REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT NAIROBI

ELC APPEAL NO. 81 OF 2013 & APPEAL NO. 1 OF 2014

ADDAX KENYA LIMITED.....APPELLANT

VERSUS

NATIONAL ENVIRONMENT

MANAGEMENT AUTHORITY.....1ST RESPONDENT

MASTERMIND TOBACCO(K)LTD.....2ND RESPONDENT

RULING

The appeals herein were determined on 6th August, 2014 in favour of the appellant. The 2nd respondent was condemned to pay the costs of the appeals. The appellant subsequently filed its bill of costs on 7th January, 2015 for taxation. The appellant's bill of costs was drawn in the sum of Kshs. 26,727,611.21. During the taxation of the said bill of costs which had 214 items, only items 1 and 17 relating to instruction fees and getting up fees respectively were contested. The appellant claimed Kshs. 17,604,630.11 as instruction fees in item 1 of the bill of costs and Kshs. 8,802,315.10 as getting up fees in item 17 of the bill of costs (hereinafter referred to as "the bill"). In a ruling that was delivered on 30th March, 2016, the taxing officer, Hon. S. Mwayuli awarded the appellant Kshs. 7,000,000/- as instruction fees and Kshs. 2,300,000/- as getting up fees being 1/3 of the instruction fees. The uncontested items were taxed as drawn. The entire bill was taxed at Kshs. 9,653,999.33.

The 2nd respondent was aggrieved with the decision of the taxing officer and filed the present reference to challenge the same. The reference was brought through Chamber Summons application dated 14th July, 2017 in which the 2nd respondent sought the review and setting aside of the decision of the taxing officer with regard to instruction fees and getting up fees and the reduction of the awards in respect of the 2 items or the remit of the same to a different taxing officer for taxation. The reference was brought on the following grounds:

1. That the taxing officer erred in law by taxing and allowing the instruction fees at Kshs. 7,000,000/- and getting up fees at Kshs. 2,300,000/- which amounts were manifestly excessive as to amount to errors of principle;

2. That the taxing officer failed to exercise her discretion judiciously and reasonably in her taxation of the two items in the bill;

3. That the taxing officer erred in awarding the appellant Kshs. 7,000,000/- without considering the work done, nature of the case, the interest of the parties in the matter and general conduct of the proceedings; and

4. That the taxing officer erred in failing to take into account generally accepted principles of taxation of the bills of costs arising from public interest litigation;

The reference was opposed by the appellant through a replying affidavit sworn by the appellant's project manager, Edward Rutto on 6th October, 2017. The appellant averred that it had claimed Kshs. 17, 604, 630.11 as instruction fees on the basis of the value of the subject matter of the appeals which was USD 7,162, 952.50 as disclosed in the pleadings. The appellant contended that the taxing officer did not err in awarding Kshs. 7,000,000/- as instruction fees. The appellant contended that the award of Kshs. 7,000,000/- was not excessive having regard to the actual losses incurred by the appellant, the value of the subject matter and the work that was involved in prosecuting the appeals. On getting up fees, the appellant averred that the same was provided for in the Advocates Remuneration Order as being not less than one third of the instruction fees. The appellant contended that the taxing officer did not err in awarding Kshs. 2,300,000/- under that item. On the 2nd respondent's contention that the appeals before the court involved matters of public interest, the appellant averred that the dispute between the parties was private in nature as it involved the appellant's business.

The reference was argued by way of written submissions. The 2nd respondent filed its submissions on 11th June, 2018 while the appellant filed its submissions in reply on 17th October, 2018. In its submissions, the 2nd respondent referred the court to the case of First American Bank of Kenya *v* Shah & others [2002] 1 EA 64 at page 69 for the principles which guide the court in determining a reference challenging a

decision of a taxing officer. The 2nd respondent submitted that the taxing officer erred in principle by failing to set out the schedule in the Advocates Remuneration Order under which item 1 of the bill was taxed. In support of this submission, the 2nd respondent relied on the decision in R *v* Commissioner of Domestic Taxes Ex parte Ukwala Supermarket Ltd & 2 others [2018] eKLR where the court cited with approval the decision in the case of First American Bank of Kenya (supra) that the taxing officer must set out the basic fee before venturing to consider whether to increase or reduce it.

The 2nd respondent submitted that the taxing officer erred in failing to appreciate that the appeals which were the subject of taxation arose from public law claims and that consideration of the value of the subject matter of a suit which is applicable in private law claims was not necessary. The 2nd respondent referred to the cases of Patrick Kamotho Githinji & 4 others (suing for and on behalf of aggrieved residents of Muthurwa Estate within Nairobi County) *v* Resjos Enterprises Ltd & 4 others [2016] eKLR and Kigwe Complex Ltd *v* Jeremiah Githigo Iregi & 8 others [2015] eKLR in support of its submission that suits relating to the environment are in the province of public law.

The 2nd respondent submitted that since the taxation was in respect of a public law claim, the relevant schedule for determining the basic instruction fees under item 1 of the bill was Schedule 6(1)(i) of the Advocates Remuneration Order,2009 which sets the basic instruction fees in public law claims at Kshs. 28,000/-. In support of this submission, the 2nd respondent relied on the case of Kenyariri & Associates Advocates *v* Salama Beach Hotel Limited & 3 Others (2015) eKLR. The 2nd respondent submitted that in taxing item 1 of the bill at Kshs 7,000,000/-, the taxing officer erred in principle as the amount was manifestly excessive being 250 times the basic fee of Kshs. 28,000/- allowed under Schedule 6(1)(i) of the Advocates Remuneration Order, 2009. The 2nd respondent urged the court to find the amount of Kshs. 2,000,000/- already paid as costs comprising of Kshs. 1,646,000/- for instruction fees and Kshs. 353,999.33 for the undisputed items in the bill as sufficient award for the costs due to the appellant.

With respect to getting up fees, the 2nd respondent referred to schedule 6 paragraph 3 of the Advocates Remuneration Order, 2009 and the case of Dickson Maina Kibira *v* David Ngari Mukunya Nyeri [2017] eKLR and submitted that the fees for getting up an appeal is not automatic. The 2nd respondent submitted that such fee must be certified by the court at the conclusion of the hearing to be payable. The 2nd respondent submitted that the taxing officer misdirected herself and erred in allowing getting up fees in the absence of certification by the court.

In its submission in reply, the appellant also relied on the case of First American Bank (supra) for the circumstances under which the court may interfere with the taxing officer's exercise of discretion. The appellant submitted that having regard to the complexity and value of the subject matter, the nature and importance of the matter to the parties and the general conduct of the proceedings, the sum of Kshs. 7,000,000/- which was awarded by the taxing officer to the appellant as instruction fees was not excessive. The appellant argued that the 2nd respondent's assertion that the taxing officer erred in principle by not setting out the schedule of the Remuneration Order on the basis of which she taxed item 1 of the bill was wrong. The appellant submitted that the taxing officer considered what in her view was the applicable Advocates Remuneration Order namely, Advocates Remuneration Order, 2009 which she found did not contain specific provisions relating to appeals or the basic fees payable.

The appellant submitted that the requirement that the taxing officer first sets out the basic instruction fees as stated in the First American Bank case (supra) was not applicable in the circumstances of this case. The appellant cited the case of Kenyariri & Associates (supra) and argued that where the taxing officer has followed the correct principles in the taxation, failure to indicate the schedule on which he bases the fees awarded is not sufficient to interfere with his exercise of discretion. The appellant urged the court to find that failure by the taxing officer to indicate the schedule under which she based the instruction fees awarded to the appellant was not sufficient to warrant interference with her discretion.

The appellant denied that the appeals which were the subject of taxation concerned public law claims. In response to the 2nd respondent's contention that the correct schedule that was applicable was Schedule 6(1)(j) of the Remuneration Order, the appellant submitted that that schedule applied only to constitutional petitions and prerogative orders and not public law claims in general. The appellant submitted that the proceedings before the tribunal which gave rise to the appeals that were determined by this court were not constitutional petitions neither were prerogative orders sought in the same so as to bring the assessment of costs payable in the appeal under Schedule 6(1)(j) of the Remuneration Order.

The appellant submitted further that the issues that were in dispute before the tribunal and before this court were not of public law nature. The appellant submitted that the dispute involved its business and the business of the 2nd respondent and as such were of private law nature. The appellant submitted that the reason behind the 2nd respondent's opposition to its project was contained in the 2nd respondent's letter dated 21st May, 2012 where the 2nd respondent made it clear that the appellant's project was a threat to the safety of the activities in the neighbourhood which included the 2nd respondent's business. The appellant contended that the attempt by the 2nd respondent to bring the dispute within the realm of public law and the invocation of environmental concerns was an afterthought. The appellant submitted that there was no error of principle committed by the taxing officer to warrant interference by the court with the exercise of her discretion to award Kshs. 7,000,000/- to the appellant as instruction fees.

With respect to the fees for getting up the appeal, the appellant submitted that the 2nd respondent did not dispute that getting up fees may be awarded by the taxing officer. The appellant argued further that there was no contention that the decision of the taxing officer to award getting up fees was based on an error of principle or that the award was manifestly excessive to constitute an error in principle. The appellant argued that the appeals proceeded to full hearing and that it was entitled to getting up fees regardless of whether or not the trial judge certified the appeal as a proper one for granting getting up fees. The appellant contended that lack of certification by the trial judge did not imply that getting up fees was not earned or deserved. The appellant submitted that the taxing officer exercised her discretion properly in awarding the appellant getting up fees and as such there was no reason to interfere with the exercise of that discretion.

In conclusion, the appellant contended that the 2nd respondent's reference was an abuse of the process of the court and that the same was aimed at subverting the course of justice. The court was urged to dismiss the same with costs.

Determination:

I have considered the 2nd respondent's reference and the affidavit filed in response thereto by the appellant. I have also considered the submissions of counsel and the various authorities that were cited in support thereof. The only issue that arises for determination in this reference is whether valid grounds have been put forward to warrant interference by the court with the decision of the taxing officer made herein on 30th March, 2016. In the case of Nyangito & Co. Advocates *v* Doinyo Lessos Creameries Ltd. [2014] eKLR, the court stated that:

"The circumstances under which a judge of the High Court interferences with the taxing officer's exercise of discretion are now well known. These principles are:

> ***1. that the court cannot interfere with the taxing officer's discretion on taxation unless it is shown that either the decision was based on an error of principle, or the fee awarded was manifestly excessive as to justify an interference that it was based on an error of principle;***
>
> ***2. it would be an error of principle to take into account irrelevant factors or to omit to consider relevant factors and, according to the remuneration order itself, some of the relevant factors to be taken into account include the nature and the importance of the cause or matter, the amount or value of the subject matter involved, the interest of the parties, the general conduct of the proceedings and any direction by the trial judge;***
>
> ***3. if the court considers that the decision of the taxing officer discloses errors of principle, the normal practice is to remit it back to the taxing officer for reassessment unless the judge is satisfied that the error cannot materially have affected the assessment and the court is not entitled to upset a taxation because in its opinion, the amount awarded was high;***
>
> ***4. it is within the discretion of the taxing officer to increase or reduce the instruction fees and the amount of the increase or reduction is discretionary."***

In the South African case, Visser *v* Gubb 1981(3) SA 753 (C) 754H – 755 C that was cited with approval in the case of KTK Advocates *v* Baringo County Government (2017) eKLR , the court stated as follows:

> ***"The court will not interfere with the exercise of such discretion unless it appears that the taxing master has not exercised discretion judicially and has exercised it improperly, for example, by disregarding factors which he should properly have considered, or considering matters which it was improper for him to have considered; or he had failed to bring his mind to bear on the question in issue; or he has acted on a wrong principle. The court will also interfere where it is of the opinion that the taxing master was clearly wrong but will only do so if it is in the same position as, or a better position than, the taxing master to determine the point in issue…. The court must be of the view that the taxing officer was clearly wrong, i.e its conviction on a review that he was wrong must be considerably more pronounced than would have sufficed had there been an ordinary right of appeal."***

I am in agreement with the 2nd respondent that the taxing officer not only exercised her discretion improperly but also awarded to the appellant as instruction fees an amount that was manifestly excessive as to amount to an error of principle. To begin with, the taxing officer fell into error when she stated that:

> ***"The Advocates Remuneration Order of 2009 doesn't have specific provisions for matters on appeal save for the provision or(sic) for getting up an appeal, the taxing officer will therefore treat this as normal proceedings in the High Court…"***

This statement is not correct. I am in agreement with the taxing officer that the applicable Remuneration Order was The Advocates Remuneration (Amendment) Order, 2009 (hereinafter referred to only as "the Remuneration Order"). The Remuneration Order had a provision dealing with appeals. The appeals were provided for in Schedule VI (1)(b) and (m) of the Remuneration Order which I reproduce hereunder:

Schedule VI(1)(b);

> ***"To sue in any proceedings described in paragraph (a) where a defence or other denial of liability is filed; or to have an issue determined arising out of inter-pleader or other proceedings before or after suit; or to present or oppose an appeal where the value of the subject matter can be determined from the pleadings, judgment or settlement between the parties and-." (emphasis added).***

Schedule VI (1)(m):

> ***"To present or oppose an appeal in any case not provided for above; such sum as may be reasonable but not less than…."***

The taxing officer made correct finding that the value of the subject matter of the appeals could not be ascertained from the pleadings or the judgment of the court. Upon making this finding, the taxing officer was now supposed to exercise her discretion in assessing a reasonable instruction fees payable to the appellant having regard to the amount that was claimed under that item, what the 2nd respondent was ready to pay, the complexity, the nature and importance of the matter to the parties and the general conduct of the proceedings. The taxing officer could only exercise her discretion properly if she had used Schedule VI (1)(m) of the Remuneration Order as the basis for her assessment of instruction fees. That schedule provided for a basic fee of Kshs. 6,300/- for presenting or opposing an appeal which the taxing officer could

increase in exercise of her discretion. In view of her failure to ascertain the basic fee, it is difficult to appreciate how the taxing officer arrived at Kshs. 7,000,000/- that she awarded to the appellant as instruction fees.

The 2nd respondent had contended that the appeals before the court arose from a public law claim and as such the instruction fees should have been assessed under Schedule VI (1)(j) of the Remuneration Order. I am not in agreement with this argument. Schedule VI(1)(j) provides for the basic fees for prerogative orders none of which was sought before the tribunal and in the appeals before this court. In the case of Tom Mboya Odege *v* Edick Peter Omondi Anyanga & 2 others Nairobi CA No. 364 of 2017(2018) eKLR the Court of Appeal considered a dispute over costs in a matter that was alleged to have a public interest element. The court rendered itself as follows:

> ***"…An examination of evolving practices on this question shows that, as an example, matters in the domain of public interest litigation tend to be exempted from award of costs..." The reason is that in public interest litigation, a litigant usually advances public interest as opposed to personal gain. Mativo, J. further explained the principle in the case of Brian Asin & 2 Others vs Wafula W. Chebukati & 9 Others [2017] eKLR citing the Indian case of Ashok Kumar Pandey vs State of West Bengal AIR 2004 SC 280 where it was held:- "Public interest litigation is a weapon which has to be used with great care and circumspection and the judiciary has to be extremely careful to see that behind the beautiful veil of public interest an ugly private malice, vested interest and/or publicity seeking is not lurking. It is to be used as an effective weapon in the armory of law for delivering social justice to the citizens. The attractive brand name of public interest litigation should not be used for suspicious products of mischief. It should be aimed at redressal of genuine public wrong or public injury and not publicity oriented or founded on personal vendetta. As indicated above, Court must be careful to see that a body of persons or member of public, who approaches the court is acting bona fides and not for personal gain or private motive or political motivation or other oblique consideration. The Court must not allow its process to be abused for oblique considerations. Some persons with vested interest indulge in the pastime of meddling with judicial process either by force of habit or from improper motives. Often they are actuated by a desire to win notoriety or cheap popularity. The petitions of such busy bodies deserve to be thrown out by rejection at the threshold, and in appropriate cases with exemplary costs."***

The 2nd respondent's letter dated 21st May, 2012 that was reproduced at page 22 of the judgment that was made in the appeals herein on 6th August, 2014 shows that there was minimal public interest if any in the dispute between the parties herein. The letter alludes to the 2nd respondent's objection to the issuance of EIA licence to the appellant on the ground that the proximity of the appellant's then proposed project would have exposed its business to heightened risk of harm. It is clear from the contents of the said letter that the 2nd respondent did not approach the tribunal to vindicate the interest of the public but for its personal gain. As rightly submitted by the appellant, the proceedings before the tribunal and before this court had no public interest flavour and I so find. The 2nd respondent's contention that the instruction fees due to the appellant should have been assessed under Schedule 6(1)(j) of the Remuneration Order is without merit. As I have stated earlier, the correct schedule was Schedule VI (1)(m) of the Remuneration Order.

The factors to be considered in assessing instruction fees were set out by the Court of Appeal in the case of Joreth *v* Kigano & Associates (2002) EA 92 as follows:

> ***"We would at this stage point out that the value of the subject matter of a suit for the purposes of taxation of a bill of costs ought to be determined from the pleadings, judgment or settlement (if such be the case) but if the same is not so ascertainable the taxing officer is entitled to use his discretion to assess such instruction fee as he considers just, taking into account, amongst other matters, the nature and importance of the cause or matter, the interest of the parties, the general conduct of the proceedings, any direction by the trial judge and all other relevant circumstances".***

See also, the case of Eastland Hotel Limited *v* Wafula Simiyu & Co. Advocates (2014) eKLR where the Court of Appeal stated that:

> ***"This Court's decision in JORETH LIMITED v KIGANO & ASSOCIATES (supra) which was cited to us by both the appellant and the respondent, states that the value of the subject matter for purposes of taxation of a bill of costs ought to be determined from the pleadings, judgment or settlement. But where the same is not ascertainable from the pleadings, judgment or settlement, the taxing officer is entitled to use his/her discretion to assess instruction fees. In so doing, the taxing officer will have to take into account, amongst other matters, the nature and importance of the cause or the matter, the interest of the parties, the general conduct of the proceedings and other relevant factors which may include the complexity of the case and its urgency. It is the value of the subject matter in dispute which determines the amount of instruction fees payable to an advocate."***

As I have stated earlier, the taxing officer having failed to ascertain the basic fee that was payable as instruction fees, she could not have arrived at the correct assessment of the instruction fees. In her ruling, the taxing officer observed that nothing arose before the tribunal and before this court that required more than the ordinary skill and industry of a legal practitioner. Having made this observation, the taxing officer in exercise of her discretion awarded the appellant Kshs. 7,000,000/- as instruction fees. As I have mentioned earlier, the basic instruction fees that was payable for filing or opposing an appeal was Kshs. 6,300/-. I am in agreement with the 2nd respondent that the sum of Kshs. 7,000,000/- that was awarded to the appellant as instruction fees was manifestly excessive having regard to the basic instruction fees that was provided for in the remuneration order. The taxing officer did not give any basis for the exercise of her discretion. In the case of Paul Ssemogerere & Olum *v* Attorney General, Civil Application No.5 of 2001 (UR) the court stated that:

> ***"In our view, there is no formula by which to calculate the instruction fee. The exercise is an intricate balancing act whereby the taxing officer has to mentally weigh the diverse general principles applicable, which sometimes, are against one another in order to arrive at the reasonable fee. Thus while the taxing officer has to keep in mind that the successful party must be reimbursed expenses reasonably incurred due to the litigation, and that advocates, remuneration should be at such level as to attract recruits into the legal profession, he has to balance that with his duty to the public not to allow costs to be so hiked that courts would remain accessible to only the wealthy. Also while the taxing officer is to maintain consistency in the level of costs, it is settled that he has to make allowance for the fall, if any, in the value of money. It is because of consideration for this intricate balancing exercise that taxing officer's opinion on what is the reasonable fee, is not to be interfered with lightly. There has to be a***

compelling reason to justify such interference."

I am satisfied that compelling reasons have been established warranting interference with the taxing officer's exercise of discretion in assessing instruction fees. I am of the view that an award of Kshs. 7,000,000/- as instruction fees in a case which the taxing officer described as ordinary and where a basic fee provided for was Kshs. 6,300/- was unjust to the 2nd respondent. In the case of Republic *v* Minister for Agriculture & 2 Others Ex-Parte Samuel Muchiri W'njuguna & 6 Others [2006] eKLR it was held that a court will not interfere with an award by a taxing officer merely because it thinks that the award is somewhat too high or too low; it will only interfere if it thinks that the award is so high or so low as to amount to an injustice to one party.

With regard to the getting up fees, the 2nd respondent had contended that the taxing officer erred in principle by awarding getting up fees when the same was not certified as payable by the court. Schedule VI paragraph 3 of the Remuneration Order provides as follows:

> ***"In any appeal to the High Court in which a respondent appears at the hearing of the appeal and which the court at the conclusion of the hearing has certified that in view of the extent or difficulty of the work required to be done subsequently to the lodging of the appeal the case is a proper one for consideration of a getting up fee, the taxing officer may allow such a fee in addition to the instruction fee and such a fee shall not be less than one-third of the instruction fee."***

I am in agreement with the 2nd respondent that the taxing officer had no power to award getting up fees without a certificate from the court for her to consider awarding getting up fees in view of the complexity and difficulty of the work that was involved in prosecuting the appeals. The appellant's submission that it was entitled to getting up fees because the appeals proceeded to full hearing has no basis in view of the express provisions of Schedule VI paragraph 3 of the Remuneration Order which requires that in addition to a party appearing for the hearing of the appeal, the court must at the conclusion of the hearing certify that the appeal is a proper one for consideration of awarding getting up fees. In the case of Dickson Maina Kibira *v* David Ngari Makunya [2017] eKLR the court stated as follows:

> ***"… By necessary implication, the taxing master cannot allow getting up fees without the certification of the court. It follows that the taxing master misdirected herself and erred in law when she allowed getting up fees in the absence of certification of such fees by this court."***

I am in agreement with that decision. It is my finding therefore that the taxing officer fell into error by assessing getting up fee in the absence of certification by the court. This court has no alternative in the circumstances but to interfere with the taxing officer's award relating to getting up fees.

In conclusion, I am satisfied that the 2nd respondent has established valid grounds warranting interference with the taxing officer's exercise of discretion with respect to both instruction and getting up fees. In the case of Kipkorir Titoo & Kiara Advocates *v* Deposit Protection Fund Board (2005) l KLR 528 the court stated as follows:

> ***"And if a judge on reference from a taxing officer finds that the taxing officer has committed an error of principle the general practice is to remit the question of quantum for the decision of taxing officer (see – D'Souza v Ferrao [1960] EA 602. The Judge has however a discretion to deal with the matter himself if the justice of the case so requires (see Devshi Dhanji Naran Patel (No. 2) [1978] KLR 243."***

See also, Moronge & Company Advocates *v* Kenya Airports Authority KSM CA 262 of 2012.

Having regard to the time the present reference has been pending in court and the fact that only the taxation of two items in the bill was contested, I am of the view that it would serve the interest of justice for the court to exercise its discretion in favour of taxing the bill instead of remitting the bill to the taxing officer for the taxation of these items. In the case of First American Bank of Kenya Ltd *v* Gulab P Shah & Others (2002)1 E.A. 61 Ringera J. (as he then was) stated that:

> ***"I have asked myself whether I should remit the bill back to the taxing officer with directions that she should determine the instruction fees … I am convinced in my mind that that would be a waste of judicial time in the circumstances of this case. I would also saddle the parties with further unnecessary costs. I think the just course of action in this matter is for this court to exercise its discretion in a reference on taxation to determine the matter with some finality."***

I share the same view in the case before me. Having regard to the basic instruction fees provided for in the Remuneration Order, the nature and importance of the matter, the interest of the parties, the general conduct of the proceedings, the submissions that was made before the taxing officer by the 2nd respondent in which the officer was urged to award Kshs. 2,000,000/- as instruction fees to the appellant and all other relevant circumstances surrounding the appeals, I am of the view that a sum of Kshs. 3,000,000/- as instruction fees would be fair and reasonable. With regard to the getting up fees, the same was wrongly awarded and the entire amount awarded by the taxing officer under that item has to be set aside.

In conclusion, I hereby allow the 2nd respondent's Chamber Summons application dated 14th July, 2017 on the following terms:

1. The decision of the taxing officer dated 30th March, 2016 is set aside with respect to instruction and getting up fees.

2. Instruction fees claimed in the sum of Kshs. 17,604,630.11 under item 1 of the bill of costs dated 22nd December, 2014 is taxed at Kshs. 3,000,000/-. A sum of Kshs. 14,604,630.11 is taxed off.

3. A sum of Kshs. 8,802,315/- claimed as getting up fees for the appeal under item 17 of the bill of costs is taxed off in its entirety.

4. Each party shall bear its own costs of the reference.

Delivered and Dated at Nairobi this 28th day of March 2019

S. OKONG'O

JUDGE

Ruling read in open court in the presence of:

Mr. Nyakundi for the Appellant

N/A for the 1st Respondent

Mr. Okoth for the 2nd Respondent

C. Nyokabi-Court Assistant