



**Chepngok v Metto & another (Suing as the Administrators of the
Late Elizabeth Jepchonge Sirma) (Environment and Land Appeal
E014 of 2024) [2025] KEELC 4620 (KLR) (19 June 2025) (Judgment)**

Neutral citation: [2025] KEELC 4620 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT ELDORET
ENVIRONMENT AND LAND APPEAL E014 OF 2024**

EM WASHE, J

JUNE 19, 2025

BETWEEN

REBECCA JEPTANUI CHEPNGOK APPELLANT

AND

JOSHUA KIPKEMBOI METTO 1ST RESPONDENT

MOSES KIBET METTO 2ND RESPONDENT

**SUING AS THE ADMINISTRATORS OF THE LATE ELIZABETH JEPCHONGE
SIRMA**

JUDGMENT

1. The Appellant herein being aggrieved by a Ruling pronounced on the 25.03.2025 (hereinafter referred to as “the Trial Court Ruling”) filed a Memorandum of Appeal dated 05.04.2024 (hereinafter referred to as “the present Appeal”) seeking for the following Orders; -
 - a. The present Appeal be allowed and the Trial Court Ruling dated 25.03.2024 (but erroneously indicated as 25.03.2025) be set-aside.
 - b. The Application dated 08.12.2023 be allowed and the Ex-parte Judgement and Decree pronounced on the 23.08.2022 be set aside.
 - c. The Trial Court proceedings to start afresh
 - d. Costs of this Appeal as well as the Application dated 08.12.2023.
2. The prayers sought hereinabove are premised on the following grounds outlined in the present appeal as follows: -



- i. The learned trial magistrate erred in dismissing the Appellant's application dated 8th December, 2023 without any legal basis, which application sought to set aside the ex-parte judgment entered on 19th August, 2022 against the Appellant herein.
- ii. The learned trial magistrate erred in law and in fact in failing to consider the merits of the Appellant's application dated 8th December, 2023 before proceeding to dismiss the same.
- iii. The learned trial magistrate erred in law and in fact in dismissing the Appellant's application dated 8th December, 2023 since the record clearly shows that the suit had proceeded ex-parte without the involvement of the Defendant until when the judgment was delivered on 19th August, 2022.
- iv. The learned trial magistrate erred in law and in fact in failing to consider that the Defendant had not been availed an opportunity to be heard and to defend the suit since the record clearly shows lack of service of pleadings to the Defendant prior to entry of the ex-parte judgment.
- v. The learned trial magistrate erred in failing to consider the great prejudice to be suffered by the Appellant upon dismissal of the Appellant's application dated 8th December, 2023.
- vi. The learned trial magistrate erred in law and in fact in finding that the Appellant had failed to defend the suit when in fact the Appellant had never been served with pleadings or notices of when the matter was coming up in court.
- vii. The learned trial magistrate erred in law and in fact in failing to consider the Appellant's draft defence as annexed to the application dated 18th December, 2023, which defence raises against the Respondents' suit and as such the Appellant ought to have been afforded an opportunity to be heard.
- viii. The learned trial magistrate erred in failing to appreciate the overwhelming evidence in favour of the Appellant.
- ix. The learned trial magistrate erred in law and in fact in failing to find that no proper service of summons to enter appearance and Plaintiff was effected upon the Appellant.
- x. The learned trial magistrate erred in law and in fact in failing to appreciate that the entire judgment delivered on 19th August, 2022 was given in excess of the court's jurisdiction as the court lacked pecuniary jurisdiction to entertain the suit in the first instance.
- xi. The learned trial magistrate erred in law and in fact in failing to consider that the Appellant was condemned unheard against the constitutional principles of fair hearing enshrined under Article 50 of *the Constitution*.
- xii. The learned trial magistrate erred in failing to appreciate the Appellant's written submissions.
- xiii. The learned trial magistrate erred in failing to hold that the Appellant's Application was meritorious and deserving of the orders sought.
- xiv. The learned trial magistrate erred in failing to consider the merits of the Appellant's Application dated 8th December, 2023.
- xv. The learned trial magistrate erred in failing to set aside the ex-parte judgment delivered on 19th August, 2022.



- xvi. The learned trial magistrate erred in failing to consider the immense prejudice to be suffered by the Appellant in light of the judgment delivered on 19th August, 2022.
- xvii. The learned trial magistrate erred both in law and in fact in failing to find in favour of the Appellant.
3. The Appellant filed a Record of Appeal dated 18.09.2024 and a Supplementary Record of Appeal dated 07.03.2025.
4. These two documents were duly served on the Respondent, who confirmed that all documents were on record and the Appeal was subsequently admitted on 11.03.2025.
5. Upon admission of the Record, the Court directed the Appeal to be heard by way of written submissions and in compliance, the Appellant filed her submissions dated 28.04.2025 while the Respondents filed their submissions dated 02.05.2025.
6. The court in this Appeal is sitting as the first Appellate Court and its jurisdiction is clearly outlined in the case of *Selle & Another v Associated Motor Boat Co.ltd & Others*[1968] EA 123 there the Court of Appeal stated as follows-
- “A first appellate court is mandated to re-evaluate the evidence before the trial court as well as the judgment and arrive at its own independent judgment on whether or not to allow the appeal. A first appellate court is empowered to subject the whole of the evidence to a fresh and exhaustive scrutiny and make conclusions about it, bearing in mind that it did not have the opportunity of seeing and hearing the witnesses first hand.”
7. Based on the above judicial authority, this court will now proceed to relook at the pleadings giving rise to the present appeal as well as the submissions by the parties before the trial court to be able to reach its own conclusion and assess whether the trial court misdirected itself on issues of fact and law to warrant the grant of the orders sought in the present appeal.

Appellant’s pleadings before the Trial Court.

8. The Appellant herein, before the Trial Court made an Application dated 08.12.2023 seeking the following orders: -
- a. That this Application be certified as urgent and be heard ex-parte in the first instance.
- b. That there be a stay of execution and/or suspension of and/or giving effect of the judgment and/or the decree issued in respect of L.R. NO. Eldoret Municipality/Block 14/ 593 the subject in Eldoret CMELC NO. E095 OF 2022 between Moses Kibet Metto & Another v Rebecca Jeptanui Chepngok pending the hearing and determination of this Application inter-partes.
- c. That this Honourable Court be pleased to suspend the Certificate of Lease for L.R. NO. Eldoret Municipality/Block 14/ 593 issued to MOSES KIBET METTO & JOSHUA KIPKEMBOI METTO pursuant to the Decree therein pending the hearing and determination of this Application.
- d. That there be a stay of execution and/or suspension of and/or giving effect of the judgment and/or the decree issued in respect of L.R. NO. Eldoret Municipality/Block 14/ 593 the subject in Eldoret CMELC NO. E095 OF 2022 between Moses Kibet Metto & Another v Rebecca Jeptanui Chepngok pending the hearing and determination of the main suit.



- e. That the Honourable Court be pleased to direct and /or order the County Lands Registrar to register a Restriction on L.R. NO. Eldoret Municipality/Block 14/ 593 pending and determination of this Application.
 - f. That the ex-parte proceedings undertaken, the judgment entered in the matter and the subsequent proceedings and/or orders if any, be set aside ex-debito justitiae.
 - g. That the defendant/ Applicant be granted leave to file her defence to the claim together with the supporting documents and statements and the draft defence attached herein be deemed to be properly filed and served subject to payment of court fees only.
 - h. That the costs of this Application be borne by the Plaintiffs/ Respondents.
9. The prayers in the Application dated 08.12.2023 were supported by the grounds outlined therein together with the Supporting Affidavit sworn by the Appellant on 08.12.2023 and the grounds can be summarized as follows:-
- i. The Appellant pleaded that she was the registered owner of the suit property having been issued with a title deed on the 07.06. 2006
 - ii. However, the Respondents based on a Plaint dated 10.06.2022 instituted proceedings against her and obtained an ex-parte judgment and /or decree dated 23.08.2022, directing the cancellation of the Appellant's name as the registered owner and instead the names of the Respondents to be recorded as the lawful owners.
 - iii. The Appellant therefore sought for stay of the judgment and decree dated 23.08.2022 pending the hearing and determination of the application dated 08.12.2023.
 - iv. Similarly, the Appellant sought that the judgment and decree pronounced on the 23.08.2023 be set aside and she be allowed to defend the suit thereafter.
 - v. The main reason why the Appellant sought the above orders was that she had not been accorded an opportunity to defend her ownership of the suit property and that she had been condemned unheard.
 - vi. The Appellant further complained that the Respondents did not serve her with the mandatory Summons to Enter Appearance or the pleadings and as such the judgment and decree pronounced on 23.08.2022 should be set aside as a matter of course as it contravened the provisions of Order 5 of the Civil Procedure Rules.
10. The Application dated 08.12.2023 was then served on the Respondents, who opposed the same through their Replying Affidavit dated 16.01.2024 on the following grounds:-
- i. The Respondents stated that the Appellant's application dated 08.12.2023 was not merited for the reason that Summons to Enter Appearance were duly served on the her but she elected not to respond to the same.
 - ii. The Respondent further stated that the judgment/ decree pronounced on 23.08.2022 was lawful and in fact the title to the suit property had since been registered in their names on 22.06.2023.
 - iii. The Respondents alleged that the Appellant had illegally and unlawfully transferred the suit property which had initially been registered in the name of the Respondents' deceased mother hence the proceedings before court.



- iv. The Respondents insisted that the Court was now functus officio and lacked jurisdiction to grant the orders sought in the application dated 08.12.2023.
- v. Consequently, the Respondents pleaded that in the interest of justice, the application dated 08.12.2023 should be dismissed with costs and they be allowed to enjoy the fruits of their judgment and ownership rights as envisaged under Article 40 of *the Constitution*.
- vi. The Replying Affidavit dated 16.01.2024 was then served on the Appellant, who filed a Further Affidavit dated 15.01.2024 in which the Appellant stated as follows:-
 - a. The Appellant reiterated the contents of her Supporting Affidavit dated 08.12.2023 and insisted that the matter proceeded ex-parte on account of an Affidavit of Service sworn by one MORRIS ATILA, who had claimed to have effected service of the Summons and pleadings on 16.06.2022.
 - b. However, the Appellant insisted that no service by one MORRIS ATILA was ever effected on her and therefore all its contents were not true.
 - c. The Appellant sought to have the said Process Server, MORRIS ATILA summoned to court at the hearing of the Application dated 08.12.2023 to shed light on the contents in the Affidavit of Service.
 - d. The Appellant therefore insisted that the proceedings undertaken by the Trial Court resulting to the judgment and decree of 23.08.2022 were un-procedural and should be set aside.
 - e. Upon the filing of the Further Affidavit, parties were then directed to file written submission, of which the Appellant filed her submissions dated 31.01.2024 while the Respondents filed their submissions dated 02.02.2024.
 - f. Having outlined the pleadings relating to the Application dated 08.12.2023, the Record of Appeal dated 18.09.2024, Supplementary Record of Appeal dated 07.03.2025, the Appellant's submissions in this Appeal dated 28.04.2025 and the Respondents' submissions dated 02.05.2025; the court hereby identifies the following issues for determination: -
 - I. Issue No. 1 – Whether Or Not The Trial Court Had Jurisdiction To Entertain And Determine The Application Dated 08.12.2023
 - II. Issue No. 2 – Was There Proper Service Of The Summons To Enter Appearance On The Appellant
 - III. Issue No. 3 – Were The Ex-parte Proceedings Resulting To The Judgment And/or Decree Dated 23.08.2022 Lawful
 - IV. Issue No. 4 – Was The Appellant Entitled To The Prayers Sought In The Application Dated 08.12.2023
 - V. Issue No. 5 – Are There Any Grounds And /or Reasons In Which This Court Can Interfere With The Ruling Dated 25.03.2024
 - VI. Issue No. 6 – Is The Appellant Entitled To The Prayers Sought In The Present Appeal
 - VII. Issue No. 7 – Who Bears The Costs Of This Appeal.



11. The court having identified the above issues, the same will now be discussed as provided below;

Issue No. 1 – Whether Or Not The Trial Court Had Jurisdiction To Entertain And Determine The Application Dated 08.12.2023

12. The first issue for determination is whether or not the trial court had jurisdiction to entertain the Appellant's Application dated 08.12.2023.
13. Looking at the Application dated 08.12.2023, the Appellant had invoked the provisions of Order 5 and Order 36 of the Civil Procedure Rules, 2010 as read with Article 40, 47, 50 and 159 of *the Constitution*.
14. Looking at the prayers sought by the Appellant in the Application dated 08.12.2023, this court is of the considered view that the Appellant was looking at the provisions of Order 5 as read with Order 7, Order 10, Order 21, Order 22 and Order 36 of the Civil Procedure Rules; which all ensure that a party is granted fair hearing as provided for under Article 50 of *the Constitution*.
15. In all these provisions, statutory powers to determine issues relating to the same is vested in the courts of law.
16. The mere fact that a judgment was passed does not mean that the court ceases to have jurisdiction, although, it could become functus officio.
17. It is therefore this court's finding that the trial court had jurisdiction to hear and determine the Appellant's application dated 08.12.2023, which was raising new issues and challenging the ex-parte judgment pronounced on 23.08.2022, which was being enjoyed by the Respondents.

Issue No. 2 – Was There Proper Service Of The Summons To Enter Appearance On The Appellant

18. The second issue for determination goes to the foundation of the proceedings that were undertaken by the trial Court, resulting to the ex-parte judgment and decree pronounced on 23.08.2022.
19. The Appellant expressly denied that she was ever served with the Summons to Enter Appearance and consequently therefore, the proceedings were undertaken without her knowledge hence she was not accorded any hearing before adverse orders were issued against her.
20. The Respondents on the other hand, in their Replying Affidavit pleaded that the Appellant was duly served with Summons to Enter Appearance but elected and/or ignored to participate in the proceedings.
21. The question then that has to be answered is whether or not the Summons to Enter Appearance as well as the pleadings were ever served on the Appellant.
22. Order 5 Rule 1 reads as follows: -

“When a suit has been filed, a Summons SHALL issue to the Defendant ordering to appear within the time specified therein”
23. The provisions of Order 5 Rule 1(3) states as follows: -

“Every Summons shall be accompanied by a copy of the Plaintiff”



24. Order 5 Rule 8 (1) states as follows

“Wherever it is practical, service shall be made on the Defendant in person, unless he has an agent empowered to accept service, in which case, service on the agent shall be sufficient”.

25. Order 5 Rule 15 states that the serving officer shall swear an Affidavit of Service, stating the time when and the manner in which the Summons was served and the name and address of the person (if any) identifying the person served and witnessing the delivery or tender of Summons.

26. Turning to the Affidavit of Morris Atila, who is alleged to be the Process Server, sworn on 20.06.2022, the Court hereby takes note of the following facts:-

- a. The Process Server known as Morris Atila, did not include the process server’s Certificate allowing him to effect Court service as provided under Order 5 Rule 5(a) or (b).
- b. From the trial court file as well as the Record of Appeal, there is no Summons that were issued under Order 5 of the Civil Procedure Rules, 2010.
- c. In the alleged Affidavit of Morris Atila, the documents that were alleged to have been served on 16.06.2022 was the Application dated 10.06.2022 and the Plaint dated the same day without any Summons to Enter Appearance.
- d. The alleged Morris Atila did not serve the Appellant in person as envisaged under Order 5 Rule 8(1).
- e. The alleged Process Server, Morris Atila, did not describe the person who received the Plaint and the Application dated 10.06.2022 or give any details in terms of the name and relationship with the Appellant to confirm proper service on a responsible adult as envisaged under Order 5 Rule 12.

27. Looking at the above facts, this court is of the considered opinion and finding that there is no evidence that the Appellant or her authorized agent (if any) was ever served with the Summons, Plaint and Application dated 10.06.2022.

Issue No. 3 – Were The Ex-parte Proceedings Resulting To The Judgment And/or Decree Dated 23.08.2022 Lawful

28. The third issue is the legality of the proceedings that resulted to the ex-parte Judgment and Decree pronounced on 23.08.2023.

29. To begin with, it is clear from the determination of Issue No. 2 hereinabove that there was no proper service of the Summons to Enter Appearance, the Application and the Plaint against the Appellant.

30. The Trial Court in determining the validity of the alleged Affidavit of Service by Morris Atila dated 20.06.2022 had a duty to verify and reconfirm whether proper had been effected on the Appellant.

31. The Appellant in her Further Affidavit, had in particular expressed an intention to cross-examine the deponent of the Affidavit of Service dated 20.06.2022 to challenge the allegations therein.

32. Be as it may, the more fundamental issue that touches on the legality of the ex-parte proceedings is the one relating to the lack of Summons in totality.

33. As earlier stated, the trial court file does not show that Summons to Enter Appearance were ever extracted by the Respondents.



34. Similarly, in the Affidavit of Service sworn by Morris Atila on 20.06.2022 confirms that there is no Summons that was allegedly served on the Appellant on the 16.06.2022.
35. What would be the effect of the trial court proceedings with an ex-parte hearing and even delivering a judgment without summons having been extracted and served.
36. In the case of Royal Media Services Ltd v Ominde & Another (civil Appeal E.1195 of 2023 [2024] KEHC 9124 (KLR), the Court observed as follows; -

“ 12. Once a suit is filed, it is by practice and by dint of Order 5 Rule 1(5) the duty of the Plaintiff to prepare the summons to enter appearance and present the same to the court for endorsement by the judge or an officer appointed by the judge who shall then seal the same with the seal of the court without delay, and in any event not more than thirty days from the date of filing suit (see Order 5 Rule 1(2) of the Civil Procedure Rules; see also Francis Ndegwa Muhoro v Ahmednassir M. Abdullahi [2019] eKLR).

13. My understanding of the above provisions of the law is that where summons to enter appearance are not prepared by the Plaintiff for endorsement and sealing by the court within the period provided of 30 days and where no extension thereof is obtained by a Plaintiff, with the effect that no summons are served upon a Defendant, Order 5 Rule 1(6) of the Civil Procedure Rules automatically applies in that the suit abates.

14. In my view, it matters not that the Defendant may have by other means been notified of the suit and entered an appearance. Such appearance is of no effect. In fact, a Defendant who may be aware of the existence of such a suit can opt to ignore it if not properly notified through service of valid summons to enter appearance. I say so because it is the by the very act of service of the summons that the court’s jurisdiction is properly invoked.”

37. In another case of Firenze Investment Limited v Kenya Way Limited [2001] eKLR, the Court held as follows about proceedings undertaken without Summons to Enter Appearance; -

“ A summons to enter Appearance is not a piece of paper of little consequence. It is a necessary and vital document governing the timetable of pleadings and the Rules governing Issuance and Service thereof must be complied with for the pleadings to acquire legitimacy.

Such seriousness was underscored by the Court of appeal in CA 85/96 Uday Kumar Chandullal Rajani & others T/A Lit Petrol Station v Charles Thaithi (UR) where a defective summons was issued and served (beyond the validity of one year) but objection was raised to its validity although the defendant had already accepted it and entered unconditional Appearance.

The High Court was of the view that any irregularity in the issuance of summons was cured by the fact that the defendant had entered appearance without protest and the court could issue orders to meet the ends of Justice by validating it under S.3A of the Civil Procedure Rules.

But the Court of Appeal held that “Order V r 1 provided a comprehensive Code for the duration and renewal of summons and therefore the non -compliance with the procedural aspect caused by failure to renew the summons under this rule is such a fundamental defect



in the proceedings that the inherent powers of the court under S.3A of the Civil Procedure Act cannot cure”.

38. Based on the two authorities hereinabove, it is clear that the omission by the Respondents to extract and serve the Summons to Enter Appearance on the Appellant resulted to their Plaint dated 10.06.2022 abating after 30 dates from the date of filing the same.
39. Similarly, in addition to the above, the Omission to extract the relevant Summons to Enter Appearance deprived the Trial Court of any jurisdiction to entertain and/or make enter any judgement and/or decree as happened on the 23.08.2022.
40. In other words, the proceedings and the Judgement and/or Decree pronounced on the 23.08.2022 were annulity from the very beginning.

Issue No. 4 – Was The Appellant Entitled To The Prayers Sought In The Application Dated 08.12.2023?

41. The fourth issue is whether the Appellant’s Application dated 08.12.2023 was merited or not.
42. The first prayer that the Applicant sought was an Order of Stay of Execution against the Judgement and Decree of the Trial Court on the 23.08.2022.
43. However, by the time the Appellant filed the Application dated 08.12.2023, the Respondents had already enforced the Judgement and/or Decree dated 23.08.2022 by obtaining the Certificate of Lease issued on the 22.06.2023.
44. As such, the prayer of a Stay of Execution of the Judgement and Decree issued on the 23.08.2022 has been overtaken by events and cannot be granted.
45. The second prayers by the Appellant in the Application dated 08.12.2023 was to set-aside the Judgement and Decree issued on the 23.08.2022 and instead leave be granted for her to Defendant the said proceeding.
46. Based on the finding of this Court on Issue No.3, it is clear that the Judgement and Decree issued on the 23.08.2022 was annulity from the very beginning for failure to extract and serve the mandatory Summons to Enter Appearance of the Appellant.
47. As such, the Judgement and Decree issued on the 23.08.2022 by the Trial Court must be set-aside forthwith.
48. On the issue of leave to defend the said Trial Court proceedings, this Court is live to the provisions of Order 5 Rule 1 (2) and Read with Order 5 Rule 1 (6) which expressly provides that if a party does not extract summons within 30 days from the date of filing the Plaint, then such a suit is deemed to have abated.
49. Clearly therefore, the Respondents suit instituted through the Plaint dated 10.06.2022 abated after the expiry of 30 days thereafter and there is nothing for the Defendant to defend or to be listed for hearing.

Issue No. 5 – Are There Any Grounds and /or Reasons In Which This Court Can Interfere With The Ruling Dated 25.03.2024?

50. The fifth issue is whether there are grounds upon which this Court should exercise its discretion and interfere with the Ruling of the Trial Court dated 25.03.2025.



51. Indeed, in the findings of Issues No. 2, 3 and 4, this Court has made various findings to the effect that the Judgement and Decree issued on the 23.08.2022 was annulity and devoid of jurisdiction, it goes without saying that the Trial Court handling the Application dated 08.12.2023 misdirected itself on the facts and the law applicable and arrived at a wrong determination in its Ruling dated 25.03.2025.
52. As such, this Court has no opinion but to interfere with the said Ruling dated 25.03.2024 by setting it aside forthwith.

Issue No. 6 – Is The Appellant Entitled To The Prayers Sought In The Present Appeal?

53. As to the prayers sought in the present Appeal, the Court is of the view that the Appellant is only entitled to a Prayer of setting aside the Judgement and Decree issued on the 23.08.2022 only.
54. Similarly, in the interest of Justice and to restore the parties to the original position in which they were before the Respondents obtained the impugned Judgement and/or Decree dated 23.08.2022, this Court hereby directed the County Land Registrar, Uasin Gishu to rectify the Register and/or Green Card of the suit property by cancelling, deleting and/or removing the names of the Respondents as the lawful owners as recorded on the 12.06.2023 and recall and/or cancel the Certificate of Lease issued on the 13.06.2023 in the names of the Respondents and restoring the name of the Appellant as the lawful owner as per Green Card Entry No. 8 and 9 entered on 07.06.2006.

Issue No. 7 – Who Bears The Costs Of This Appeal

55. As to the issue of Costs, the Respondents are condemned to meet costs of both the Application dated 08.12.2023 as well as the present Appeal.

Conclusion

56. In conclusion, this Court hereby makes the following Orders in determination of the Memorandum of Appeal dated 05.04.2024;
 - A. The Memorandum Of Appeal Dated 05.04.2024 Is Merited.
 - B. The plaint dated 10th june, 2022 filed in the proceeding known as Eldoret CMELC No.E095 of 2022 be and is hereby deemed abated on the 11th of july 2022 for failure to comply with the provisions of Order 5 Rule 1(2) As Read With Order 5 Rule 1(6) Of The Civil Procedure Rules, 2010.
 - C. The proceedings and the ex-parte judgement pronounced on the 23rd august, 2022 in the proceedings known as Eldoret CMELC No. E095 of 2022 be and are declared annulity and hence set-aside forthwith.
 - D. The ruling and decree issued on the 25th march, 2024 in the proceeding known as Eldoret CMELC NO. E095 of 2022 be and are hereby set-aside forthwith.
 - E. The county land registrar Uasin Gishu be and is hereby ordered and/or directed to rectify the register and/or green card of the property known as lr.no.eldoret municipality block 14/593 by removing, cancelation and/or deleting the names of the respondents from the entries recorded on the 23rd august, 2023 and in their place restoring the name of the appellant as the lawful owner of the suit property as per the entry made on the 7th june 2006 within 14 days from the date of this judgement.



- F. The respondent are hereby ordered and/or directed to surrender back the cancelled title deed to the suit property issued on the 23rd august, 2023 within 14 days per the date of this judgement from destruction by the county land registration.
- G. The appellant is awarded costs of this application dated 8th december 2023 as well as costs of the present appeal payable by the respondents jointly and severally.

DATED, SIGNED & DELIVERED VIRTUALLY AT ELDORET ELC THIS 19TH DAY OF JUNE 2025.

EMMANUEL.M. WASHE.

JUDGE

In The Presence Of:

Court Assistant: Brian

Advocates For The Applicant:

Ms. Nasongo Holding Brief Mr. Yego For Appellant

Ms. Lagat Holding Brief Mr. Chemwok 1st Appellant

Advocates For The Respondent:

Mr. Kapere Holding Brief Mr. Warigi For The Respondent

