



**Ethics & Anti-Corruption Commission v Gikonyo & 3 others (Civil Appeal 454 of 2018) [2023] KECA 456 (KLR) (20 April 2023) (Judgment)**

Neutral citation: [2023] KECA 456 (KLR)

**REPUBLIC OF KENYA  
IN THE COURT OF APPEAL AT NAIROBI  
CIVIL APPEAL 454 OF 2018  
DK MUSINGA, KI LAIBUTA & GWN MACHARIA, JJA  
APRIL 20, 2023**

**BETWEEN**

**ETHICS & ANTI-CORRUPTION COMMISSION ..... APPELLANT**

**AND**

**JOSEPH CHEGE GIKONYO ..... 1<sup>ST</sup> RESPONDENT**

**LUCY KANGAI STEPHEN ..... 2<sup>ND</sup> RESPONDENT**

**GICHE LIMITED ..... 3<sup>RD</sup> RESPONDENT**

**FRANCIS IRUNGU THUITA ..... 4<sup>TH</sup> RESPONDENT**

*(Being an appeal against the Ruling and Orders of the High Court of Kenya at Nairobi (Ong'undi, J.) dated 23rd November 2018 in A.C.E.C No. 14 of 2018 (O.S.))*

**JUDGMENT**

1. The appellant, the Ethics and Anti-Corruption Commission, took out an Originating Summons (the Summons) dated July 20, 2018 in Nairobi ACEC No 14 of 2018 (OS) seeking determination of the questions, inter alia, whether the properties and moneys listed in paragraph 3 of the Summons (the suit properties), and which are jointly and severally owned by the respondents constitute unexplained assets within the meaning of section 55 of the *Anti-Corruption and Economic Crimes Act*, 2003 Act (ACECA); whether the respondents should be restrained from dealing with the suit properties pending determination of the Summons; whether the 2<sup>nd</sup> and 3<sup>rd</sup> respondents hold the suit properties registered in their name in trust for the 1<sup>st</sup> respondent; whether the 2<sup>nd</sup> and 3<sup>rd</sup> respondents were agents of the 1<sup>st</sup> respondent in respect of the suit properties within the meaning of section 55(7) of ACECA; whether the respondents should forfeit to the appellant moneys equivalent to the bank deposits under inquiry, MPesa accounts, shares and dividends, together with the estimated value of the immovable suit properties, less their legitimate sources of income; whether leave should be granted to the appellant



- to appoint a receiver to take possession, manage and control the listed suit properties; whether the listed immovable properties should be forfeited and sold pursuant to section 56C of ACECA; and who should meet the costs of the Summons.
2. In addition to the Summons aforesaid, the appellant filed a Notice of Motion dated July 20, 2018 pursuant to section 56A of ACECA seeking injunctive relief to restrain the respondents from dealing in the suit properties pending determination of its Summons.
  3. The appellant's Summons and Motion were supported by separate affidavits of James Kamau Kariuki, the appellant's forensic investigator, sworn on July 20, 2018, and both of which contain similar averments with regard to the grounds on which the two applications are anchored. The sequence of events that immediately followed make it unnecessary for us to recite the appellant's averments in the two supporting affidavits.
  4. In opposition to the appellant's Motion, the 1<sup>st</sup> respondent filed a 'Preliminary Replying Affidavit' sworn on July 30, 2018 in which he deponed, inter alia, that the appellant had previously applied for and obtained ex parte orders in Nairobi High Court Misc App No 98 of 2016 – EACC vs Joseph Chege Gikonyo & Another – freezing the 1<sup>st</sup> respondent's numerous bank accounts and immovable properties on the allegation that they were corruptly acquired; that by a ruling delivered on 9<sup>th</sup> September 2016, the court set aside the freezing orders; that the matters raised in the applicant's Summons and Motion are res judicata; and that the applicant's Summons and Motion are an abuse of the court process.
  5. According to the 1<sup>st</sup> respondent, the issues relating to the undermentioned properties and bank accounts were determined in the Miscellaneous Application aforesaid, and that it would be unjust to subject the same properties and accounts to an injunction and thereby prevent him from dealing with his lawfully acquired properties. He urges us to call for the court file in the said Miscellaneous Application to ascertain the veracity of his averments in that regard, and to dismiss the applicant's Motion with costs.
  6. In addition to his reply to the appellant's Motion, the 1<sup>st</sup> respondent raised a preliminary objection to the appellant's Summons and Motion vide a notice dated July 30, 2018. In it, he advanced three (3) grounds, namely: that the appellant's suit offends the provisions of section 7 of the *Civil Procedure Act* and is res judicata; that the appellant's suit is an abuse of the court process, and a collateral attack on the final determination of the High Court in Misc App No 98 of 2016; and that the following properties and bank accounts submitted by the appellant ought to be struck off the record for being res judicata and a collateral attack on the final determination made in the Miscellaneous Application aforesaid, namely: Bank account nos xxxx, xxxx, xxxx, xxxx, xxxx held at Barclays Bank Limited; bank account no xxxx held at National Bank of Kenya Limited; LR No MN/1/13698, CR No 39366, Shanzu Mombasa County; LR No MN/1/17641 CR No 56649 Mombasa County (Original MN/Section 1/3166); plot no Mombasa/Block XVII/1408; LR No Kilifi/Mtwapa/1560; plot no L47 Umoja Nairobi; and all properties held by Giche Limited since their acquisition has been undertaken through bank account no xxxx, which contains funds that have already been determined to have been explained assets by this court.
  7. It is noteworthy that the record as put to us does not contain the appellant's response to the 1<sup>st</sup> respondent's Motion and preliminary objection. Neither does the impugned ruling allude to the response, if any.
  8. Then followed the 4<sup>th</sup> respondent's Notice of Motion dated August 20, 2018 seeking orders, inter alia: that he be joined as an interested party in the proceedings; that, pending determination of his application and the appellant's suit, the appellant be restrained from summoning and/or interrogating



- him in relation to questions relating to the acquisition of LR No MN/I/17641 CR No 56649 (the Nyali property); that the Land Registrar, Mombasa, be directed to cancel entry No. 6 being the court order issued on July 20, 2018 against the title deed to the said property; and that costs be provided for.
9. The 4<sup>th</sup> respondent's Motion was supported by his affidavit sworn on August 20, 2018 essentially supporting the 1<sup>st</sup> respondent's preliminary objection aforesaid, and claiming that he was summoned by the appellant's investigator to answer questions on his acquisition from the 1<sup>st</sup> respondent of LR No MN/I/17641 CR No 56649 Nyali; that he appeared on August 13, 2019 in answer to the summons; that he responded by stating that the question of his acquisition of the Nyali property was pending before court, and that it would have been sub judice to disclose the information sought; that he acquired the said property from the 1<sup>st</sup> respondent for Kshs 30,000,000 after the court had set aside the freezing orders obtained by the appellant against the 1<sup>st</sup> and 3<sup>rd</sup> respondents in the Nairobi HC Misc App No. 98 of 2016; that the acquisition was under a sale agreement made between him and the 1<sup>st</sup> respondent on December 11, 2017; that, by an addendum dated January 12, 2018, the two varied the terms of payment; and that the court ought to stop the appellant's investigation process pending determination of its suit and his Motion.
  10. In support of the 4<sup>th</sup> respondent's Motion, the 1<sup>st</sup> respondent filed an affidavit sworn on September 4, 2018 in which he averred that he had entered into a sale agreement with the 4<sup>th</sup> respondent in respect of the Nyali property; that, subsequently, they entered into an addendum to vary the terms of payment when the 4<sup>th</sup> respondent ran into financial problems; that the 1<sup>st</sup> respondent nonetheless transferred the properties to the 4<sup>th</sup> respondent, but continued to collect rental income therefrom; and that the transfer of the Nyali property to the 4<sup>th</sup> respondent was lawful in view of the fact that the court had lifted the freezing orders previously obtained by the appellant in respect thereof.
  11. In reply to the 4<sup>th</sup> respondent's Motion, the appellant filed its replying affidavit sworn by James Kamau Kariuki on September 7, 2018 deponing that the interrogation of the 4<sup>th</sup> respondent was justified as the appellant had reasonable cause to suspect that the 1<sup>st</sup> respondent disposed of the Nyali property to the 4<sup>th</sup> respondent immediately after the freezing orders had been lifted so as to defeat any further orders that may be obtained touching on the said property. He urged the trial court to dismiss the Motion with costs.
  12. By its ruling dated November 23, 2018, the High Court (H Ong'udi, J) allowed the 1<sup>st</sup> respondent's preliminary objection and the 4<sup>th</sup> respondent's Motion. According to the learned Judge, Bank account nos xxxx, xxxx, xxxx, xxxx, xxxx held at Barclays Bank Limited; bank account no. xxxx held at National Bank of Kenya Limited; LR No MN/1/13698, CR No 56649 Mombasa County (Original MN/ Section 1/3166); plot no Mombasa/Block XVII/1408; LR No Kilifi/Mtwapa/1560; and plot no L47 Umoja Nairobi, should not form part of the appellant's claim in the Summons.
  13. In her considered view, the ruling of Seron, J in Nairobi HC Misc App No 98 of 2016 delivered on September 9, 2016 specifically determined the issues raised in the appellant's Summons in relation to the listed properties. The learned Judge had this to say on the matter:
    - ' 36. The Ruling of September 9, 2016 has not been challenged and this Court being a court of equal status with the Court that rendered the said decision cannot overrule it as that would amount to sitting on appeal over a matter of a Court of equal status.
    37. The Notice of Motion dated August 20, 2018 filed by the Interested Party concerns a property known as LR No 17641/section 1/MN (original no 3166) CR No 56649. This property is one of those that was the subject of the Ruling



of September 9, 2016 and appears under prayer no 2(h) which was granted. The Interested Party's application is therefore swallowed and covered by the preliminary objection raised herein.'

14. Dissatisfied by the ruling of H Ong'udi, J the appellant moved to this Court on appeal on eleven (11) grounds set out in its memorandum of appeal dated December 17, 2018, namely, that the learned Judge erred in law and in fact: by upholding the preliminary objection, and in finding that the appellant's suit was res judicata; by failing to find that Misc App No 98 of 2016 was an application under section 56 of ACECA, seeking preservation of the suit properties for a period of six months pending conclusion of investigations and that, therefore, no final determination of the issue of forfeiture of unexplained assets was made; by failing to find that ACEC No 14 of 2018 (OS) is a suit instituted by way of Originating Summons for forfeiture of unexplained assets under section 55 of ACECA; by failing to find that the issues before the court in HC Misc App 98 of 2016 were distinct from those in ACEC No 14 of 2018 (OS); by finding that the orders setting aside the preservation orders granted on March 11, 2016 in HC Misc App No 98 of 2016 determined the issues raised by the appellant in ACEC No 14 of 2018 (OS); failing to find that findings by a court on an application for preservation of property amenable to forfeiture proceedings under section 55 of ACECA do not preclude the trial court from considering issues relating to forfeiture of the same properties in a suit pursuant to section 55 of ACECA; by failing to find that there were more parties in ACEC No 14 of 2018 (OS), and that the parties were not litigating under the same title as those in HC Misc App No 98 of 2016 (between the appellant and the 1<sup>st</sup> and 3<sup>rd</sup> respondents only); by allowing the 4<sup>th</sup> respondent's Motion, and in failing to find that the sale agreement between the 1<sup>st</sup> and 4<sup>th</sup> respondents was a scheme to defeat the course of justice; failing to find that the 1<sup>st</sup> respondent had beneficial interests in the Nyali property, and that the said property fell within the meaning of section 55(7) of ACECA; and in failing to find that the 4<sup>th</sup> respondent held the Nyali property in trust for the 1<sup>st</sup> respondent.
15. In support of the appeal, learned counsel for the appellant, Ms Judith Shamala, filed written submissions dated April 15, 2019, which were highlighted orally by Mr Kaguchia when the appeal came for hearing. In their submissions, counsel cited seven (7) authorities, including *CCK & 5 Others vs Royal Media Services Limited & 5 Others [2014] eKLR* which sets the conditions for the application of the doctrine of res judicata; *Pandurang Ramachandra Mandrik & Another vs Shantabai Ramachandra Ghatge & Others [AIR-1989-SC-2240]*; *Mahadev Mabto vs Hiralal Verma & Others [AIR-1991-Patna-235]* highlighting the cardinal rule that the principles of res judicata are not applicable in cases of interlocutory orders as they are not final orders; and *State of Maharashtra & Another vs National Construction Company 1996 SCC735* invoking the principle that, for the doctrine of res judicata to apply, the matter in issue must have been heard and fully determined. They urged us to allow the appeal.
16. Learned counsel for the 1<sup>st</sup> 2<sup>nd</sup> and 3<sup>rd</sup> respondents, M/s Kimani & Muriithi Associates, filed their written submissions dated April 29, 2019 in opposition to the appeal. Their submissions were highlighted orally by Mr Abbas when the appeal came for hearing. counsel cited five (5) authorities, including *Africa Oil Turkana Limited & 3 Others vs the Permanent Secretary Ministry of Energy & 17 Others [2016] eKLR* contending that parties cannot evade the doctrine of res judicata by merely adding other parties or causes of action in a subsequent suit. In addition, counsel cited the Supreme Court Decision in *George Kihara Mbiyu vs Margaret Njeri Mbiyu & 15 Others [2018] eKLR* where the Court held that the doctrine of res judicata applies equally to decisions on applications as it does to final decisions on a matter; and *CCK & 5 Others (supra)* where the Supreme Court broadly interpreted the doctrine of res judicata to cover issue estoppel.



17. On their part, learned counsel for the 4<sup>th</sup> respondent, M/s Waruiru, Karuku & Mwangale Advocates, filed written submissions dated June 27, 2019 in opposition to the appeal advancing arguments on the basis of the respective pleadings, but citing no judicial authorities.
18. The appeal before us is against the interlocutory orders of the High Court (H Ong’udi, J) who, in her ruling dated November 23, 2018 in determination of the appellant’s Motion for injunctive relief to restrain dealings in the suit properties pending determination of its Summons for forfeiture; the 1<sup>st</sup> respondent’s preliminary objection to the appellant’s Summons and Motion; and the 4<sup>th</sup> respondent’s Motion for joinder as an interested party, and injunctive relief to restrain the appellant from interrogating him, and from interfering with his possession and occupation of the Nyali property.
19. It is in that backdrop that the learned Judge concluded that the issues raised for her determination had been determined by Serгон, J in an interlocutory application in HC Misc App No 98 of 2016 in which the appellant sought preservation orders in respect of the suit properties. In her view, those issues were res judicata, and hence her decision to dismiss the appellant’s Motion and exclude certain suit properties from the orders sought in the appellant’s Summons.
20. The decisive issue falling to be determined in the appeal before us is whether the issues raised and determined in Nairobi HC Misc App No 98 of 2016 were res judicata ACEC No 14 of 2018 (OS). The doctrine is enshrined in section 7 of the *Civil Procedure Act*, which provides:

7. Res Judicata

‘No court shall try any suit or issue in which the matter directly and substantially in issue has been directly and substantially in issue in a former suit between the same parties, or between parties under whom they or any of them claim, litigating under the same title, in a court competent to try such subsequent suit or the suit in which such issue has been subsequently raised, and has been heard and finally decided by such court.’

21. In *Independent Electoral & Boundaries Commission vs Maina Kiai & 5 Others [2017] eKLR*, the Court of Appeal held that:

‘ For the bar of res judicata to be effectively raised and upheld on account of a former suit, the following elements must all be satisfied, as they are rendered not in disjunctive, but conjunctive terms:

- a. The suit or issue was directly and substantially in issue in the former suit.
- b. That former suit was between the same parties or parties under whom they or any of them claim;
- c. Those parties were litigating under the same title.
- d. The issue was heard and finally determined in the former suit.
- e. The court that formerly heard and determined the issue was competent to try the subsequent suit or the suit in which the issue is raised.

The rule or doctrine of res judicata serves the salutary aim of bringing finality to litigation and affords parties closure and respite from the spectre of being vexed, haunted and hounded by issues and suits that have already been determined by a competent court. It is designed as a pragmatic and common



sensical protection against wastage of time and resources in an endless round of litigation at the behest of intrepid pleaders hoping, by a multiplicity of suits and fora, to obtain at last, outcomes favourable to themselves. Without it, there would be no end to litigation, and the judicial process would be rendered a noisome nuisance and brought to disrepute and calumny. The foundations of res judicata thus rest in the public interest for swift, sure and certain justice

The practical effect of the res judicata doctrine is that it is a complete estoppel against any suit that runs afoul of it, and there is no way of going around it – not even by consent of the parties – because it is the court itself that is debarred by a jurisdictional injunct, from entertaining such suit.'

22. This Court in [\*Hudson Kelly A. Agalo vs Telkom Kenya Limited \[2016\] eKLR\*](#) held that res judicata also covers issues or facts which could have been raised in earlier proceedings. The Court also cited its decision in [\*Greenfield Investments Limited vs Baber Alibhai Mawji \[2000\] eKLR\*](#) where it held that:

' Parties are required to bring to court their whole case and will not (except under special circumstances) permit the same parties to open the same subject matter which might have been brought forward as part of the subject in contest but was not brought forward only because they have, from negligence, inadvertence, or even accident, omitted part of their case.'

23. The Court went on to state that 'res judicata is not confined to the issues which the court is actually asked to decide but also covers issues or facts which are so clearly part of the subject matter of litigation and ought to have been raised, that it would be an abuse of the process of the court to allow new proceedings to be started in respect of them.'

24. Likewise, the Supreme Court in [\*John Florence Maritime Services Limited & another vs Cabinet Secretary Transport & Infrastructure & 3 others \[2021\] eKLR\*](#) observed as follows:

'59. That courts have to be vigilant against the drafting of pleadings in such manner as to obviate the res judicata principle was judicially remarked in *ET v Attorney-General & another*, (2012) eKLR, thus:

'The courts must always be vigilant to guard litigants evading the doctrine of res judicata by introducing new causes of action so as to seek the same remedy before the court. The test is whether the plaintiff in the second suit is trying to bring before the court in another way and in a form of a new cause of action which has been resolved by a court of competent jurisdiction. In the case of *Omondi v National Bank of Kenya Limited and others*, (2001) EA 177 the court held that, 'parties cannot evade the doctrine of res judicata by merely adding other parties or causes of action in a subsequent suit.' In that case the court quoted Kuloba J, in the case of *Njangu v Wambugu and another Nairobi HCCC No 2340 of 1991* (unreported) where he stated, 'If parties were allowed to go on litigating forever over the same issue with the same opponent before courts of competent jurisdiction merely because he gives his case some cosmetic face-lift on every occasion he comes to court, then I do not see the use of the doctrine of res judicata.'

25. In our considered view, the appeal before us succeeds or fails on our findings on the following five conjunctive issues, namely: whether the issues raised for determination in Nairobi ACEC No 14 of 2018 (OS) were directly and substantially in issue in Nairobi HC Misc App No 98 of 2016; whether Nairobi HC Misc App No 98 of 2016 was between the same parties or parties under whom they or any



- of them claim in ACEC No 14 of 2018 (OS); whether those parties were litigating under the same title; whether the issues in contention in ACEC No 14 of 2018 (OS) were heard and finally determined in the former proceedings to wit HC Misc App No 98 of 2016; and whether the court that formerly heard and determined the Motion in HC Misc App No 98 of 2016 was competent to try the subsequent Summons and Motion in ACEC No 14 of 2018.
26. On the 1<sup>st</sup> issue, it cannot be said that the matters raised for determination in ACEC No 14 of 2018 (OS) were directly and substantially in issue in Nairobi HC Misc App No 98 of 2016. To the contrary, the appellant's Application in HC Misc App No 98 of 2016 sought preservation of movable and immovable assets suspected to have been corruptly acquired, pending hearing and determination of the then contemplated Summons for forfeiture pursuant to section 55 of ACECA. In his affidavit sworn on 30<sup>th</sup> July 2018, the 1<sup>st</sup> respondent confirmed that the appellant had applied for and obtained ex parte orders in Nairobi High Court Misc App No 98 of 2016 – EACC vs Joseph Chege Gikonyo & Another – freezing the 1<sup>st</sup> respondent's numerous bank accounts and immovable properties on the allegation that they were corruptly acquired.
  27. The distinction between the preservation/freezing orders obtained in Misc App NO 98 of 2016 (and subsequently lifted in relation to some of the assets) and the forfeiture sought in the appellant's Summons dated 20<sup>th</sup> July 2018 in Nairobi ACEC No 14 of 2018 (OS) cannot by any means be said to be directly and substantially in issue in the two proceedings. Simply put, the two are world's apart.
  28. In its Summons and Motion in ACEC No 14 of 2018, the appellant sought a declaration that the properties and moneys listed in paragraph 3 of the Summons (the suit properties), and which are jointly and severally owned by the respondents constitute unexplained assets within the meaning of section 55 of the *Anti-Corruption and Economic Crimes Act*, 2003 (ACECA); and temporary orders restraining the respondents from dealing with the suit properties pending determination of the Summons. In addition, the appellant raised several questions for determination, namely: whether the 2<sup>nd</sup> and 3<sup>rd</sup> respondents hold the suit properties registered in their name in trust for the 1<sup>st</sup> respondent; whether the 2<sup>nd</sup> and 3<sup>rd</sup> respondents were agents of the 1<sup>st</sup> respondent in respect of the suit properties within the meaning of section 55(7) of ACECA; whether the respondents should forfeit to the appellant moneys equivalent to the bank deposits under inquiry, MPesa accounts, shares and dividends, together with the estimated value of the immovable suit properties, less their legitimate sources of income; whether leave should be granted to the appellant to appoint a receiver to take possession, manage and control the listed suit properties; and whether the listed immovable properties should be forfeited and sold pursuant to section 56C of ACECA.
  29. Having carefully considered the issues raised in HC Misc App No 98 of 2016 and ACEC No 14 of 2018, we reach the inescapable conclusion that the issues falling to be determined in the two applications for preservation and forfeiture respectively were not directly and substantially in issue. Put differently, they were not the same issues.
  30. That brings us to the 2<sup>nd</sup> issue as to whether Nairobi HC Misc App No 98 of 2016 was between the same parties or parties under whom they or any of them claim in ACEC No 14 of 2018. Far from it, HC Misc App No 98 of 2016 (for preservation orders) was between the appellant, the 1<sup>st</sup> and 3<sup>rd</sup> respondents. On the other hand, the appellant's claim for forfeiture in ACECA No 14 of 2018 was against the 1<sup>st</sup> 2<sup>nd</sup> 3<sup>rd</sup> and 4<sup>th</sup> respondents, and none of them was claiming under the other or others. The fact that the first application under section 56 of ACECA was for preservation of the assets sought to be forfeited upon determination of the second application under section 55 of the Act leads to the conclusion that those parties were not litigating under the same title. That settles the 2<sup>nd</sup> and 3<sup>rd</sup> issue.



31. On the 4<sup>th</sup> question as to whether the issues in contention in ACEC No 14 of 2018 were heard and finally determined in the former proceedings, namely HC Misc App No 98 of 2016, the answer is in the negative. In so far as the former proceedings related to an application for preservation orders, the outcome of that application cannot by any means be said to have determined with finality the outcome of the application for forfeiture orders as sought in the subsequent Summons. To our minds, it matters not that freezing orders were lifted in respect of some of the properties vide the ruling of Serگون, J in Nairobi HC Misc App No. 98 of 2016 dated September 9, 2016. Indeed, whether preserved or not, the fate of the suit properties with regard to forfeiture could only have been determined with finality as against every person claiming to be the lawful proprietor, beneficial owner or trustee thereof at the hearing and determination of ACEC No 14 of 2018. Finally, we need not pronounce ourselves on the 5<sup>th</sup> issue in view of the fact that the jurisdiction of the two learned Judges to render the impugned rulings was not contested.
32. Having carefully examined the record of appeal, the impugned ruling, the written and oral submissions of learned counsel for the parties, and the cited authorities, we find that the matters raised in the applicant’s Summons and Motion are by no means res judicata as concluded by the learned Judge. The five issues that must be satisfied conjunctively to invoke the doctrine of res judicata have not been so satisfied. In view of the foregoing, we hereby order and direct that:
- a. The ruling and orders of the High Court (H Ong’udi, J) dated November 23, 2018 be and are hereby set aside;
  - b. The impugned orders referred to in (a) be substituted for orders striking out the 1<sup>st</sup> respondent’s preliminary objection dated July 30, 2018\*\*, **and dismissing the 4<sup>th</sup> respondent’s Notice of Motion dated August 20, 2018** with costs to the appellant;
  - c. The appellant’s case to wit ACECA No 14 of 2018 be and is hereby remitted to the High Court for hearing and determination on its merits; and
  - d. The costs of the appeal be borne by the respondents.

Orders accordingly.

**DATED AND DELIVERED AT NAIROBI THIS 20<sup>TH</sup> DAY OF APRIL, 2023.**

**D. K. MUSINGA (P)**

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**JUDGE OF APPEAL**

**DR. K. I. LAIBUTA**

.....

**JUDGE OF APPEAL**

**G. W. NGENYE-MACHARIA**

.....

**JUDGE OF APPEAL**

*I certify that this is a true copy of the original*

*Signed*

**DEPUTY REGISTRAR**

