

REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT OF KENYA

AT ELDORET

E & L CASE NO. 119 OF 2017

JERUTO TAPKILI TENGEKYON.....1ST PLAINTIFF

SAMWEL KIPRUTO CHEPKEITANY.....2ND PLAINTIFF

VERSUS

AGRICULTURAL FINANCE CORPORATION.....1ST DEFENDANT

KOLATO AUCTIONEERS.....2ND DEFENDANT

STEPHEN KIBOWEN.....3RD DEFENDANT

RULING

In view of the decision in *Co-operative Bank of Kenya Ltd and Patrick Kangethe Njuguna and five Others (2017) eKLR*, this court finds that this is substantially a commercial dispute to be tried in the High Court of Kenya, Eldoret. In the case of *Co-operative Bank of Kenya Vs Patrick Kangethe Njuguna & 5 Others (2017) eKLR*, the court found in a nutshell that a charge does not constitute use of land within the meaning of Article 162(2) b of the Constitution of Kenya 2010. The question herein is not validity of the charge but whether the money has been paid and whether the right procedure of exercising statutory power of sale is being followed.

In conclusion, I do find that this is a matter to be tried by the High Court. I do order that the same be transferred to the High Court of Kenya at Eldoret. Mention on 14th November, 2018.

Dated and delivered at Eldoret this 1st day of November, 2018.

A. OMBWAYO

JUDGE