



**Rayori v Rayori (Legal Representative of the Estate of Martin  
Ochieng Rayori-Deceased) & 3 others (Environment and Land Appeal  
E029 of 2022) [2024] KEELC 675 (KLR) (15 February 2024) (Judgment)**

Neutral citation: [2024] KEELC 675 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT SIAYA  
ENVIRONMENT AND LAND APPEAL E029 OF 2022  
AY KOROSS, J  
FEBRUARY 15, 2024**

**BETWEEN**

**PHOEBE ORIDO RAYORI ..... APPELLANT**

**AND**

**ERICK ODHIAMBO RAYORI (LEGAL REPRESENTATIVE OF THE ESTATE OF  
MARTIN OCHIENG RAYORI-DECEASED) ..... 1<sup>ST</sup> RESPONDENT**

**DISTRICT LAND REGISTRAR BONDO ..... 2<sup>ND</sup> RESPONDENT**

**AIRTEL NETWORK KENYA LTD ..... 3<sup>RD</sup> RESPONDENT**

**SAFARICOM LIMITED ..... 4<sup>TH</sup> RESPONDENT**

*(Being an appeal from the judgment of the Principal Magistrate Hon. J.P.  
Nandi delivered on 28/07/2022 in Bondo PM ELC Case No.22 of 2019)*

**JUDGMENT**

**Background of the appeal**

1. At the heart of contention before the trial court was land parcel no. L.R.No. Siaya/Nyangoma 5051 (suit property). As the plaintiff in the trial court, the appellant contended in her amended plaint dated 16/09/2019 that the 1<sup>st</sup> respondent who ostensibly was her grandson took advantage of her trust in him and through fraud, registered the suit property in his name instead of hers.
2. According to the appellant's particulars of facts, the suit property was a subdivision of land parcel no. Nyangoma 1018 (mother parcel) which she bought from one William Odongo Guya (William). In the plaint, she urged the trial court to cancel or rectify the title document of the suit property and have it registered in her name, permanent injunction, damages and costs of the suit.



3. The 1<sup>st</sup> respondent who unfortunately died in the course of the proceedings before the trial court and was the registered owner of the suit property filed a defence dated 23/05/2019. It was mostly composed of denials and he put the appellant to strict proof. In addition, he stated the suit property emerged from a gift that was given to him by William and William's father one Josiah Guya.
4. The 2<sup>nd</sup> respondent denied the allegations made in the plaint whilst the 3<sup>rd</sup> and 4<sup>th</sup> respondents who were allegedly lessees of the suit property filed their respective defences on diverse dates of 10/06/2019 and 16/08/2021. They were composed of denials and they put the appellant to strict proof.
5. The matter proceeded for trial and the appellant, 1<sup>st</sup> respondent who had since been substituted and 2<sup>nd</sup> respondent together with their respective witnesses testified while the 3<sup>rd</sup> and 4<sup>th</sup> defendants did not call any witnesses. The parties' cases were closed, submissions filed and the matter reserved for judgment.
6. In the impugned judgment, the learned trial magistrate framed one issue for determination; whether the subject matter had been adjudicated and decided upon during adjudication. In his finding, the learned trial magistrate found in the affirmative and stated it lacked jurisdiction to re-open the case and struck out the suit with costs to the respondents.

### **Appeal to this court**

7. Being aggrieved by the impugned judgment, the appellant moved this court on 9 grounds of appeal set out in her memorandum of appeal dated 18/08/2023 faulting the learned trial magistrate. These grounds were repetitive and in condensation, they faulted the trial magistrate for inter alia; misdirecting himself that the matter before him was on adjudication and not alienation of land by purchase, failing to appreciate distinction between disposition and allocation, finding he lacked jurisdiction, failing to consider submissions, failing to consider relevant facts and considered irrelevant facts and failing to exercise discretion in favour of the appellant.
8. In the memorandum of appeal, the appellant urged this court to allow the appeal, set aside the impugned judgment and allow the suit in entirety with costs being provided for. The appeal was canvassed by written submissions. However, it is noted the 2<sup>nd</sup> respondent did not file any submissions.

### **The appellant's submissions**

9. The firm of M/s Ochanda Onguru & Co. Advocates who appeared for her filed submissions dated 4/04/2023. Counsel submitted that from evidence, the suit property was acquired by purchase and not by adjudication and therefore, the learned trial magistrate should have exerted himself and determined the suit on merits as opposed to dismissing it for want of jurisdiction. Counsel further argued that section 26 and 29 of the [Land Adjudication Act](#) did not suffice in respect to contract for sale of land.
10. Relying on several authorities including [Sigona Juakali Association v County Government of Kiambu & 8 others](#) [2019] eKLR, counsel submitted the matter before the trial court was on fraud which the trial court had jurisdiction to determine and the burden of proof shifted to the 1<sup>st</sup> respondent to discharge the burden on the root of his title including producing an agreement for sale which is envisaged by section 3 (3) of the [Law of Contract Act](#) or producing a consent to subdivide and transfer as required by section 6(1) of the [Land Control Act](#). Counsel argued the 1<sup>st</sup> respondent held the suit property in constructive trust for the appellant.

### **1<sup>st</sup> respondent's submissions**

11. The firm of M/s Bruce Odeny & Co. Advocates who were on record for him filed submissions dated 22/05/2023. In them, counsel identified 2 issues for determination.



12. The 1<sup>st</sup> issue was whether the learned trial magistrate failed to appreciate the suit property was acquired by sale and not adjudication. On this issue, counsel submitted the 1<sup>st</sup> respondent acquired the suit property by purchase which was subjected to adjudication and that having been so registered, the 1<sup>st</sup> respondent's rights were protected by Sections 24 and 26 of the [Land Registration Act](#).
13. Further, counsel submitted the appellant did not prove fraud to the required standards and that the 1<sup>st</sup> respondent sufficiently demonstrated the root of his title.
14. The 2<sup>nd</sup> issue was whether the learned trial magistrate was clothed with jurisdiction. Relying on Section 30(1) of the [Land Adjudication Act](#), counsel submitted this section barred certain proceedings from being commenced in court where there was land adjudication process. Counsel submitted the learned trial magistrate did not err. To bolster the argument, counsel relied on the case of [William Mutuura Kairiba v Samuel Nkari & 2 others](#) [2018] eKLR.

### **3<sup>rd</sup> respondent's submissions**

15. The firm of M/s Siganga & Co. Advocates who were on record for it filed submissions dated 19/06/2023. Counsel submitted the trial court suit and the consequential appeal placed no obligation on the 3<sup>rd</sup> respondent.

### **4<sup>th</sup> respondent's submissions**

16. The firm of M/s Meritad Law Africa LLP who were on record for it filed submissions dated 20/06/2023. In them, counsel framed 2 issues for determination.
17. The 1<sup>st</sup> issue was whether the appeal was sustainable. Counsel submitted the appellant ought to have exhausted the procedures outlined in Sections 10 and 26 of the [Land Adjudication Act](#) and that the appellant was barred from filing the suit before the trial court and the trial court could only have jurisdiction to intervene if it was being called to exercise its supervisory role; which was not so. Counsel relied on the case of [Tobias Achola Osindi & 13 others v Cyprianus Otieno Ogalo & 6 others](#) [2013] eKLR. On the 2<sup>nd</sup> issue, counsel sought for costs.

### **Issues for determination**

18. I have considered the appeal, submissions and the applicable law. This court has noted the appellant's submissions introduced new evidence that was unpleaded and uncanvassed before the trial court and the learned trial magistrate did not pronounce on this evidence. No evidence whatsoever was adduced at trial in relation to the provisions of Section 6(1) of the [Land Control Act](#). The appellant has not sought leave to adduce new evidence and on that basis, I will disregard this line of argument. See [Kenya Hotels Limited v Oriental Commercial Bank Limited](#) [2018] eKLR.
19. Now, having addressed the preliminary issue, to my mind, the following four issues commend themselves for determination, namely: -
  - a. Whether the learned trial magistrate misapprehended the nature of the case that was before him.
  - b. Whether the learned trial magistrate erred in finding he lacked jurisdiction.
  - c. Whether the learned trial magistrate erred in not finding the appellant had proved her claim of fraud.
  - d. In determination of this appeal, what orders ought to be made including orders as to costs.



20. This being a first appeal, this court is reminded that the task at hand is to reappraise, reassess and reanalyse the evidence as asserted by the parties in the record of appeal and lower court record and to establish if the findings reached by the learned trial magistrate should stand and give reasons if they do not. See *Abok James Odera T/A A.J Odera & Associates v John Patrick Machira T/A Machira & Co. Advocates* [2013] eKLR.
21. In line with the case of *Kenya Ports Authority v Kuston (Kenya) Limited* (2009) 2EA 212, the court must keep in mind that it neither saw nor heard the witnesses and should make due allowance in that respect. Further, this court is called upon not to be quick to interfere with the discretion of the lower court unless it is satisfied that the decision of the learned trial magistrate was clearly wrong because of some misdirection, failed to take into consideration relevant matters, considered irrelevant matters and as a result arrived at a wrong conclusion or abused his discretion.

### **Analysis and determination**

22. Having earlier in this judgment identified the issues that arise for resolution, I will proceed to handle them in a sequential manner.

#### **a. Whether the learned trial magistrate misapprehended the nature of the case that was before him.**

23. Section 13 (1) of the *Land Adjudication Act* states as follows: -

“Every person who considers that he has an interest in land within an adjudication section shall make a claim to the recording officer, and point out his boundaries to the demarcation officer in the manner required and within the period fixed by the notice published under section 5 of this Act.”

24. It follows that following the declaration of an area as an adjudication section and on application of this section 13 (1), every person who has an interest in land whether as a purchaser as the appellant alleges she is or otherwise could assert their rights. The essence of this was to ascertain the rights and interests of persons in an adjudication section. In his decision, the learned trial magistrate was categorical the suit property emanated from an adjudication section. Was that so?
25. From the record, the 2<sup>nd</sup> respondent’s witness produced a green card of the suit property and an adjudication register which showed the suit property is a 1<sup>st</sup> registration and it had never changed hands. In other words, the suit property is a 1<sup>st</sup> registration that emanated from an area that had been declared an adjudication section. Accordingly, the learned trial magistrate did not err in concluding the suit property emanated from an adjudication section.
26. My understanding of the appellant’s argument is that since the suit property emanated from a sale of a portion of an alleged mother parcel, the suit property had nothing to do with an adjudication section.
27. Respectfully, this view is obviously erroneous. The appellant pleaded she purchased the suit property from William sometimes in 2002. The suit property’s greencard that was produced by the 2<sup>nd</sup> respondent’s witness evidenced the suit property was a 1<sup>st</sup> registration having been so registered on 25/04/2017. The adjudication record that was produced confirmed this. From the appellant’s pleadings it is undoubted the purported purchase took place either before the area was declared an adjudication section or during such process.
28. Further, although counsel contends the suit property is a subdivision of the mother parcel which was registered in the name of Josiah Guya (Josiah), no greencard of this property was ever produced to ascertain this. Therefore, and in the circumstances, I must agree with the learned trial magistrate that



the suit property is a 1<sup>st</sup> registration that emanated from an adjudication section. I find and hold this ground of appeal fails.

**b. Whether the learned trial magistrate erred in finding he lacked jurisdiction.**

29. Land adjudication process of which the suit property was subjected to prior to its registration is one of the ways of land acquisition in Kenya and it provides an elaborate mechanism for resolving disputes that arise during the process of ascertainment of the rights and interests in land.

30. From the adduced evidence, there was no objection to the adjudication register and consequently the suit property was subjected to section 26(A) (1) of the *Land Adjudication Act* which is a tail end process. By this provision, the director of land adjudication remits documents to the chief land registrar for registration. This provision states as follows: -

“(1) When the time for objection under section 26(1) has expired, the adjudication officer shall prepare a no objection register in respect of any land not subject to an objection, and deliver the same to the Director of Land Adjudication who shall—

(a) certify thereon and on the duplicate adjudication register that the adjudication of the land set out therein has become final; and

(b) forward the no objection register together with a copy of the duplicate adjudication register to the Chief Land Registrar for the purpose of registration under section 28.”

31. This process brought ascertainment of rights over land under the said Act to a conclusion and by virtue of Section 28 of this Act, the land registrar registers land in this case the suit property and this is done in accordance with Sections 6 and 7 of the *Land Registration Act*. The 2<sup>nd</sup> respondent’s office plays a very minimal role during adjudication and as testified by its witness, he could not tell if the adjudication process was shrouded with fraud.

32. This registration vested the proprietor in this case the 1<sup>st</sup> respondent with rights and ownership to the land. See Sections 24 and 25 of the *Land Registration Act*. However, even as a 1<sup>st</sup> registration, this title could be challenged under section 26 (1) of this *Act* if it was acquired by means of fraud, misrepresentation, illegality, unprocedural manner or through a corrupt scheme. This provision is a departure from section 143 of the repealed *Registered Land Act* which provided that upon 1<sup>st</sup> registration, a claim of fraud or mistake is unsustainable over a suit property.

33. The question that suffices and which was before the learned trial magistrate is does this section 26 (1) mean that a court can blanketly entertain a claim of fraud notwithstanding the intricate mechanisms of the *Land Adjudication Act*? This has been the subject of interpretation and courts have held that the court shall only entertain such a case if it is a new cause of action. In the decision of *Nicholas Njeru v Attorney General & 8 others* [2013] eKLR which I hereby adopt, the Court of Appeal stated:-

“However we do not entirely agree with the learned Judge’s observation that the court had no jurisdiction to grant a declaratory order... We agree with the trial Judge that during the various proceedings the issues in this appeal were perhaps thrashed almost to the pulp and the dispute over which clan owned the suit property had long been determined. We will also look at what the appellants referred as ‘the new cause of action.’”



34. A similar position was taken by the well cited persuasive decision of *Dume Deri Mumbo & 19 others (suing on their behalf and on behalf of Wandarari Clan v Cabinet Secretary of Lands, Housing & Urban Development & 6 others* [2016] eKLR which held: -

“...although a litigant can file a suit in a matter where the adjudication register, pursuant to the provisions of the *Land Adjudication Act*, has been closed and a title deed issued,.. Consequently, the court can only interfere with the decision of the bodies established under the Act by way of Judicial Review proceedings or where a new cause of action is introduced after the proceedings of the Minister have closed. Then, and only then can the court interfere by way of an ordinary suit or Judicial Review Proceedings.”

35. In the impugned judgment, the learned trial magistrate reasoned the Land Adjudication Officer (LAO) had already rendered a decision and ultimately found that he was bereft of jurisdiction.

36. Bearing in mind decisions of *Nicholas Njeru (Supra)*, *Dume Deri Mumbo (Supra)* and evidence adduced before the trial court, I respectfully differ with the decision of the learned trial magistrate because from the adjudication record that was produced, there was no objection or an appeal to the minister as envisaged by sections 26 and 29 of the *Land Adjudication Act*. In other words, the LAO and minister never dealt with a dispute within the paradigm of the *Land Adjudication Act*.

37. It can only be concluded the documents that were produced by the appellant which were correspondence from the assistant chief dated 04/05/2015, assistant county commissioner dated diverse dates of 14/04/2015 and 16/11/2015 and letter by the LAO dated 7/05/2015 were all written after the adjudication process was complete and what was simply being waited for was issuance of a title document.

38. The appellant testified that she discovered fraud when the 1<sup>st</sup> respondent barred her from tilling the land. Ultimately, she pursued the chief's office where the 1<sup>st</sup> respondent confirmed the suit property was not his but when she went to the land's office, the 1<sup>st</sup> respondent did not turn up. Looking at correspondence from various government offices, the logical conclusion is that she must have discovered fraud around 2014 or 2015 which was after the adjudication process was complete.

39. Thus, the train having left the station, her complaint was incapable of being subjected to the mechanism envisaged by the *land adjudication Act*. The persuasive cases of *William Mutuura Kairiba (Supra)* and *Tobias Achola Osindi (Supra)* that were relied upon by the 1<sup>st</sup> and 4<sup>th</sup> respondents' counsels are distinct from the facts of this case since they were in respect of land whose adjudication processes were not complete. I find and hold this ground of appeal succeeds.

**c. Whether the learned trial magistrate erred in not finding the appellant had proved her claim of fraud.**

40. Order 2 rule 10 (1) (a) of the *Civil Procedure Act* provides as follows: -

“(1) Subject to subrule (2), every pleading shall contain the necessary particulars of any claim, defence or other matter pleaded including, without prejudice to the generality of the foregoing—

(a) particulars of any misrepresentation, fraud, breach of trust, wilful default or undue influence on which the party pleading relies;”



41. It is trite law fraud must be proved on parameters beyond a balance of probability but below reasonable doubt. This principle of law was well elucidated in the well cited Court of Appeal decision of Arthi Highway Developers Limited v West End Butchery Limited & 6 others [2015] eKLR where the court expressed itself as follows: -

“As a serious accusation, fraud ought to be specifically pleaded and proved on higher balance of probability but not beyond reasonable doubt. It is not necessary that the word Fraud be stated or used, but the facts stated in the pleading must be so stated to show that fraud was used, and the circumstances leading to reasonable inference that fraud, illegalities and irregularities were the cause of the loss or damage complained.”

42. Having erroneously found it lacked jurisdiction, the learned trial magistrate did not analyze the bulk of the evidence before him pertaining to this issue. Crystallization of the suit property occurred on 25/04/2017 therefore, the cause of action accrued from then. The suit was competently before trial court.

43. In her claim, the appellant particularized fraud against only the 1<sup>st</sup> respondent. The majority of these particularization shows the appellant was of the mistaken belief the suit property was not derived from adjudication but emanated from a transfer. This issue was earlier addressed in this judgment and thus, these particulars which touched on transfer, subdivision and registration that allegedly derived from the alleged mother parcel could not see the light of day.

44. Turning to the particulars of fraudulently and illegally issuing the 1<sup>st</sup> respondent with the suit property's title document, there was no disclosure which entity this claim was being made against. On this basis alone, this ground would have failed. In addition, and as earlier stated in this judgment, this claim could not succeed against the 2<sup>nd</sup> respondent since his role in the adjudication process was restricted to registration.

45. Accordingly, the only outstanding particulars for determination is whether the 1<sup>st</sup> respondent fraudulently failed to disclose to the appellant transactions pertaining to the suit property. From the pleadings, the appellant pleaded fraudulent misrepresentation which has been defined by Black's Law Dictionary, 11<sup>th</sup> Edn as thus: -

“A false statement that is known to be false or is made recklessly -without knowing or caring whether it is true or false-and that is intended to induce a party to detrimentally rely on it- Also termed fraudulent representation; deceit”

46. It was the appellant's line of evidence that she allegedly purchased the suit property from William and gave the 1<sup>st</sup> respondent her national ID in order for him to secure 1<sup>st</sup> registration of the suit property in her name. However, instead of doing so, he registered it in his name.

47. From adduced evidence, the 1<sup>st</sup> respondent was untruthful in his testimony. Though he denounced the appellant was his grandmother and that his grandmother was one Joyce Arika (Joyce), it emerged the 1<sup>st</sup> appellant was his biological grandmother and even raised him from a very young age.

48. It was her testimony that apart from her ID she also gave him certain documents in order for him to secure 1<sup>st</sup> registration of the suit property in her name. The only document she produced to show her interests in the suit property was an agreement for sale between her and William.

49. Having scrutinized the execution page, it only has what appears to be a thumb print. In fact, though William admitted he sold the suit property to the appellant at Kshs. 85,000/- he distanced himself



from from this agreement that was produced by the appellant and stated it was different from the one the parties executed. In my view, this unexecuted agreement did not evidence that such a transaction took place. I must mention the 1<sup>st</sup> respondent produced an agreement for sale ostensibly between the appellant and William and this document shall be addressed later in the judgment.

50. However, the burden of proof to prove the root of the suit property's title lay with 1<sup>st</sup> respondent and it was not sufficient for his witness to wave his title and assert that prima facie the 1<sup>st</sup> respondent was the registered owner. Nay, once the title had been subjected to challenge, he needed to prove how he acquired it. In the case of *Munyu Maina v Hiram Gathiba* [2013] eKLR, the Court of Appeal expressed itself thus;

“We have stated that when a registered proprietor's root of title is challenged, it is not sufficient to dangle the instrument of title as proof of ownership. It is that instrument of title that is challenged and the registered proprietor must go beyond the instrument to prove the legality of how he acquired the title to show that the acquisition was legal, formal and free from any encumbrances including any and all interests which would not be noted in the register.”

51. The 1<sup>st</sup> respondent's acquisition of the suit property was shrouded with mystery. As earlier stated in this judgment, the 1<sup>st</sup> respondent was untruthful about his relationship with the appellant. In addition, his witness testified that William gave the 1<sup>st</sup> respondent the suit property as a gift and in addition to the gifting, he (1<sup>st</sup> respondent) was to pay William kshs. 60,000/- and further as part of consideration, the 1<sup>st</sup> respondent was tasked to incur expenses towards acquisition of Joyce's parcel of land which was disclosed as parcel no. 5786; allegedly a subdivision of the suit property.
52. Foremost, no documentary evidence was adduced to substantiate these allegations. In addition, William denounced such dealings with the 1<sup>st</sup> respondent. In Kisumu CM.Succession Cause no. 787 of 2016 which was in respect of the estate of Edward Rayori Ochar who was the appellant's husband, the 1<sup>st</sup> respondent testified that the suit property was purchased for him by his mother.
53. Further, the 1<sup>st</sup> respondent's witness produced an agreement for sale that was entered between the appellant and William. This agreement for sale shows the suit property was sold by William to the appellant in the year 2007 for Ksh. 85,000/-. This agreement was not challenged and the 1<sup>st</sup> respondent's witness did not disclose the source of this agreement and the logical deduction is that it was one of the documents the 1<sup>st</sup> respondent was entrusted with by the appellant for purposes of ascertainment of her rights during adjudication. The purchase price thereof tallies with the appellant's and William's evidence.
54. The 1<sup>st</sup> respondent was unable to justify the root of his title. Being a 1<sup>st</sup> registration with no evidence of subdivision, it was not tenable for Joyce's parcel to be derived from it and as earlier stated in the judgment, during adjudication, the suit property did not have any objections. Accordingly, and from the adduced evidence, the 1<sup>st</sup> respondent was nothing but a deceiver who took advantage of his elderly grandmother.
55. Thus, I am satisfied that the appellant entrusted the 1<sup>st</sup> respondent with documents including an agreement for sale which was produced by the 1<sup>st</sup> respondent's witness. I am satisfied these documents were intended for ascertaining the appellant's interests over the suit property during the adjudication process. However, the 1<sup>st</sup> respondent deceitfully misled the appellant that he was registering it in her name yet he was registering it in his. I find and hold the 1<sup>st</sup> respondent was guilty of fraudulent misrepresentation. This ground of appeal succeeds.



55. Having found fraudulent misrepresentation, the 3<sup>rd</sup> and 4<sup>th</sup> respondents' interests over the suit property are at stake. Though they did not adduce evidence, the 1<sup>st</sup> respondent's witness testified the 3<sup>rd</sup> and 4<sup>th</sup> respondents had set up transceiver stations and paid monies to the 1<sup>st</sup> respondent. Therefore, I find and hold the 3<sup>rd</sup> and 4<sup>th</sup> respondents were with permission of the 1<sup>st</sup> respondent, in lawful occupation. Being in lawful occupation, a claim of general damages could not befall them. However, the finding of fraudulent misrepresentation and eventual cancellation of the 1<sup>st</sup> respondent's title document will undoubtedly interfere with their lawful occupancy over the suit property.

**d. What orders ought to be made including orders on costs.**

56. Ultimately and for the reasons stated above, I hereby set aside in entirety the judgment and decree of the learned trial magistrate that struck out the suit. It is trite law costs follow the event and since the appellant and 1<sup>st</sup> respondent are close relatives; each party shall bear their respective costs of this appeal and of the lower court suit. I substitute the lower court judgment with one in favour of the appellant in the following terms:-

- a. The Land Registrar, Bondo is hereby directed to revoke/cancel the title deed for land parcel number Siaya/Nyangoma/5051 in the name of Martin Ochieng Rayori and instead, register the name of Phoebe Orido Rayori as the proprietor.
- b. The Deputy Registrar of the court to execute the requisite transfer documents in place of Martin Ochieng Rayori.
- c. Within 90 days from the date of service of the orders of this court, the 3<sup>rd</sup> and 4<sup>th</sup> respondents shall regularize their occupancy over land parcel number Siaya/Nyangoma/5051 with the appellant or in the alternative, they shall within this 90-day period, vacate land number Siaya/Nyangoma/5051.
- d. Each party shall bear their respective costs of this appeal and of the lower court suit.

It is so ordered.

**DELIVERED AND DATED AT SIAYA THIS 15<sup>TH</sup> DAY OF FEBRUARY 2024.**

**HON. A. Y. KOROSS**

**JUDGE**

**15/2/2024**

Ruling delivered virtually through Microsoft Teams Video

**Conferencing Platform in the Presence of:**

Mr. Ochanda for the appellant

Miss. Khisa for the 1<sup>st</sup> respondent

N/A for the 2<sup>nd</sup> respondent

N/A for the 3<sup>rd</sup> respondent

Mr. Ojong'a for the 4<sup>th</sup> respondent

Court assistant: Ishmael Orwa

