



**Kinuthia & 2 others v Anyanga & 4 others (Environment & Land Case 160 of 2011) [2024] KEELC 4378 (KLR) (27 May 2024) (Ruling)**

Neutral citation: [2024] KEELC 4378 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT NAIROBI  
ENVIRONMENT & LAND CASE 160 OF 2011**

**JO MBOYA, J  
MAY 27, 2024**

**BETWEEN**

**HIRAM BERE KINUTHIA ..... 1<sup>ST</sup> PLAINTIFF  
ELIZABETH WANJIRU NGIGI ..... 2<sup>ND</sup> PLAINTIFF  
ROBERT MATATHIA NGIGI ..... 3<sup>RD</sup> PLAINTIFF**

**AND**

**EDICK OMONDI ANYANGA ..... 1<sup>ST</sup> DEFENDANT  
ANNE ANYANGA ..... 2<sup>ND</sup> DEFENDANT  
THE REGISTRAR OF TITLES ..... 3<sup>RD</sup> DEFENDANT  
THE HONOURABLE ATTORNEY GENERAL ..... 4<sup>TH</sup> DEFENDANT  
COMMISSIONER OF LANDS ..... 5<sup>TH</sup> DEFENDANT**

**RULING**

1. The 1<sup>st</sup> Plaintiff/Applicant herein has filed the Reference vide Chamber Summons Application dated the 6<sup>th</sup> of November 2023, and in respect of which same [1<sup>st</sup> Plaintiff/Applicant] has sought for the following reliefs:
  - i. That the decision made by the Principal Magistrate (Deputy Registrar) of the High Court of Kenya at Milimani Law Courts Nairobi, as Taxing Officer on the 9<sup>th</sup> November, 2023 and released or provided to the Defendants on 29<sup>th</sup> November, 2023 [copy attached] to award the Defendants’ party and party costs in the sum of Kshs. 5,579,764 be reversed;



- ii. That the Honorable Court be pleased to assess, quantify and award to the Defendants the proper cost payable under the relevant or applicable law;
  - iii. That in the alternative, the Bill of Cost be referred back to the Deputy Registrar of the High Court for taxation afresh; and
  - iv. That the cost of this Application be provided for.
2. The instant Application is anchored on the grounds which have been enumerated in the body thereof. However and for clarity, the Application [ Reference] is not supported by any affidavit or at all.
3. Upon being served with the subject Application, the 1<sup>st</sup> and 2<sup>nd</sup> Defendants filed Grounds of Opposition dated the 22<sup>nd</sup> of February 2024, and in respect of which same [1<sup>st</sup> and 2<sup>nd</sup> Defendants/ Respondents] have contended inter-alia; that the Reference beforehand is not only premature, but same is legally untenable for want of compliance with the mandatory provisions of Rule 11[1] of the Advocates Remuneration Order.
4. On the other hand, the 2<sup>nd</sup> and 3<sup>rd</sup> Plaintiffs filed a Replying Affidavit but wherein same have substantially supported the Reference beforehand. For coherence, the 2<sup>nd</sup> and 3<sup>rd</sup> Plaintiffs have averred that the Certificate of Taxation under challenge is substantially vitiated on account of errors of principles, which were committed by the taxing officer in the course of taxing the party and party bill.
5. Be that as it may, the Chamber Summons Application under reference came up for hearing on the 14<sup>th</sup> of March 2024, whereupon the advocates for the respective parties covenanted to canvass and dispose of the Application by way of written submissions. For good measure, the court thereafter proceeded to and circumscribed the timeline for the filing and exchange of the written submissions.
6. Pursuant to and in line with the directions of the court, the Applicant herein proceeded to and filed written submissions dated the 9<sup>th</sup> of April 2024; whereas the 1<sup>st</sup> and 2<sup>nd</sup> Defendants/Respondents filed two [2] sets of written submissions dated the 26<sup>th</sup> of February 2024 and 21<sup>st</sup> of May 2024, respectively.
7. Moreover, the 2<sup>nd</sup> and 3<sup>rd</sup> Plaintiffs also filed written submissions dated the 14<sup>th</sup> of May 2024. For coherence, the four [4] sets of written submissions [details in terms of the instant paragraphs and the preceding paragraphs] form part of the record of the court.

### **Parties' Submissions:**

#### **a.Applicant's Submissions:**

8. The Applicant herein filed written submissions dated the 9<sup>th</sup> of May 2024, and in respect of which same [Applicant] has adopted and reiterated the grounds contained in the body of the Application.
9. Furthermore, learned counsel for the Applicant has thereafter proceeded to and highlighted two[2] salient and pertinent issues for consideration and determination by the court.
10. Firstly, learned counsel for the Applicant has submitted that upon the delivery of the Ruling on taxation, which was delivered on the 9<sup>th</sup> of November 2023, the learned taxing officer promised to avail a copy of the Ruling under reference to the parties.
11. Nevertheless, learned counsel for the Applicant has contended that the Ruling under reference was only availed and supplied to same [learned counsel] on the 6<sup>th</sup> of December 2023 , which is [sic] the same date when the Reference was filed.



12. Arising from the foregoing, learned counsel for the Applicant has therefore submitted that because of the delay in procuring and obtaining a copy of the Ruling, the Applicant herein was prevented from filing and/or lodging the requisite Notice of Objection to Taxation either in accordance with the provisions with Rule 11[1] of the *Advocates Remuneration Order* or at all.
13. Additionally, learned counsel for the Applicant has submitted that the failure to lodge the Notice of Objection to Taxation was therefore caused and/or contributed to by the court, and hence the failure to do so ought not to be used to defeat the Reference beforehand.
14. Secondly, learned counsel for the Applicant has submitted that the learned taxing officer [ the Deputy Registrar] committed various errors of commission and omission, inter-alia; taxing costs on account of the Counterclaim in respect of which no costs was awarded by the court.
15. Instructively, learned counsel for the Applicant has contended that by taxing the bill of costs and in particular, making an award as pertains to the Counterclaim, the learned taxing officer exceeded the scope of her mandate and thus acted ultra-vires.
16. Arising from the foregoing, learned counsel for the Applicant has thus contended that the Reference beforehand is meritorious and hence ought to be allowed.

**b.2<sup>nd</sup> And 3<sup>rd</sup> Plaintiffs'/respondents' Submissions:**

17. The 2<sup>nd</sup> and 3<sup>rd</sup> Plaintiffs/Respondents have filed written submissions dated the 14<sup>th</sup> of May 2024, and in respect of which same have raised and canvassed two [2] pertinent issues for consideration by the court.
18. First and foremost, learned counsel for the 2<sup>nd</sup> and 3<sup>rd</sup> Plaintiffs has submitted that the learned taxing officer misconstrued and misapprehended the nature of the pleadings which were filed before the court and thus proceeded to tax costs on the basis of an erroneous perception which vitiates the entire taxation as well as the resultant Certificate of Taxation.
19. Secondly, learned counsel for the 2<sup>nd</sup> and 3<sup>rd</sup> Plaintiffs has submitted that the learned taxing officer erred in awarding instructions fees at Kshs. 2,112,000/= only for the dismissed suit; and Kshs. 4,000,000/= only for the Counterclaim, yet the Judgment of the court did not decree [award costs] as pertains to the Counterclaim.
20. Owing to the foregoing, learned counsel for the 2<sup>nd</sup> and 3<sup>rd</sup> Plaintiffs has therefore invited the court to find and hold that the Certificate of Taxation which was issued by the learned taxing officer is wrought with and replete of serious errors of principle and thus same ought to be set aside/varied.
21. In support of the foregoing submissions, learned counsel for the 2<sup>nd</sup> and 3<sup>rd</sup> Plaintiffs has cited and relied on the holding in the case of *Governors Balloons Safaris Ltd vs Kaiship Company ltd & Another* [2015]eKLR and *Mereka & Co Advocate vs Zakhm Construction K Ltd* [2019]eKLR, respectively.

**c.1<sup>st</sup> And 2<sup>nd</sup> Defendants' Submissions:**

22. The 1<sup>st</sup> and 2<sup>nd</sup> Defendants filed two [2] sets of written submissions dated the 26<sup>th</sup> of February 2024 and 21<sup>st</sup> of May 2024, respectively, and wherein same has highlighted two [2] salient issues for due consideration by the court.
23. First and foremost, learned counsel for the 1<sup>st</sup> and 2<sup>nd</sup> Defendants has submitted that the Reference beforehand is incompetent and invalid for non-compliance with the provisions of Rule 11[1] of the *Advocates (Remuneration) Order*. For good measure, Learned Counsel for the 1<sup>st</sup> and 2<sup>nd</sup> Defendants



has pointed out that the Applicant herein neither issued nor served the Notice of objection to Taxation either within the statutory timeline or at all.

24. Owing to the fact that no Notice of Objection to taxation was ever issued and/or served, learned counsel for the 1<sup>st</sup> and 2<sup>nd</sup> Defendants has thus submitted that the entire Reference is therefore incompetent and otherwise a nullity ab initio.
25. In support of the foregoing submissions, learned counsel for the 1<sup>st</sup> and 2<sup>nd</sup> Defendants has cited and relied on inter-alia the holding in the case of *Magdalena Alphonse Cheposowor vs Cheposupko Lonyareng & 5 others* [2021]eKLR, and *Murgor & Murgor Advocates vs Kenya Airport Authority* [2023] KEELC 18458 [KLR] [22<sup>nd</sup> May 2023] [Ruling], respectively.
26. Secondly, learned counsel for the 1<sup>st</sup> and 2<sup>nd</sup> Defendants has submitted that the learned taxing officer correctly appreciated the nature of the pleadings that were filed before the court and the terms of the Judgment that was rendered by the court, and thereafter proceeded to correctly apply the applicable *Advocates (Remuneration) Order* whilst taxing the party and party bill dated the 31<sup>st</sup> of March 2023.
27. Pertinently, learned counsel for the 1<sup>st</sup> and 2<sup>nd</sup> Defendants has submitted that the Applicant herein has neither pointed out nor identified any error in the Ruling of the learned taxing officer to warrant the interference by the court.
28. Further and in any event, learned counsel for the 1<sup>st</sup> and 2<sup>nd</sup> Defendant has submitted that it was incumbent upon the Applicant herein to establish and demonstrate the requisite basis to warrant the interference and/or variation of the Certificate of Taxation. For good measure, learned counsel has pointed out that the circumstances under which the court can interfere with the Certificate of Taxation are circumscribed and well established.
29. To this end, learned counsel for the 1<sup>st</sup> and 2<sup>nd</sup> Defendants has cited and relied on inter-alia the holding in the case of *First American Bank of Kenya vs Shah & Others* [2002] EALR 64 and *Moses Wekesa vs Paul Otieno Nyamodi T/a Nyamodi & Co Advocates* [2021]eKLR, respectively.
30. Premised on the foregoing submissions, learned counsel for the 1<sup>st</sup> and 2<sup>nd</sup> Defendants has invited the court to find and hold that the Reference beforehand is not only misconceived but same is equally invalid and thus legally untenable.

#### **Issues for Determination:**

31. Having reviewed the Reference vide Chamber Summons Application [sic] dated the 6<sup>th</sup> of November 2023; as well as the response thereto; and upon consideration of the written submissions filed by the respective parties, the following issues crystalize for determination:
  - i. Whether the Honorable Deputy Registrar and by extension the Honorable Court is responsible for the failure by the Applicant to lodge the requisite Notice of Objection to Taxation.
  - ii. Whether the Reference beforehand is competent or otherwise.



## Analysis And Determination:

### Issue Number 1

#### **Whether the Honorable Deputy Registrar and by extension the Honorable Court is responsible for the failure by the Applicant to lodge the requisite Notice of Objection to Taxation.**

32. The learned counsel for the Applicant has submitted that the party and party bill of costs filed on behalf of the 1<sup>st</sup> and 2<sup>nd</sup> Defendants was duly taxed by the Deputy Registrar vide Ruling rendered on the 9<sup>th</sup> of November 2023.
33. Furthermore, learned counsel for the Applicant has ventured forward and contended that upon the delivery of the said Ruling, the learned taxing officer promised to avail a copy of the Ruling under reference forthwith to the Applicant.
34. Nevertheless, counsel has contended that despite the promise [ read, undertaking] by the learned taxing officer to avail the Ruling, same [Ruling] was never availed to the Applicant up to and including the 6<sup>th</sup> of December 2023.
35. Arising from the foregoing, learned counsel for the Applicant has therefore contended that because the Ruling was not availed unto same [Advocate for the Applicant] in good time, same, was placed in a quagmire as to whether or not to lodge the Notice of objection to taxation or otherwise.
36. For good measure, it is imperative to reproduce [rehash] the submissions by learned counsel for the Applicant as pertains to this particular aspect.
37. Same are reproduced as hereunder:
  6. The Applicant/1<sup>st</sup> Plaintiff, being in a quagmire on whether to comply with the timelines for filing a Reference or issuing a Notice of Objection to the Honorable Taxing Officer. The Applicant/1<sup>st</sup> Plaintiff sought refuge in Article 159[2][d] of the *Constitution* and proceeded to file the Reference. In any event, the quagmire was directed, edited and produced by the Honorable Taxing officer when she failed to respond to the letters of the Applicant/1<sup>st</sup> Plaintiff and also provide the Ruling on time. [sic]
38. Though the excerpt which has been reproduced in the preceding paragraph is not wholly clear and comprehensible, what is discernable is that learned counsel for the Applicant is laying a blame on the learned taxing officer for [sic] not availing the Ruling on taxation unto same [Applicants Advocate] in good time.
39. Furthermore, it is also evident that learned counsel for the Applicant is also contending that his failure to file and/or lodge the Notice of Objection to Taxation is attributable to the actions and/or omission of the learned taxing officer.
40. Without belaboring the point, what I hear the learned counsel for the Applicant to be saying is that because the Ruling was not availed unto same in good time, same [Advocate/Applicant] was therefore not able to comply with the provisions of Rule 11[1] of the *Advocates Remuneration Order*.
41. To my mind, four [4] pertinent issues do arise and merit discussion in an endeavor to demystify [ disabuse] the fanciful allegations and/or excuses being propagated by learned counsel for the Applicant.



42. Firstly, it is important to point out that the Reference beforehand is not supported by any Affidavit and hence the submissions that learned counsel for the Applicant sought to procure and obtain the Ruling on taxation, but was not able to procure same until [sic] the 6<sup>th</sup> of December 2023 is not verifiable.
43. Put differently, the submissions by and on behalf of the Applicant that the failure to file the Notice of Objection to taxation was informed by non-availability of the Ruling, is clearly not supported by any evidence at all.
44. Secondly, there is no gainsaying that the Applicant herein has attached a copy of the Ruling on taxation to the Reference and from the attached Ruling, it is evident and apparent that same was dated, delivered and signed on the 9<sup>th</sup> of November 2023. For good measure, the fact that the Ruling is attached to the Reference [which is prophetically dated 6<sup>th</sup> November 2023] denotes that the said Ruling was timeously availed and supplied to the learned counsel for the Applicant.
45. Thirdly, it defeats common sense and logic for learned counsel for the Applicant to contend that the Ruling was never availed to same [Applicant's Advocate], yet the Ruling itself is attached to the prophetic Reference, which even predates the delivery of the said Ruling.
46. Lastly, even assuming [for the sake of arguments only] that the Ruling was never availed to the counsel for the Applicants up to and including the 6<sup>th</sup> of December 2023 [which has not been proven], the fact of such failure would not fortify the non-compliance with Rule 11[1] of the *Advocates (Remuneration) Order*.
47. To my mind, it was incumbent upon the learned counsel for the Applicant to file an appropriate Application in terms of Rule 11[4] of the *Advocates (Remuneration) Order* and thereafter to beseech the court to extend time for the filing and service of the Notice of objection to Taxation.
48. Quite clearly, learned counsel for the Applicant cannot be heard to attribute his failures and flagrant disregard of the law to [sic] the taxing officer, either in the manner alleged or at all. Instructively, the allegations by and on behalf of the learned counsel for the Applicant herein are with respect, mischievous and legally untenable.
49. Before departing from the issue herein, it is apposite to take cognizance of and to reiterate the holding of the Court of Appeal in the case of Hon. *Jared Odhiambo Opiyo & 6 others vs The Migori County Assembly & 7 others* [UR], where the court stated as hereunder:

43. Whereas we are generally sympathetic to the appellants' position regarding the effect of rigid technicalities on substantive justice, we are not prepared to accept the view that the imprimatur of Article 159(2)(c) of the *Constitution* is to permit litigants to disregard all rules of procedure with licentious abandon. The constitutional provision exists, as we pointed out above, to relieve conscientious litigants of the oppression occasioned by the rigid application of procedural rules. It does not exist to give warrant/licence to litigants to ignore directions of the court when those directions have been issued to ensure the orderly regulation and determination of disputes.

44. In the present case, as the learned Judge pointed out, the appellants were late in filing their substantive judicial review application. They may well be right that the delay was excusable, and was, perhaps, even caused by the court registry. In such a situation, however, the appropriate recourse for a litigant cannot be to ignore the court or a rule-based time limitation by simply terming it a "technicality". The proper recourse would be to approach the court under



a certificate of urgency seeking for extension of time to make the filing. At the very least, a litigant in that position ought to file a contemporaneous application seeking the court's permission to deem the application filed late, as properly filed.

45. In the present case, the appellants did not as much as seek oral leave to have the application dated 15th March, 2023 deemed to be regularly filed. There are outer limits to the organic plasticity purchased by the existence of Article 159(2)(c) of the *Constitution* -and the circumstances here find that limit: Article 159(2)(c)of the *Constitution* cannot be cited to aid a litigant who explicitly fails to timeously abide by the court's direction without seeking the court's discretion to extend time. On this score, therefore, we would agree with the learned Judge.
50. Duly guided by the excerpts quoted in the preceding paragraphs, I find and hold that the fanciful [ read, iddle] excuses propagated by the Applicant herein cannot suffice and explain the flagrant disregard of clear provisions of the law. Furthermore, the failure to comply with the law by the Applicant herein cannot be attributed to and/or passed onto the learned taxing officer, either in the manner alluded to or at all.
51. Simply put, the buck stops with the Applicant and his legal counsel. No more.

## Issue Number 2

### Whether the Reference beforehand is competent or otherwise.

52. It is common ground that any Applicant, the current Applicant herein not excepted, who is desirous to file a Reference against a Certificate of Taxation is obligated to lodge and serve the requisite Notice of Objection to taxation in accordance with the provisions of Rule 11[1] of the *Advocates (Remuneration) Order*, 2014.
53. Furthermore, it is worth recalling that the provisions of Rule 11[1] stipulate the timeline within which the Notice of Objection to taxation must be filed and also the contents thereof.
54. Pertinently, it behooves any Applicant who is desirous to challenge the Certificate of Taxation to file the requisite Notice of Objection to Taxation and in particular to identify/highlight the items which are being objected to. For clarity, it is mandatory that the items being objected to be identified and enumerated in the body of the Notice of Objection to taxation.
55. Additionally, it is important to underscore that the Notice of Objection to Taxation in terms of Rule 11[1] [supra], forms the foundation upon which the intended Reference is anchored and/or premised. Consequently, where no Notice of Objection to taxation is filed, then no Reference can be mounted and/or lodged.
56. Put differently, the Notice of Objection to Taxation is a mandatory precursor [ read, a Jurisdictional pre-requisite] to the lodgment and/or filing of a valid and a competent Reference.
57. To this end, it suffices to adopt and reiterate the succinct position that was highlighted by the Court of Appeal in the case of *Machira & Co. Advocates vs Arthur K. Magugu & another* [2012] eKLR, where the court stated thus:
12. Sub-rule (1) requires the party objecting to give notice in writing within 14 days “of the items of taxation to which he objects.” As the trial judge correctly found, the Respondent’s Notice



of 1<sup>st</sup> August 2001 did not comply with that provision. It did not specify the items objected to so that the taxing officer could give his reasons on them.

13. As we have pointed out, the intendment of the Rules Committee in providing for objections to bills of costs to be dealt with by references and not appeals or reviews was expedition. If vague notices are given, taxing officers might be forced to give their reasons for their taxation of each item including even those not objected to. That would of course defeat the purpose of that expeditious procedure. Having not specified the items objected to and sought reasons for their taxation, the Respondent's Notice of 1<sup>st</sup> August 2001 was fatally defective. It follows that the Respondents reference based on it was incompetent and we agree with counsel for the Appellant that it should have been struck out.
58. Similarly, it is also imperative to underscore that this court has also had an occasion to speak to the import and tenor of Rule 11[1] of the *Advocates (Remuneration) Order*, 2014. In this respect, I beg to adopt and reiterate the holding in the case of *Murgor & Murgor Advocates vs Kenya Airports Authority* [2023]eKLR, where this court held thus:
49. In this regard and to underscore the importance of a Notice of objection to taxation, it is imperative to take cognizance of and reiterate the holding of the Court of Appeal in the case of *Machira & Co Advocates v Arthur K Magugu & Another* (2012)eKLR, where the Court of Appeal stated and observed as hereunder:
    12. . Sub-rule (1) requires the party objecting to give notice in writing within 14 days "of the items of taxation to which he objects." As the trial judge correctly found, the Respondents notice of 1<sup>st</sup> August 2001 did not comply with that provision. It did not specify the items objected to so that the taxing officer could give his reasons on them.
    13. As we have pointed out the intendment of the Rules Committee in providing for objections to bills of costs to be dealt with by references and not appeals or reviews was expedition. If vague notices are given taxing officers might be forced to give their reasons for their taxation of each item including even those not objected to. That would of course defeat the purpose of that expeditious procedure. Having not specified the items objected to and sought reasons for their taxation, the Respondents notice of 1<sup>st</sup> August 2001 was fatally defective. It follows that the Respondents reference based on it was incompetent and we agree with counsel for the Appellant that it should have been struck out.
    14. Having not given a proper notice specifying the items objected to and seeking the reasons for their taxation at the figures they were taxed, the issue of when the taxing master's decision was received is immaterial and does not avail the Respondents. Under sub-rule (2), time stops running from the date a proper notice is filed, which of course must be within 14 days of taxation, until receipt of the taxing master's reasons for his decision.
  50. Having found that the impugned Letters, which were issued by the Applicant do not constitute and/ or amount to the requisite Notice of objection to taxation, the other question that does arise is whether the failure to comply with the statutory requirements of Rule 11(1) of The *Advocate Remuneration Order*, can be circumvented and/or evaded.
  51. To my mind, where there exist express statutory provision to deal with and address a particular situation, then it behooves the Parties to comply with and adhere to such provisions, more particularly where the provisions go to the root of the Jurisdiction of the court.



59. From the foregoing exposition of the law, there is no gainsaying that the failure to file and serve the requisite Notice of Objection to Taxation within the set timeline or at all vitiates and invalidates the Reference, [if any], that is ultimately filed.
60. Put differently, the failure to file and serve the requisite Notice of Objection to Taxation renders the instant Reference void and thus a nullity ab initio.
61. Before departing from this issue, it is perhaps appropriate and mete to draw the attention of the Applicant and his legal counsel to the ratio decidendi in the case of *Patricia Cherotich Sawe v Independent Electoral & Boundaries Commission (IEBC) & 4 others* [2015] eKLR, where the court [the Supreme Court of Kenya] stated as hereunder:
- (31) Although the Appellant invokes the principle of the prevalence of substance over form, this Court did signal in *Law Society of Kenya v The Centre for Human Rights & Democracy & 12 Others*, Petition No. 14 of 2013, that “Article 159(2)(d) of the *Constitution* is not a panacea for all procedural shortfalls.” Not all procedural deficiencies can be remedied by Article 159; and such is clearly the case, where the procedural step in question is a jurisdictional prerequisite.
62. Quite clearly, one cannot disregard and/or ignore mandatory rules of procedure merely because there exists the provisions of Article 159 [2][d] of the *Constitution*, 2010. If such blatant disregard of the law was to be sanctioned by the court without due explanation; then the Administration of Justice would be thrown into disarray and anarchy would reign supreme.

**Final Disposition:**

63. From the foregoing discussion, there is no gainsaying that the Reference vide Chamber Summons which is [sic] prophetically dated the 6<sup>th</sup> of November 2023, long before the impugned Ruling was rendered, is certainly misconceived and legally untenable.
64. Consequently and in the premises, I proceed to and do hereby make the following orders:
- i. The Reference [sic] dated the 6<sup>th</sup> of November 2023 be and is hereby struck out.
  - ii. Costs of the Reference be and are hereby awarded to the 1<sup>st</sup> and 2<sup>nd</sup> Defendants.
  - iii. To avoid the filing of a supplementary bill of costs, the costs at the foot of the Reference are hereby assessed and certified in the sum of Kshs. 25,000/= only.
65. It is so Ordered.

**DATED, SIGNED AND DELIVERED AT NAIROBI THIS 27<sup>TH</sup> DAY OF MAY, 2024.**

**HON. JUSTICE OGUTTU MBOYA,**

**JUDGE.**

In the presence of:

Benson – Court Assistant.

Mr. Otieno h/b for Mr. Oyatsi for the Applicant.

Mr. Mwaniki Gitau for the 2<sup>nd</sup> and 3<sup>rd</sup> Plaintiffs.

Mr. Abidha Nicholas for the 1<sup>st</sup> and 2<sup>nd</sup> Defendants/Respondents.

