Rural Electrification Authority v Murathe (Civil Appeal 16 of 2019) [2023] KEHC 17719 (KLR) (18 May 2023) (Ruling)

Neutral citation: [2023] KEHC 17719 (KLR)

REPUBLIC OF KENYA

IN THE HIGH COURT AT NYAHURURU

CIVIL APPEAL 16 OF 2019

CM KARIUKI, J

MAY 18, 2023

BETWEEN

RURAL ELECTRIFICATION AUTHORITY ..... APPELLANT

AND

NICHOLAS MUTURI MURATHE ..... RESPONDENT

RULING

1. Nicholas Muturi Murathe, the Respondent/ Applicant herein filed the Notice of Motion dated 11th July 2022 under Sections 1A, 1B, 3A of the *Civil Procedure Act*, CAP 21, Order 27,51 Rule 1 of the Civil Procedure Rules, 2010 and all other enabling provisions of the law seeking the following orders:

    i. That this honourable court be pleased to set aside and/or vacate its orders of 25th May 2022, allowing players a, b, d, and e of the Notice of Motion application dated 8th March 2022.

    ii. The costs of this application be provided for.

2. The grounds in support of the Notice of Motion are based on the annexed affidavit of Wanjira Mwaniki, the grounds on the face of the application, and such other grounds to be adduced and can be summarized as follows:-

    i. That this matter came up for directions on the 25th May 2022 when it emerged that the application dated 8th March 2022 was pending, and the Respondent's advocates sought more time to file a response taking into consideration that she was just coming on record,, the previous advocate handling the matter having recently left the firm of Ndegwa Wahome & Co. Advocates.

    ii. That, however, the court failed to consider the submissions of the said counsel, and despite the fact that the application dated 8th March 2022 was not scheduled for hearing on that day,

the court proceeded to allow prayers a, b, d and e of the same which allowed the Appellant to adduce new evidence.

iii. That it was a grave error for the court to allow the Appellant herein to introduce new evidence at this very late stage of the proceedings when the initial proceedings in the lower court were instituted way back in the year 2016 and the Appellant herein duly defended the suit and whereof a final judgment was issued on the 15th of January 2019.

iv. Nothing has been adduced by the Appellant herein to show that the evidence proposed to be produced at this stage could not have been obtained for use at the trial stage with reasonable diligence on the part of the Appellant.

v. That the documents that the Appellant now seeks to have investigated by the Director of Criminal Investigations, the DCI hereinafter, were filed in court on 12th May 2016 and duly served upon the Appellant herein at the time of service of summons to enter appearance.

vi. That thereafter, the Appellant filed their statement of defence on 3rd August 2016 but never alleged any fraud on the part of the Respondent in their pleadings and in fact, in paragraphs 5 and 6 of their said defence, they admitted that indeed the Respondent's trees had been illegally felled by the Appellant herein and that the delay to compensate him was occasioned by lack of funds.

vii. That since the year 2016 when the said documents came into their possession, the Appellant never made a report with the police seeking to have the same investigated for fraud and it was their counsel on record who purported to do a letter dated 7th August 2019, seeking for clarification over three years since the institution of the lower court suit and over one and half years since the judgement of the lower court was delivered.

viii. That further even after allegedly receiving a response on the same vide a letter dated 8th January 2020, no report was made with the police until 19th December 2021 when a letter was purportedly written to the DCI almost two years later which is evidence that all these letters were cooked with the application of 8th March 2022 in mind.

ix. That there is no evidence that there exists a legitimate report with the police being investigated of capable of being investigated; there is no O.B. number of the report, no witness statements recorded with the police and even the said letter of 19th December 2021 is written by the Appellant's counsel as opposed to the Appellant who would be the legitimate complainant under the circumstances.

x. That from the foregoing it is clear that the Appellant's intention of introducing new evidence in this matter is only to fill the gaps in their evidence at the lower court which amounts to an abuse of Section 78 of the Civil Procedure Rules which should be utilized in very rare circumstances.

xi. That the evidence sought to be introduced is not credible and verifiable as there is no avenue available for the Respondent to cross examine the same and/or offer alternative evidence due to the fact that this is an appeal and thus it will severely prejudice him if it allowed.

xii. That in any event, there is no evidence that the aid valuation report of 10th October 2015 was procured by way of fraud and the Appellants are only on hunting expedition hoping they find something that will help them impeach the said document with no hope.

xiii. That this is a ploy by the Appellant herein to cause further delay to this suit which is at a very advanced stage whereby parties had even filed their final written submissions, and the matter only awaits judgment.

xiv. The Appellant has always been delaying this matter by bringing application after application because they have sensed defeat in this appeal and are now crutching at straws, believing they will find something to save them.

xv. That from the foregoing, it is in the best interest of justice and fairness that the order of 25th May 2022 allowing players a, b, d, and e of the application dated 8th March 2022 be set aside and the said application dated 8th March 2022 be set aside ad the said application be dismissed with the contempt it deserves.

3. The Appellant/Respondent opposed this application through a replying affidavit sworn by Caroline Ochich sworn on 18th August 2022.

4. The Respondent deponed that the Applicant adduced forged assessment reports during the hearing of the case at the trial court. The Applicant allegedly obtained the said reports from the Kenya Forest Service-Ndaragwa Forest Station; although one of the said reports was disallowed, the other was allowed and relied upon by the magistrate in arriving at her final determination.

5. The counsel for the Respondent objected to the production of the reports during trial given that the same was not part of the court's record and were not the documents that were attached to the plaintiff's list and bundle of documents which was served upon the Respondent thereby raising eyebrows as to their origin.

6. That the production of the report alleged to be drafted on 8th May 2017 bearing a letter dated 18th May 2017 was disallowed upon objection by counsel for the Respondent due to the weird circumstances surrounding them, thereby casting doubts as to their genuineness.

7. Respondent/Applicant's Written Submissions

8. The Applicant asserted that the main issue for determination is whether the Appellant should be allowed to adduce additional evidence at this very late stage in the appeal and further whether the court should continue to allow the Appellant carry out some opaque criminal investigations on formal documents from the Kenya Forest Service that have always been in their possession since the year 2016 and in any case without any iota of proof of fraud or forgery.

9. Reliance was placed on Mohamed Abdi Mahamud v Ahmed Abdulahi Mohamed & 3 Others [2018] eKLR where the principles governing introduction of new evidence at the appellate stage were laid down. The Applicant asserted that the evidence sought to be introduced by the Appellant at this stage does not meet the threshold cited in the aforementioned case in that it could easily have been obtained and produced at the trial sage if the Appellant had exercised reasonable diligence on their part which they flagrantly failed to do so.

10. It was argued that there is no evidence that the Appellant sought to conduct the current investigations prior to hearing at the trial stage and no explanation has been proffered for this default. That had the Appellant done so, they would have obtained the reports of the investigations way back in 2016 or any time before the completion of the hearing at the trial stage and they would not have made the current application at the appeal stage. That seeking to do so now only serves to prejudice and occasion the Respondent severe injustice as he is denied the opportunity to respond to the evidence and/or procure evidence to counter the same which opportunity would have been available to him at the trial stage.

11. Reliance was place on Elizabeth Chepkoech Salat v Josephine Chesang Chepkwony Salat [2021] eKLR

12. Moreover, the Applicant contended that the report cannot be said to be deceptive. That an officer from the Kenya Forest Service, one Urbanus Katiwa who was the then Agricultural Officer, came to the court and testified as to the authenticity of the report in question and even produced the same in court. That the letter dated 8th January 2020 which purports that the report of 2015 did not emanate from Kenya Forest originated from the Nairobi Office as opposed to the Ndaragwa Sub-Station where the report of 2015 was authored. Though it states that the officers from Ndaragwa Station were questioned, it does not say which officer in particular was questioned.

13. The Applicant submitted that the report was authored in the year 2015 and the enquiries were being made in the year 2020 yet the officer who admitted to have prepared the report had since been transferred from that station. That it could therefore be a question of miscommunication and that they have not received any report from the DCI to indicate that the said report was fraudulent of forged to any material extent neither was there any evidence shown at the trial stage of fraud of forgery as to fault the trial court in its decision. Reliance was placed on Benard Kabeu Kiriu v Francis Waithaka Kiriu [2021] eKLR.

14. It is the Applicant's position that the only issue the Appellant has raised is on the amount of the felled trees. I should therefore try and convince the court why there figures should be adopted and not those of the Respondent instead of engaging the court in a wild goose chase and delaying this matter indefinitely.

15. The Applicant asserted that he has been dragged through endless litigation since 2014 and it is only fair and just that this matter comes to an end to avoid further miscarriage of justice. Both parties had already filed their final submissions on the appeal. That there is a preliminary objection on record challenging the jurisdiction of this court and which this court directed would be determined together with the appeal. They urged this court to set aside its orders of 25th May 2022 and proceed to fix this matter for judgement.

16. Appellant/Respondent's Written Submissions

17. The Appellant/Respondent asserted that the issues for determination herein are; whether this honourable court should set aside the orders issued on 25th May 2022 and whether the Respondent should be allowed to produce the additional evidence.

18. It was stated that the application dated 8th March 2022 was duly served upon the Respondent who opted not to file response without giving any reasons whatsoever and that the Applicant has not shown any reasonable cause warranting this court to set aside it orders issues on 25th May 2022. Reliance was placed on CMC Holdings Ltd vs. Nzioki [2014] KLR 173

19. Additionally, it was asserted that the Applicant's excuse that counsel handling the matter was away making it difficult to respond is not an accident, inadvertence or excusable mistake or error since it is an internal foreseeable issue within the firm that ought to have made necessary arrangements to ensure all matters are dealt with and that the Applicant has not shown how he is likely to suffer any hardship or injustice if this court failed to set aside its orders. The Respondent contended that this application is a mere afterthought lodged way long after the orders of this honourable court were issued ad ordered the court to dismiss it.

20. The Appellant/Respondent submitted they have duly satisfied the threshold for adduction of fresh evidence in the sense that:-

21. The valuation reports and letters enclosed therein were not made available to the Respondent before the trial to allow for proper inspection. The same did not form part of the court's record as they were not included in the plaintiff's list of documents that were served upon the Respondent. Further, these reports were struck out and replaced during the hearing.

22. It was not foreseeable by the Respondent that the same court that observed the anomalies in the reports could turn around and rely on the same documents that it struck out in reaching its conclusive determination against the Respondent herein.

23. The Respondent through his advocates on record was extremely vigilant and diligently objected to the production of the said documents during trial, where the court agreed to his objections and disallowed the production of the said documents. As such, there was no valid reason to lodge a complaint with the DCI in respect to the matter in issue and it was not foreseeable that the additional evidence would be needed then and as such the same is not intended to fill in the lacunae in the Respondent's case.

24. Therefore, the evidence was not available at trial and the production of such additional evidence could not be anticipated by the Respondent during trial.

25. The additional evidence is not voluminous and the Applicant can respond to it effectively as such no prejudice will be caused to the Applicant.

26. The additional evidence is needful as it discloses a strong prima facie case of wilful deception of the court by the Applicant in forging documents and more so, the valuation reports in order to dupe he court to award extra and unnecessary damages to the Applicant to the detriment of the Respondent thereby defeating the course of justice.

27. The additional evidence is directly and of extreme relevance to this suit and is lodged in the interests of justice to help this court make a well-informed verdict as to the value of the trees felled and the correct quantum of damages suffered ad payable to the Applicant being the subject matter of the appeal herein.

28. The additional evidence is not fresh evidence as it is in rebuttal of the Applicant's evidence which was irregularly relied upon by the trial court in making its verdict when it had clearly taken note of its anomalies and expunged the same after the Respondent raised an objection.

29. Section 78 of the *Civil Procedure Act*, Order 42 Rule 27 of the Civil Procedure Rules, Mohamed Abdi Mohamed vs. Ahmed Abdullahi Mohamed & 3 Others [2018] eKLR & Raila Odinga & 5 Others vs I.E.B.C & 3 Others [2013] eKLR

30. Lastly, it was asserted that this court cannot issue orders in vain since the orders a, b, c and e in the Notice of Motion application are already spent since the DCI is at the verge of concluding investigations and therefore the orders cannot be vacated as per the principles of natural justice.

31. Analysis and Determination

32. Having considered the Applicant's application, the grounds adduced thereof, the supporting affidavit and annexures and the Respondent's replying affidavit and both parties' written submissions. The main issue for determination in this application is whether the Respondent/Applicant has made out a case for this honourable court to be pleased to set aside and/or vacate its orders of 25th May 2022, allowing players a, b, d, and e of the Notice of Motion application dated 8th March 2022.

33. The instant application is premised on the orders by this court pursuant to the application dated 8th March 2022 brought by the Respondent herein seeking the following orders:-

i. That this honourable court be pleased to grant leave to the Applicant to adduce and file additional evidence marked El-2, El-3, and El-4 annexed to the supporting affidavit herein sworn by Ms. Eunice Lumallas and the supplementary record of appeal dated 17th February 2020.

ii. That this honorable court be pleased to grant leave to the Applicant to adduce and file additional evidence marked EL-5 annexed to the supporting affidavit sworn by Ms. Eunice Lumallas.

iii. This honourable court be pleased to order that these proceedings be stayed pending the investigations of the complaint lodged by the Applicant at the DCI against the Respondent vide the letter dated 19th December 2021 annexed to the supporting affidavit herein sworn by Ms. Eunice Lumallas and marked EL-5.

iv. This honourable court be pleased to order investigations be conducted by the DCI in respect to the complaint reference in prayer c above and that a report of the findings be file/presented before this court.

v. In the alternative and without prejudice to the foregoing, this honourable court be pleased to order that the DCI causes the report referenced in prayer d and/or c above to be produced before this honourable court and/or releases the said report to the Applicant.

vi. In the event the report references in prayer d above is released to the Applicant, the Applicant be granted leave to adduce and file the said report as additional evidence.

vii. Any other order that this honourable court may deem just and fair in the circumstances.

34. The costs of and incidental to this application be provided for.

35. The Applicant asserted that on the 25th May 2022, this matter came up for mention for directions and while counsel for the Respondent/Applicant had just come on record and sought or more time to file a reply, the court declined the requires t and proceeded to grant prayers no. a, b, c, d and e of the said application dated 8th March 2022. It is those orders that the Applicant wants set aside by this court in the present application.

36. The Applicant submitted that when the matter came up on 25th May 2022, their advocate sought for more time to file a response for the reason that she was just coming on record as the previous advocate handling the matter had left the firm of Ndegwa Wahome & Co. Advocates. It was contended that the court failed to consider the submissions of the said counsel and despite the fact that the application dated 8th March 2022 was not scheduled for hearing on that day, the court proceeded to allow prayers a, b, d and e of the same which allowed the Appellant to adduce new evidence.

37. On the other hand, the Respondent argued that the application dated 8th March 2022 was duly served upon the Respondent who opted not to file a response without giving any reasons whatsoever and that the Applicant has not shown any reasonable cause warranting this court to set aside it orders issues on 25th May 2022.

38. It was further averred that the Applicant's excuse that counsel handling the matter was away, making it difficult to respond, is not an accident, inadvertence, or excusable mistake or error since it is an internal foreseeable issue within the firm that ought to have made necessary arrangements to ensure all matters are dealt with and that the Applicant has not shown how he is likely to suffer any hardship or injustice if this court failed to set aside its orders.

39. This court has the discretion to set aside or vary ex-parte judgment and/or orders entered in default of appearance or defence and the same is to be exercised to avoid injustice or hardship but not to assist a guilty party's intention to obstruct or delay the course of justice deliberately. In Rayat Trading Co. Limited vs Bank of Baroda & Tetezi House Ltd [2018] eKLR the court listed the matters to be considered in the exercise of this discretion as follows: -

i. the defendant has a real prospect of successfully defending the claim; or

ii. it appears to the court that there is some other good reason why;

iii. the judgment should be set aside or varied; or

iv. the defendant should be allowed to defend the claim

40. In Kenya Commercial Bank Ltd vs Nyantange &Another (1990) KLR 443 Bosire J, (as he then was) held that: -

> " Order IXA rule 10 of the Civil Procedure Rules donates a discretionary power to the court to set aside or vary an ex-parte judgment entered in default of appearance or defence and any consequential decree or order upon such terms as are just."

41 The Respondent's advocate expressed their intention to file a formal application on 16th February 2022. The court then gave orders that the application be filed within seven days and served and the reply be filed within seven days of service. On 15th March 2022, the Respondent's advocate confirmed that they filed and served the application dated 8th March 2022, and the Applicant's advocate confirmed that they were served on 11th March 2022. The court then ordered that the Applicant file and serve their replying affidavit and written submissions within 14days.The Respondent to reply with the further affidavit and written submissions within 14 days of service. The hearing was set for 25th May 2022.

a. Kindly confirm that the same are the orders given therein as the proceedings were not quite legible to me.

41. Consequently, on 25th May 2022, Counsel for the Applicant stated that Mr. Kairu had left their office and she had taken over the matter, so they had not filed their necessary documents. However, the court indicated that it was inclined to grant prayers a, b, c, d and e in absence of the Applicant's replying affidavit.

42. In the case of Thorn PLC vs Macdonald [1999] CPLR 660, the Court of Appeal highlighted the following guiding principles when exercising the discretion of a court to set aside or vary an ex-parte judgment entered in default of appearance or defence: -

I. While the length of any delay by the defendant must be taken into account, any pre-action delay is irrelevant;

II. any failure by the defendant to provide a good explanation for the delay is a factor to be taken into account but is not always a reason to refuse to set aside;

III. the primary considerations are whether there is a defence with a real prospect of success, and that justice should be done; and

IV. prejudice (or the absence of it) to the claimant also has to be taken into account.

43. Similarly, In the case of Rahman vs Rahman (1999) LTL 26/11/9, the court considered the nature of the discretion to set aside a default judgment and concluded that the elements the judge had to consider were:-

    i. the nature of the defence, the period of delay (i.e., why the application to set aside had not been made before);

    ii. any prejudice the claimant was likely to suffer if the default judgment was set aside;

    iii. and the overriding objective.

44. Accordingly, it is clear that the Applicants had at least more than two months from the date of service of the application, dated 8th March 2022, to file their defence. The Applicant explained their failure to file the defence because the advocate handling the matter had moved from the law firm representing the Applicant. I am not persuaded that the explanation given is satisfactory, and even if it were, it is not always a reason to set aside. It was not stated when the previous advocate moved; moreover, the Applicant's counsel did not seek the court's indulgence prior to 25th May 2022. I associate myself with the position adopted by the Court of Appeal in Onjula Enterprises Ltd vs. Sumaria [1986] KLR 651, where it was held that:

> " The rules of the court must be adhered to strictly, and if hardship or inconvenience is caused, it would be easier to seek an amendment to the particular rule. It would be wrong to regard the rules of the court as of no substance. A rule of practice, however technical it may appear, is almost always based on legal principle, and its neglect may easily lead to disregard of the principle involved. See London Association for the Protection of Trade & Another vs. Greenlands Limited [1916] 2 AC 15 at 38."

45. Additionally, I have had a chance to consider the Applicant's defence as to why the court should not have allowed the impugned orders and find that the same had no real prospect for success. Section 78 of the *Civil Procedure Act* and Order 42 Rules 27, 28, and 29 of the Civil Procedure Rules, 2010 are the legal basis for allowing a party to adduce additional evidence during the appellate stage.

46. Section 78 of the *Civil Procedure Act* Cap 21 Laws of Kenya provides for the powers of the appellate court in appeals from the subordinate court to the High Court, and is similar to Rule 29 (1) (b) of the Court of Appeals Rules. The Section provides that:-

    1. Subject to such conditions and limitations as may be prescribed, an Appellate Court shall have power: -

        a. To determine a case finally;

        b. To remand a case;

        c. To frame issues and refer them for trial;

        d. To take additional evidence or to require the evidence to be taken;

        e. To Order a new trial.

    2. Subject as aforesaid, the appellate Court shall have the same Powers and shall perform as nearly as may be the same duties as are charged conferred and imposed by this Act on Courts of Original Jurisdiction in respect of suits instituted therein.

47. Furthermore, Order 42 Rules 27, 28 , and 29 of the Civil Procedure Rules, 2010 provides that:

27. The parties to an appeal shall not be entitled to produce additional evidence, whether oral or documentary, in the court to which the appeal is preferred; but if

a. the court from whose decree the appeal is preferred has refused to admit evidence that ought to have been admitted; or

b. the court to which the appeal is preferred requires any document to be produced or any witness to be examined to enable it to pronounce judgment, or for any other substantial cause, the court to which the appeal is preferred may allow such evidence or document to be produced, or witness to be examined.

2. Wherever additional evidence is allowed to be produced by the court to which the appeal is preferred, the court shall record the reason for its admission.

28. Wherever additional evidence is allowed to be produced, the court to which the appeal is preferred may either take such evidence or direct the court from whose decree the appeal is preferred or any other subordinate court to take such evidence and to send it when taken to the court to which the appeal is preferred.

29. Where additional evidence is directed or allowed to be taken, the court to which the appeal is preferred shall specify the limits to which the evidence is to be confined and record the points so specified on its proceedings.

48. The Supreme Court in Mohammed Abdi Mohamud vs. Ahmed Abdulahi Mohamad & 3 Others [2018] eKLR laid down the following principles for allowing additional evidence:

79. "...We, therefore, lay down the governing principles on allowing additional evidence in appellate courts in Kenya as follows:

a. the additional evidence must be directly relevant to the matter before the court and be in the interest of justice;

b. it must be such that, if given, it would influence or impact upon the result of the verdict, although it need not be decisive;

c. it is shown that it could not have been obtained with reasonable diligence for use at the trial, was not within the knowledge of, or could not have been produced at the time of the suit or petition by the party seeking to adduce the additional evidence;

d. Where the additional evidence sought to be adduced removes any vagueness or doubt over the case and has a direct bearing on the main issue in the suit;

e. the evidence must be credible in the sense that it is capable of belief;

f. the additional evidence must not be so voluminous making it difficult or impossible for the other party to respond effectively;

g. whether a party would reasonably have been aware of and procured the further evidence in the course of trial is an essential consideration to ensure fairness and due process;

h. where the additional evidence discloses a strong prima facie case of willful deception of the Court;

i. The Court must be satisfied that the additional evidence is not utilized for the purpose of removing lacunae and filling gaps in evidence. The Court must find the further evidence needful;

j. A party who has been unsuccessful at the trial must not seek to adduce additional evidence to, make a fresh case in appeal, fill up omissions or patch up the weak points in his/her case;

k. The court will consider the proportionally and prejudice of allowing the additional evidence. This requires the court to assess the balance between the significance of the additional evidence, on the one hand, and the need for the swift conduct of litigation together with any prejudice that might arise from the additional evidence on the other."

49. Additionally, I have previously held that no Court of Law should be deprived of information which will assist it reach a fair and just determination of a case.(See Ainu Shamsi Hauliers Limited Versus Anastacia Ndinda Mwanzia (suing as Administrator of the Estate of Harrison Mwendwa Karili [2018] eKLR)

50. In Dorothy Nelima Wafula Versus Hellen Nekesa Nielsen and Paul Fredrick Nelson [2017] eKLR, it was expressed that under Rule 29 (1) (a) of the Civil Procedure Rules, additional evidence will be introduced on appeal in the discretion of the court, "for sufficient reason." The Court further stated that:

> " Though what constitutes "Sufficient reason" is not explained in the rule, through Judicial practice, the Court has developed guidelines to be satisfied before it can exercise its discretion in favour of a Party seeking to present additional evidence on appeal. Before this Court can permit additional evidence Under rule 29, it must be shown, one, that such evidence could not have been obtained by reasonable diligence before and during the hearing, two, the new evidence would probably have had an important influence on the result of the case if it was available at the time of the trial, and finally, that the evidence sought to be adduced is credible, though it need not incontrovertible."

51. Applying the foregoing principles, I hold that the additional evidence is directly relevant to the appeal before the court and would influence the impact of this appeal and, consequently, the quantum of damages awarded. The additional evidence sought to be adduced is directly relevant to the matter before the court, and it is in the interest of justice to have the same adduced. Moreover, I find that the Applicant is likely not to suffer any prejudice if the orders stand as the applicant will be given the opportunity to rebut and/or respond to the additional evidence raised by the Respondent.

52. I reiterate that the orders were not intended to enable the Respondent to import fresh evidence nor was it intended to assist the Respondent who was unsuccessful at the trial to patch up the weak points in his case and fill up omissions in the Court of Appeal. The orders were given to allow the court to reach a fair and just determination in this case, fulfillment of the overriding objective, and I am satisfied that substantially, the additional evidence sought to be adduced largely meets the criteria and guidelines laid out in the Mohamed Abdi Mohamad Case [supra]

53. Consequently, and for the above reasons, the court makes the following orders;

i. I find that the application dated 11th July 2022 is unmerited, and the same is dismissed.

ii. Parties bear their own costs.

DATED, SIGNED, AND DELIVERED AT NYAHURURU THIS 18TH DAY OF MAY 2023.

.....

CHARLES KARIUKI

JUDGE