respondent acted contrary to Section 30 (1) of the Land Registration Act, which requires the Registrar to issue a certificate of title or lease where no such title or lease has been issued, at the proprietor's request. This lack of action was thus illegal and marred by unreasonable delay, bringing it within the purview of this court to grant judicial review remedies. The Applicants relied on Mativo J's decision in **Republic v Betting Control and Licensing Board & another, Ex parte Outdoor Advertising Association of Kenya [2019] eKLR** wherein he held that;

**“a decision is illegal if it fails to implement a public duty.”**

13. The Applicants also cited the case of **R v Commissioner of Cooperatives Ex parte Kirinyaga Tea Growers Cooperative Savings & Credit Society CA (1999) EALR 245** where the Court of Appeal held that:

**“.....it is axiomatic that statutory powers can only be exercised validly if they are exercised reasonably. No statute ever allowed anyone on whom it confers power to exercise such power arbitrarily, capriciously or in bad faith.”**

14. They also relied on the Ugandan case of **Pastoli vs. Kabale District Local Government Council and Others [2008] 2 EA 300**, where the Court cited with approval **Council of Civil Unions vs. Minister for the Civil Service [1985] AC 2** and **An Application by Bukoba Gymkhana Club [1963] EA 478 at 479** and held:

**“In order to succeed in an application for judicial review, the applicant has to show that the decision or act complained of is tainted with illegality, irrationality and procedural impropriety ...Illegality is when the decision-making authority commits an error of law in the process of taking or making the act, the subject of the complaint. Acting without jurisdiction or ultra vires, or contrary to the provisions of a law or its principles are instances of illegality.”**

15. The Applicants submit that in accordance to Section 7(i), (ii) and (iv) of the Fair Administrative Action Act, this court has powers to review the Respondents' administrative action as their inaction was not rationally connected to the purpose for which it was taken, the purpose of the empowering provision or the reasons given for it by the administrator. The Applicants invited the court to find concurrence in the test for rationality as was set out in **Pharmaceutical Manufacturers Association of SA & another: In Re Ex parte President of the Republic of South Africa and Others** as follows:

**“The question whether a decision is rationally related to the purpose for which the power was given calls for an objective enquiry. Otherwise a decision that, viewed objectively, is in fact irrational, might pass muster simply because the person who took it mistakenly and in good faith believed it to be rational. Such a conclusion would place form above substance and undermine an important constitutional principle.”**

16. The Applicants submit that the seizure and refusal by the Respondents to release their original documents, which are produced as annexures to the Verifying Affidavit, and insistence that they produce the original title of lease are decisions tainted with irrationality and unreasonableness, which require this courts intervention.

17. Applicants relied on the case of **The Commissioner of Lands Ex parte Lake Flowers Limited Nairobi HC Misc. Application No. 1235 of 1995** where the court held that:

**“Although judicial review has been bequeathed to us with defined interventions namely illegality, irrationality and impropriety of procedure, the intervention has been extended using the principle of proportionality...The court will be called upon to intervene in situations where authorities and persons act in bad faith, abuse power, fail to take into account relevant considerations in the decision making or take into account irrelevant considerations or act contrary to legitimate**

expectations.”

18. The Applicants submitted that the Respondent’s action breached their legitimate expectation to be treated fairly and lawfully, as they are statutorily empowered to register and issue leases. They also submit that they had a legitimate expectation not to be harassed and threatened by the 4<sup>th</sup> and 5<sup>th</sup> Respondents with unwarranted criminal charges of trespass and land fraud. To this end, the Ex-parte Applicants relied on the cases of **Keroche Industries Ltd v Kenya Revenue Authority & Another, Misc. Application No. 1285 of 2007** as well as **Communications Commission of Kenya & 5 Others v Royal Media Services & 5 Others SC Petition Nos. 14, 14A, 14B & 14C of 2014**, where the Supreme Court stated that :-

**"Legitimate expectation would arise when a body, by representation or by past practice, has aroused an expectation that is within its power to fulfil. Therefore, for an expectation to be legitimate, it must be founded upon a promise or practice by a public authority that is expected to fulfil the expectation."**

19. The Applicants submitted that they deserve the judicial review orders of mandamus and prohibition while relying on the case of **Republic v Kenya National Examinations Council Ex parte Gathenji & 8 others Civil Appeal No. 234 of 1996**, where the court considered circumstances where the remedy of mandamus would issue:

**“The order of mandamus is of a most extensive remedial nature, and is, in form, a command issuing from the High Court of Justice, directed to any person, corporation or inferior tribunal, requiring him or them to do some particular thing therein specified which appertains to his or their office and is in the nature of a public duty. Its purpose is to remedy the defects of justice and accordingly it will issue, to the end that justice may be done, in all cases where there is a specific legal right or no specific legal remedy for enforcing that right; and it may issue in cases where, although there is an alternative legal remedy, yet that mode of redress is less convenient, beneficial and effectual.....These principles mean that an order of mandamus compels the performance of a public duty which is imposed on a person or body of persons by a statute and where that person or body of persons has failed to perform the duty to the detriment of a party who has a legal right to expect the duty to be performed. An order of mandamus compels the performance of a duty imposed by statute where the person or body on whom the duty is imposed fails or refuses to perform the same .”**

20. The Appellant similarly relied on the cases of **Shah v Attorney General (No. 3) Kampala HCMC No. 31 of 1969 [1970] EA 543**, **Director of Public Prosecutions v Martin Maina & 4 others [2017] eKLR** and **Kenya National Examinations Council vs Republic & Ex parte Geoffrey Gathenji Njoroge & 9 others [1997] eKLR**, where the Court of Appeal considered the instance when an order of prohibition will issue:

**“What does an order of prohibition do and when will it issue? It is an order from the High Court directed to an inferior tribunal or body which forbids that tribunal or body to continue proceedings therein in excess of its jurisdiction or in contravention of the laws of the land. It lies, not only for excess of jurisdiction or absence of it but also for a departure from the rules of natural justice. It does not, however, lie to correct the course, practice or procedure of an inferior tribunal, or a wrong decision on the merits of the proceedings – See HALSBURY’S LAW OF ENGLAND, 4th Edition, Vol.1 at pg.37 paragraph 128.”**

### **Analysis and Determination**

21. The issue for determination before the court is: **Whether orders of mandamus and prohibition should issue against the Respondents.**

22. In **Municipal Council of Mombasa vs Republic & Another [2002] KLR**, the Court of Appeal stated as follows in regard to the scope of Judicial Review:

**“The court would only be concerned with the process leading to the making of the decision”.**

23. In **Republic v Tanathi Water Services Board and 2 others Exparte Senator Johnstone Muthama (2014) eKLR**, the court stated that:

**“Judicial review is a constitutional supervision of public authorities involving a challenge to the legal validity of the decision. It does not allow the court of review to examine the evidence with a view of forming its own view about the substantial merits of the case (emphasize added). It may be that the tribunal whose decision is being challenged has done something which it had no lawful authority to do. It may have abused or misused the authority which it had. It may have departed from procedures which either by statute or at common law as a matter of fairness it ought to have observed”.**

24. The impugned actions by the Respondents are the inaction of the 1<sup>st</sup> to 3<sup>rd</sup> Respondents in failing to issue a certificate of lease to the Applicants after they had approved the renewal of the lease for 50 years, and the actions of the 4<sup>th</sup> to 5<sup>th</sup> Respondents in seizing and not releasing the Applicant’s original documents which prove their ownership of the suit property through probate, and subsequently threatening them with arrest and prosecution for not producing an original title document. The Applicants seek orders of mandamus to compel the Respondents to issue the certificate of lease and the original documents seized by the 4<sup>th</sup> and 5<sup>th</sup> Respondents, as well as orders of prohibition to restrain the 1<sup>st</sup> and 3<sup>rd</sup> Respondents from issuing the title to third parties and to restrain the 4<sup>th</sup> and 5<sup>th</sup> Respondents from threatening and harassing the Applicants with arrest and charging them with fraud, trespass or any charges related to proof of ownership.

25. The court in **Republic v Kenya National Examinations Council Ex parte Gathenji & 8 others Civil Appeal No. 234 of 1996** defined mandamus as a command issuing from the court of justice, directed to any person, corporation, or inferior tribunal requiring him or them to

do some particular thing therein specified which appertains to his or their office *and is in the nature of a public duty*. Its purpose is to remedy the defects of justice and accordingly it will issue, to the end that justice may be done, in all cases, where there is a specific legal right or no specific legal remedy for enforcing that right. The order, the court said, must command no more than the party against whom the application is made is legally bound to perform.

26. In **Republic v Land Registrar, Trans-Nzoia & another Ex parte Mary Odhiambo & another [2019] eKLR**, the court referenced HWR Wade's **Administrative Law Oxford University Press, 5th Edition** wherein he states as follows regarding Mandamus:

**“The commonest employment of mandamus is as a weapon in the hands of the ordinary citizen, when a public authority fails to do its duty by him.”**

**“...Lord Mansfield said in sweeping terms: (in R -vs- Barker 1762) 3 Burr.1265):**

**“It was introduced to prevent disorder from a failure of justice, and defect of police. Therefore it ought to be used upon all occasions where the law has established no specific remedy and where in justice and good government there ought to be one. ... The value of the matter, or the degree of its importance to the public police, is not scrupulously weighed. If there be a right and no other specific remedy, this should not be denied.”**

27. The court in **Republic v Kenya National Examinations Council Ex parte Gathenji & 8 others (supra)** also considered when orders of prohibition should issue as follows:

**“Prohibition is an order from the High Court directed to an inferior tribunal or body which forbids that tribunal or body to continue proceedings therein in excess of its jurisdiction or in contravention of the laws of the land. It lies, not only for excess of jurisdiction or absence of it but also for a departure from the rules of natural justice. It does not, however, lie to correct the course, practice or procedure of an inferior tribunal, or a wrong decision on the merits of the proceedings”**

#### Whether orders of mandamus should issue against the 1<sup>st</sup> to 3<sup>rd</sup> Respondents

28. The Applicants submit that the 1<sup>st</sup> and 3<sup>rd</sup> Respondents have failed to issue them with a title contrary to Section 30 of the Land Registration Act. **Section 30(1) of the Land Registration Act** is couched in permissive language and provides that:

**“(1) The Registrar may, if requested by a proprietor of land whose name appears in the register or a lease where no certificate of title or certificate of lease has been issued, issue to him or her a certificate of title or a certificate of lease, as the case may be, in the prescribed form showing, if so required by the proprietor, all subsisting entries in the register affecting that land or lease.”**

29. Subsection (2) offers two caveats to this provision stating that only one certificate of title or lease can be issued with respect to each parcel and that such a certificate would only issue for a lease exceeding twenty-one years. The Applicants have in this matter met these requirements as between the four of them, neither has a certificate of title, and the lease had been extended for fifty years.

30. The Applicants have established that the 1<sup>st</sup> to 3<sup>rd</sup> Respondents in this matter have failed to issue them with a Certificate of Title, after they granted them an extension of lease in 1997 as confirmed by a letter from the Nairobi City Council in 2003. This is a delay of eighteen years, which is unreasonable.

31. The legal proposition of what constitutes unreasonableness was set out in **Associated Provincial Picture Houses v Wednesday Corporation (1948) 1 KB 223**:

**“It is true that discretion must be exercised reasonably, now what does that mean? It has frequently been used and is frequently used as a general description of the things that must be done. For instance a person entrusted with discretion must, so to speak, direct himself properly in law. He must call his own attention to matters which he is bound to consider. He must exclude from his considerations matters which are irrelevant to what he has to consider. If he does not obey those rules, he may truly be said, and often is said to be acting unreasonably”**

32. The 1<sup>st</sup> Respondent is bound by the provisions of Section 30 of the Land Registration Act of 2012, Laws of Kenya and failed to duly discharge their public duties to enable the applicants realize their rights to peaceful enjoyment of their property. There is no other appropriate remedy available to the Applicants to enforce their rights.

33. The applicants have in the last seventeen years relentlessly pursued the Respondents for the release of the Certificate of Lease but have never received a response from the Respondents. No reasons have been furnished to them for the refusal to release the said Certificate of Lease to the property. This is undoubtedly in contravention of **Article 35 of the Constitution of Kenya, 2010** (which provides for the right to information) and the **Fair Administrative Action Act of Kenya**.

34. On the grounds of illegality, unreasonable delay and breach of legitimate expectation, the court should grant orders of mandamus against the 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> Respondents compelling them to issue a Certificate of lease or title documents to the Applicants.

35. With respect to the 4<sup>th</sup> and 5<sup>th</sup> Respondents, the Applicants submit that they seized original documents that the Applicants had with

respect to the ownership of the suit property in October 2016 and have refused to return them to the Applicants, alleging that they are investigating the property. They have subsequently harassed the Applicants, insisting that they produce original title documents, which actions are irrational and unreasonable.

36. It is not clear to what end the Respondents are investigating the property or who might be the complainant. They have notably not filed a response or filed submissions to the Applicants' application. No evidence has thus been brought to justify their seizure of the Applicants' original documents. There is also no evidence that the Respondents accorded the Applicants a hearing before the documents were seized. The *Ex-parte* Applicants, on their part, have brought evidence of their ownership of the suit property and how they acquired the said ownership.

37. **Article 40** of the Constitution guarantees every person the right to own and have property of any description in any part of Kenya. and if for any reason the Respondents believe that the subject matter property was illegally acquired by the *Ex parte* Applicants, they were under a duty to at the very least present evidence of the alleged illegality, and reasons for the actions taken against the *Ex-parte* Applicants.

38. This court therefore finds that the 4<sup>th</sup> and 5<sup>th</sup> Respondents unlawfully seized the *Ex parte* Applicants' original documents without any justifiable reason.

#### Whether orders of prohibition should issue against the Respondents

39. The circumstances when orders of prohibition should issue are set out in **Republic v Kenya National Examinations Council Ex parte Gathenji & 8 others**. An order of prohibition functions to prevent the making of a contemplated decision, and in this way, looks to the future. It would not be efficacious against a decision that is already made.

40. Where a party seeks an order of prohibition, it is incumbent upon the applicant to satisfy the Court that the event which is sought to be prohibited has not taken place in order not to place the Court in an embarrassing situation of granting orders in vain. (**Republic v District Land Registrar Kiambu & another Ex-Parte: Muguga Pyrethrum Growers Cooperative Society Ltd & another [2014] eKLR**).

41. In this suit, the Applicants have claimed that the 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> Respondents intend to secretly release the property's title documents to third parties without their knowledge or consent. No specific evidence has been brought to prove this intention. However, the inaction of the Respondents in not issuing a title document to the Applicants has left them vulnerable to fraudsters as well as harassment by the 4<sup>th</sup> and 5<sup>th</sup> Respondents.

42. It is trite law that a certificate of title, issued by the Registrar upon registration is prima facie evidence before all courts that the person named as proprietor of the land is the absolute and indefeasible owner and the title of that proprietor shall not be subject to challenge except on the ground of fraud or misrepresentation to which the person is proved to be a party or where the certificate of title has been acquired illegally, unprocedurally or through a corrupt scheme (**Section 26, Land Registration Act, No. 3 of 2012.**) Without a Certificate of title, the Applicants are unable to effectively assert their right to property to the 4<sup>th</sup> and 5<sup>th</sup> Respondents and in any court of law, should they be charged with trespass.

43. The Respondents have not brought any evidence challenging the veracity of the Applicants' title under Section 26 of the Land Registration Act. Issuance of the certificate of title to any third party would thus be an infringement of the Applicants' right to property. Consequently, the orders of prohibition against the 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> Respondents, restraining them and their agents from issuing the Certificate of Title of the suit property to any third party is merited. Similarly, such orders of prohibition restraining the 4<sup>th</sup> and 5<sup>th</sup> Respondents from harassing, intimidating and threatening the Applicants are also merited.

44. In the final analysis, this suit is allowed in terms of the prayers set out in the substantive notice of motion dated 23.11.2016 and the Respondents are condemned to pay costs of the suit.

**DATED, SIGNED AND DELIVERED AT NAIROBI THIS 21ST DAY OF OCTOBER, 2021 THROUGH MICROSOFT TEAMS.**

**LUCY N. MBUGUA**

**JUDGE**

**In the presence of:-**

Githui for the Plaintiff

Mr. Menge for the 1st, 3rd, 4th and 5th Respondents

Court Assistant: Edel Barasa