



**REPUBLIC OF KENYA**

**IN THE ENVIRONMENT AND LAND COURT AT KAKAMEGA  
CASE No. 195 OF 2015**

**DAVID ANANDA OKUMU.....PLAINTIFF**

**VERSUS**

**GEOFFREY OMWOMA ABIRIRI.....1<sup>ST</sup> DEFENDANT**

**NANCY BENTA OKUTOYI.....2<sup>ND</sup> DEFENDANT**

**JUDGEMENT**

This case is that at all material times herein below referred the whole of that parcel of land known as S. Wanga/Musanda/8 was as at 28/11/1966 registered in the name of the late Wilfred Wandanda. The plaintiff avers that the late Wilfred Wandanda had one son called Rodgers Okumu Andanda and four (4) daughters called Mary Olubui Nelima (deceased), Risper Okutoi Musa, Alice Wanga Matayo (deceased) and Margaret Chituyi Okema. The plaintiff avers that while Rodgers Okumu Andanda was the father of the plaintiff, Margaret Chituyi Okema was the mother of the 1<sup>st</sup> defendant. The plaintiff avers that upon the death of the plaintiff's grandfather Wilfred Wandanda both Rodgers Okumu Andanda and Margaret Chituyi Okema were entitled to the parcel of land known as S. Wanga/Musanda/8 in equal shares. The plaintiff avers that he has stayed on this suit land cultivating and settled on the land since he was born in 1973. The plaintiff avers that none of the defendants have ever settled or cultivated any part of the suit land. The plaintiff avers that upon the death of the plaintiff's father, Rodgers Okumu Andanda, the 1<sup>st</sup> defendant's mother Margaret Chituyi Okema commenced succession case being No. 43 of 2006 at the Kakamega High Court vide which the said Margaret Chituyi Okema obtained title to the suit land on 18<sup>th</sup> June, 2008. The plaintiff avers that the said succession case was concluded without the knowledge of the plaintiff and the plaintiff's right over the suit land was not protected despite the fact that the plaintiff has continued to stay thereon. The plaintiff states that on 27<sup>th</sup> March, 2009 the said Margaret Chituyi Okema caused the transfer of the whole of the suit land to the 1<sup>st</sup> defendant without the knowledge of the plaintiff despite the fact that the plaintiff exclusively stays and cultivates the whole of the suit land. The plaintiff further states that without recognizing the plaintiff's right over the suit land the plaintiff's occupation notwithstanding, the 1<sup>st</sup> defendant caused the transfer of the whole of the suit land to the 2<sup>nd</sup> defendant on 11<sup>th</sup> March, 2010. The plaintiff avers that the said Margaret Chituyi Okema has since died. The plaintiff avers that at the time the said Margaret Chituyi Okema obtained title over the suit land, she held the same in trust for the plaintiff and she had no rightful title over the suit land capable of being transferred to the 1<sup>st</sup> defendant. The plaintiff further avers that following and arising from the above the 1<sup>st</sup> defendant had no legal capacity to transfer the suit land to the 2<sup>nd</sup> defendant. The plaintiff's claim, therefore, is for an order declaring that in light of the foregoing the plaintiff is by way of trust entitled to the whole of that parcel of land known as S. Wanga/Musanda/8 and that the registration of the same in the name of the 2<sup>nd</sup> defendant be cancelled and the same be registered in favour of the plaintiff.

REASONS WHEREFORE the plaintiff prays that judgment be entered in favour of the plaintiff as against the defendants severally and jointly for:-

- (i) For an order declaring that in light of the foregoing the plaintiff is by way of trust entitled to the whole of that parcel of land known as S. Wanga/Musanda/8 and that the registration of the same in the name of the 2<sup>nd</sup> defendant be cancelled and the same be registered in favour of the plaintiff.
- (ii) Costs and interest.
- (iii) Any other further reliefs that this honourable court may deem just to grant.

PW1 the plaintiff testified that, the parcel of land known as S. Wanga/Musanda/8 was as at 28<sup>th</sup> November, 1966 registered in the name of the late Wilfred Wandanda. That Rodgers Okumu Andanda was his father while Margaret Chituyi Okema was the mother of the 1<sup>st</sup> defendant Geoffrey Evans Omwoma Aburiri. That upon the death of his grandfather Wilfred Wandanda both Rodgers Okumu Andanda and Margaret Chituyi Okema were entitled to the parcel of land known as S. Wanga/Musanda/8 in equal shares. That he has stayed on the parcel of land known as S. Wanga/Musanda/8, cultivating and settled on the whole of it since he was born in 1973. That none of the defendants has ever settled or cultivated any part of the parcel of land known as S. Wanga/Musanda/8. That upon the death of his father Rodgers Okumu Andanda, the 1<sup>st</sup> defendant's mother Margaret Chituyi Okema commenced succession case being Kakamega Succession No. 43 of 2006 vide which the said Margaret Chituyi Okema obtained title to the parcel of land known as S. Wanga/Musanda/8 on 18<sup>th</sup> June, 2008. The

succession cause was concluded without his knowledge and his rights over the said parcel of land was not protected despite the fact that he has continued to stay thereon. That on 27<sup>th</sup> March, 2009 the said Margaret Chituyi caused the transfer of the whole of that parcel of land known as S. Wanga/Musanda/8 to the 1<sup>st</sup> defendant without his knowledge despite the fact that he exclusively stays and cultivates the whole of the said parcel of land. That without recognizing his right over the parcel of land known as S. Wanga/Musanda/8, his occupation notwithstanding the 1<sup>st</sup> defendant caused the transfer of the whole of the suit parcel of land to the 2<sup>nd</sup> defendant on 11<sup>th</sup> March, 2010. That Margaret Chituyi Okema has since died. That at the time the said Margaret Chituyi obtained title over the parcel of land under reference, she held same in trust for him.

PW2 the plaintiff's aunty testified that, the parcel of land known as S. Wanga/Musanda/8 was as at 28<sup>th</sup> November, 1966 registered in the name of the late Wilfred Wandanda. That Rodgers Okumu Andanda was the father of the plaintiff David Andanda Okumu while Margaret Chituyi Okema was the mother of the 1<sup>st</sup> defendant Geoffrey Evans Omwoma Aburiri. That upon the death of the plaintiff's grandfather Wilfred Wandanda both Rodgers Okumu Andanda and Margaret Chituyi Okema were entitled to the parcel of land known as S. Wanga/Musanda/8 in equal shares. That the plaintiff have stayed on the parcel of land known as S. Wanga/Musanda/8, cultivating and settled on the whole of it since the plaintiff was born in 1973. That none of the defendants have ever settled or cultivated any part of the parcel of land known as S. Wanga/Musanda/8. That upon the death of the plaintiff's father Rodgers Okumu Andanda, the 1<sup>st</sup> defendant's mother Margaret Chituyi Okema commenced succession case being Kakamega HC. Succession No. 43 of 2006 vide which the said Margaret Chituyi Okema obtained title to the parcel of land known as S. Wanga/Musanda/8 on 18<sup>th</sup> June, 2008. The succession cause was concluded without the knowledge of the plaintiff and the plaintiff's rights over the said parcel of land was not protected despite the fact that the plaintiff has continued to stay thereon. That on 27<sup>th</sup> March, 2009 the said Margaret Chituyi caused the transfer of the whole of that parcel of land known as S. Wanga/Musanda/8 to the 1<sup>st</sup> defendant without the knowledge of the plaintiff despite the fact that the plaintiff exclusively stays and cultivates the whole of the said parcel of land. That without recognizing the plaintiff's right over the parcel of land known as S. Wanga/Musanda/8, the plaintiff's occupation notwithstanding the 1<sup>st</sup> defendant caused the transfer of the whole of the suit parcel of land to the 2<sup>nd</sup> defendant on 11<sup>th</sup> March, 2010. That Margaret Chituyi Okema has since died. That at the time the said Margaret Chituyi obtained title over the parcel of land under reference, she held same in trust for the plaintiff herein.

PW3 a cousin to the litigants testified that, the parcel of land known as S. Wanga/Musanda/8 was as at 28<sup>th</sup> November, 1966 registered in the name of the late Wilfred Wandanda. That Rodgers Okumu Andanda was the father of the plaintiff David Andanda Okumu while Margaret Chituyi Okema was the mother of the 1<sup>st</sup> defendant Geoffrey Evans Omwoma Aburiri. That upon the death of the plaintiff's grandfather Wilfred Wandanda both Rodgers Okumu Andanda and Margaret Chituyi Okema were entitled to the parcel of land known as S. Wanga/Musanda/8 in equal shares. That the plaintiff have stayed on the parcel of land known as S. Wanga/Musanda/8, cultivating and settled on the whole of it since the plaintiff was born in 1973. That none of the defendants has ever settled or cultivated any part of the parcel of land known as S. Wanga/Musanda/8. That upon the death of the plaintiff's father Rodgers Okumu Andanda, the 1<sup>st</sup> defendant's mother Margaret Chituyi Okema commenced succession case being Kak. HC. Succ. No. 43 of 2006 vide which the said Margaret Chituyi Okema obtained title to the parcel of land known as S. Wanga/Musanda/8 on 18<sup>th</sup> June, 2008. The succession cause was concluded without the knowledge of the plaintiff and the plaintiff's rights over the said parcel of land was not protected despite the fact that the plaintiff has continued to stay thereon. That on 27<sup>th</sup> March, 2009 the said Margaret Chituyi caused the transfer of the whole of that parcel of land known as S. Wanga/Musanda/8 to the 1<sup>st</sup> defendant without the knowledge of the plaintiff despite the fact that the plaintiff exclusively stays and cultivates the whole of the said parcel of land. That without recognizing the plaintiff's right over the parcel of land known as S. Wanga/Musanda/8, the plaintiff's occupation notwithstanding the 1<sup>st</sup> defendant caused the transfer of the whole of the suit parcel of land to the 2<sup>nd</sup> defendant on 11<sup>th</sup> March, 2010. That Margaret Chituyi Okema has since died. That at the time the said Margaret Chituyi obtained title over the parcel of land under reference, she held same in trust for the plaintiff herein.

DW1 the 1st defendant testified that, the plaintiff's father Rodgers Okumu Andanda and the 1<sup>st</sup> defendant's mother Margaret Chituyi Okema were entitled to two parcels of land S. Wanga/Musanda/8 and S. Wanga/Musanda/11 and that the plaintiff's father was entitled to plot No. 11, which he inherited during the lifetime of his father Rodgers Okumu Andanda and was given directly to the plaintiff's father during the first registration. Further at no time during the lifetime of the plaintiff's father Rodgers Okumu Andanda, did the plaintiff's father ever complain or raise objections to the defendant's mother Margaret Chituyi inheriting her rightful share of land parcel S. Wanga/Musanda/8. It is therefore not true that the plaintiff was entitled to any portion of the suit land nor was the 1<sup>st</sup> defendant's mother Margaret Chituyi holding the same in trust for the plaintiff and the plaintiff is invited to strict proof. The 1<sup>st</sup> defendant was born and brought up on the suit land and that was where the late Alfred Wandanda Wanganya the grandfather to both the plaintiff and the 1<sup>st</sup> defendant was buried. The defendant's contention that the plaintiff was born and brought up on his father's Rodgers Okumu Andanda's land parcel S. Wanga/Musanda/11, where plaintiff's father was buried. In the said succession cause No. 43 of 2006, it was not necessary for the plaintiff's father had directly received his portion from his father the late Alfred Wandanda Wanganya during land adjudication and the same directly registered in the plaintiff's father's names. DW1 sold the land to DW2. The defendant prays that the plaintiff's suit be dismissed with costs and the plaintiff evicted from the suit land.

DW2 confirms that she bought the land from DW1. The plaintiff came in and started construction and she was then sued.

DW3 testified that, the parties herein are well known to him as his home is about one kilometre away from the suit property herein. The 1<sup>st</sup> defendant was born and brought up on the suit property. That the 1<sup>st</sup> defendant herein sometime in the year 2009 approached him looking for someone to buy his piece of land. That he then met one Nancy Benta Okutoyi who is the 2<sup>nd</sup> defendant in this matter who was interested in the said piece of land. She then went into an agreement with the said Evans Amwoma. The 1<sup>st</sup> defendant herein legally acquired the suit property herein and after following due process filed succession cause in respect of the estate of his late mother and thereafter inherited the suit property from his late mother Margaret Chituyi. The plaintiff herein has never lived on the suit property but only entered the same sometime in the year 2010 when he saw the 2<sup>nd</sup> defendant work on the said land claiming the same to be his ancestral land.

On the issue of jurisdiction the plaintiff submitted that, it has been held on several occasions and in several decisions that the succession court becomes functus officio unless it is being called upon to revoke the grant. In this instant case, the court could not be called upon to revoke the grant since at the time of filing the suit, the administrator, one MARGARET CHITUYI had already died. Moreover, the title had changed hands twice already completely without the knowledge of the Plaintiffs. With this fundamental note in mind, they are guided by the

decision in the case of Fred Ouma Oivino & Anor-Vs- Hulda Akeyo Otieno & 2 Others (2015) Eklr).

It is therefore their submission that the late MARGARET CHITUYI had no good title to pass to the 1<sup>st</sup> Defendant herein by virtue of the Plaintiff having stayed exclusively and openly on the suit land and having cultivated it since 1973, and further, owing to the fact that the actions of the late MARGARET CHITUYI were done without the Plaintiff's knowledge.

They submit that at the time the said MARGARET CHITUYI OKEMA obtained title over the suit land, she held the same in trust for the Plaintiffs and had no legal capacity to transfer the same to the 1<sup>st</sup> Defendant and they urge this Honorable Court to find so.

From the copy of the Green Card presented to this court, it is evident that the late MARGARET CHITUYI obtained title to the suit land in 2008. She transferred it to the Defendant on 27/3/2009 who got title on 17/4/2009 and who then, almost immediately and promptly transferred the same to the 2<sup>nd</sup> Defendant on 16/3/2010. This kind of speed is questionable. It can only be inferred that the Defendant's sole intention was to transfer the property to a third party and disinherit the Plaintiff, before the Plaintiff, who was residing and cultivating the suit land knew what was happening.

The defendant submitted that, the Plaintiff though purported to lay his claim to the suit property herein, through his deceased father ROGERS OKUMU ANDANDA and grandfather WILFRED WANDADA did not have the Locus standi to institute the claim herein as the Plaintiff had not taken letters of administration in respect of his deceased father and also his paternal grandfather. The Plaintiffs case is that he is entitled to the suit property by inheritance and by extension being the paternally related to the first registered proprietor to the suit property WILFRED WANDANDA. On the other hand it was the Defendants case that he is son to MARGARET CHITUYI OKEMA who got the suit property herein after having inherited the same from his father WILFRED ANDANDA.

It came out at the hearing that the said WILFRED WANDADA died sometime in the year 1999. Sometime in the year 2004 the Defendant's mother MARGARET CHITUYI OKEMA had a land dispute case with PW-2 RISPA OKUTOYI over the suit property herein. The said land case as between the two step sisters over the suit property was referred to the South Wanga Land Disputes Tribunal for determination. The said case was fully heard and determined at the South Wanga Land Disputes Tribunal. As per the proceedings produced in court the said case at the South Wanga Land Disputes Tribunal ended in favor of the 1<sup>st</sup> Defendant's mother MARGARET CHITUYI OKEMA being awarded and therefore entitled to the whole of the suit property herein and advised to officially acquire the said land through the relevant law and or court that is succession.

The parties in the said South Wanga Land Disputes Tribunal it seems were all satisfied with the said decision of the tribunal as the parties therein did heed to the advice given to them to have the issue of succession dealt with in the relevant succession law and or court. Following that advice the 1<sup>st</sup> Defendant's mother instituted succession proceedings in respect of her late father WILFRED WANDANDA thereafter and legally acquired the suit property herein. The Defendant in the said South Wanga Land Disputes case PW-2 never appealed and or objected to the said case or the subsequent succession proceedings.

The said MARGARET CHITUYI OKEMA after acquiring the said land through succession later gifted the said land to her son the 1<sup>st</sup> Defendant herein who later sold the whole of the suit property to the 2<sup>nd</sup> Defendant herein. It is crystal clear that the Defendant legally acquired the suit property herein from his late mother and later sold it to the 2<sup>nd</sup> Defendant. The 1<sup>st</sup> Defendant passed a good title to the 2<sup>nd</sup> Defendant herein. On the other hand the 2<sup>nd</sup> Defendant is only a victim of the Plaintiffs machinations.

The 2<sup>nd</sup> Defendant's case is that she is the registered proprietor of the suit property and she hails from the same locality with the Plaintiff and the 1<sup>st</sup> Defendant. The 2<sup>nd</sup> Defendant's case was that before buying the suit land she did exercise due diligence and did a search at the Lands office and having known the history of the land bought the suit land from the 1<sup>st</sup> Defendant.

It was the 2<sup>nd</sup> Defendant's case that when the Plaintiff learnt that she had bought the suit property from the 1<sup>st</sup> defendant he objected and forcefully entered the suit property and constructed a house therein and forcefully started using her land. The 2<sup>nd</sup> Defendant's plea to the court was that she be given back her land and the plaintiff evicted.

This court has carefully considered both the plaintiff's and the defendants' evidence and submissions therein. It is the plaintiff's submission that the late MARGARET CHITUYI had no good title to pass to the 1<sup>st</sup> Defendant herein by virtue of the Plaintiff having stayed exclusively and openly on the suit land and having cultivated it since 1973, and further, owing to the fact that the actions of the late MARGARET CHITUYI were done without the Plaintiff's knowledge. The Land Registration Act is very clear on issues of ownership of land and Section 24(a) of the Land Registration Act provides as follows:

***“Subject to this Act, the registration of a person as the proprietor of land shall vest in that person the absolute ownership of that land together with all rights and privileges belonging or appurtenant thereto.”***

Section 26 (1) of the Land Registration Act states as follows:

***“The Certificate of Title issued by the Registrar upon registration ... shall be taken by all courts as prima facie evidence that the person named as proprietor of the land is the absolute and indefeasible owner... and the title of that proprietor shall not be subject to challenge except –***

***a. On the ground of fraud or misrepresentation to which the person is proved to be a party; or***

**b. Where the certificate of title has been acquired illegally, unprocedurally or through a corrupt scheme.”**

Looking at the facts of this case, ownership of the said parcel of land has been passed on to the 2<sup>nd</sup> Defendant and this is not in dispute. The law is clear that, the Certificate of Title issued by the Registrar upon registration ... shall be taken by all courts as prima facie evidence that the person named as proprietor of the land is the absolute and indefeasible owner... and the title of that proprietor shall not be subject to challenge except – On the ground of fraud or misrepresentation to which the person is proved to be a party; or Where the certificate of title has been acquired illegally, unprocedurally or through a corrupt scheme.

This court in considering this matter referred to the case of **Elijah Makeri Nyangw'ra –vs- Stephen Mungai Njuguna & Another(2013) eKLR** where the court held that the title in the hands of an innocent third party can be impugned if it is proved that the title was obtained illegally, unprocedurally or through a corrupt scheme. **Hon Justice Munyao Sila** in the case while considering the application of section 26(1) (a) and (b) of the Land Registration Act rendered himself as follows:-

-----the law is extremely protective of title and provides only two instances for challenge of title. The first is where the title is obtained by fraud or misrepresentation to which the person must be proved to be a party. The second is where the certificate of title has been acquired through a corrupt scheme.

The Plaintiff instituted this suit as against the and Defendants seeking for:-

(i) For an order declaring that the Plaintiff is by way of trust entitled to the whole of that land parcel known as S.WANGA/MUSANDA/8 and that the registration of the same in the name of the 2<sup>nd</sup> Defendant be cancelled and the same be registered in favour of the Plaintiff.

(ii) Cost and interest of the suit.

(iii) Any other relief that the Honourable Court may deem just to grant.

The Plaintiff, through the amended plaint dated 13<sup>th</sup> July 2011, avers that at all material times, the whole of that land parcel known as S. WANGA/MUSANDA/8 was as at 28/11/1996 registered in the names of the late WILFRED WANDANDA. That the said WILFRED WANDANDA was the Plaintiff's paternal grandfather.

The Plaintiff further avers that the late WILFRED WANDANDA had one son RODGERS OKUMU ANDANDA, who was the Plaintiff's father. Further he also had four (4) daughters, MARY OLUBUI NELIMA (DECEASED), ALICE WANGA MATAYO (DECEASED), RISPEN OKUTOYI MUSA and MARGARET CHITUYI OKEMA.

MARGARET CHITUYI (NOW DECEASED) was the mother of the 1<sup>st</sup> Defendant. In essence, MARGARET CHITUYI (NOW DECEASED) commenced succession proceedings in relation to the suit land vide Kakamega HC Succ. Cause No. 43 of 2006 and obtained title to the whole of the suit land on 18/6/2008. On the other hand, the Plaintiff has stayed on this suit land cultivating and settled on it since the year 1973. The Plaintiff also avers that the Defendants have never settled on or cultivated any part of the suit land. That the succession cause proceeded to conclusion without the knowledge of the Plaintiff. Further, that the said MARGARET CHITUYI (now deceased) then caused the whole of the suit land to be transferred to the 1<sup>st</sup> Defendant, who in turn transferred it to the 2<sup>nd</sup> Defendant, all these without the knowledge of the Plaintiff and in blatant violation of the Plaintiff's rights over the suit land by virtue of having stayed on the same since the year 1973, i.e since his birth. The Plaintiff avers that at the time the said MARGARET CHITUYI OKEMA obtained title over the suit land, she held the same in trust for the Plaintiff and she had no rightful title capable of being transferred to the 1<sup>st</sup> Defendant. It was the Plaintiff's case that the 1<sup>st</sup> Defendant's mother illegally and without consulting and or involving the other siblings filed succession cause at the High Court at Kakamega and later inherited the whole suit land. It was the Plaintiff's case that his paternal grandfather and the first registered proprietor herein WILFRED WANDANDA left behind four other children who ought to have jointly inherited the suit property. It has emerged at the hearing that the Plaintiff was survived by his mother and other siblings who were not parties to this suit whether they had consented to the plaintiff bringing this suit was a question which was never answered by the Plaintiff. It was not also clear why the plaintiff's mother and other siblings were not party to this suit. It is not clear in what capacity the plaintiff instituted this suit as it is not one of adverse possession he should have obtained letters of administration of his father and/or grandfather. The plaintiff had filed this suit as the claiming the whole of that parcel of land known as S. Wanga/Musanda/8 was as at 28/11/1966 registered in the name of the late Wilfred Wandanda his grandfather before obtaining grant of letters of administration, hence he lacks the necessary locus standi. As was held in the case of **Otieno vs Ougo 1986-1989 E.A.L.R 486**:

*“... an administrator is not entitled to bring any, action as administrator before he has taken out letters of administration. If he does, the action is incompetent as of the date of inception”.*

Evidently, the plaintiff herein does not have the locus standi to file this suit. Be that as it may, Plaintiff and PW2 having known that the 1<sup>st</sup> Defendant's mother MARGARET CHITUYI OKEMA had acquired the suit property through filing of a succession cause at the High Court at Kakamega, the Plaintiff herein chose not to lay his claim at the succession court by instituting and or filing objection proceedings. This is an abuse of the court process as this clearly is a succession matter. Furthermore, the Plaintiff having laid his claim through his paternal grandfather ought to have first sought letters of administration in respect of the estate of the said father or paternal grandfather then raised his claim in the succession court and not in this court. The right forum for a claim by way of succession ought to be the succession court. I find that the 2<sup>nd</sup> Defendant herein is purchaser for value of the suit property herein having purchased the suit property from the 1<sup>st</sup> Defendant and is the current registered proprietor of the suit property herein L.R S. WANGA/MUSANDA/8. The green card produced in court by the Defendants clearly gives the history of the suit property herein from the time of first registration. The green card shows that WILFRED WANDANDA was the 1<sup>st</sup> registered proprietor of the suit property having been registered as such on 28/11/1966. Thereafter on 12/01/2007 the 1<sup>st</sup> Defendant's mother MARGARET CHITUYI OKEMA was registered as proprietor of the suit property herein after instituting succession

proceedings vide KAKAMEGA HIGH COURT SUCCESSION CAUSE No. 43 OF 2006 in respect of the estate of her late father WILFRED WANDANDA. Thereafter on 27/03/2009 the 1<sup>st</sup> Defendant herein GEOFFREY EVANS OMWOMA ABURIRI was registered as the proprietor of the suit property. Lastly the 2<sup>nd</sup> Defendant NANCYBENTA OKUTOYI became the registered proprietor of the suit property on 11/03/2010. I find no evidence that this certificate of title was acquired illegally, unprocedurally or through a corrupt scheme. The plaintiff has failed to prove its case on a balance of probabilities and I dismiss the same. The defendants have proved their case and I grant the following orders:-

1. The plaintiff is to vacate the suit land namely suit property herein L.R S. WANGA/MUSANDA/8 within the next three (3) months from the date of this judgment and in default to be evicted forcefully
2. Costs of this suit to the defendants.

It is so ordered.

**DELIVERED, DATED AND SIGNED AT KAKAMEGA IN OPEN COURT THIS 31<sup>ST</sup> DAY OF MAY 2018.**

**N.A. MATHEKA**

**JUDGE**