



REPUBLIC OF KENYA



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Kalo v Sacco Societies Regulatory Authority; Mwalimu National Savings & Credit Co-operative Society Ltd & 2 others (Interested Party) (Petition E005 of 2022) [2022] KEELRC 1168 (KLR) (30 June 2022) (Ruling)

Neutral citation: [2022] KEELRC 1168 (KLR)

REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
PETITION E005 OF 2022

K OCHARO, J

JUNE 30, 2022

BETWEEN

ALPHONCE M. KALO PETITIONER

AND

SACCO SOCIETIES REGULATORY AUTHORITY RESPONDENT

AND

MWALIMU NATIONAL SAVINGS & CREDIT CO-OPERATIVE SOCIETY LTD INTERESTED PARTY

CABINET SECRETARY OF AGRICULTURE LIVESTOCK, FISHERIES AND COOPERATIVES INTERESTED PARTY

ATTORNEY GENERAL INTERESTED PARTY

RULING

1. By a Petition filed herein dated 31st December 2021, the Petitioner sought:
 - a) Conservatory orders staying the enforcement by the 1st Interested Party of the Respondent's finding dated 9th September 2021;
 - b) Conservatory order directing the 1st Interested Party to pay the Petitioner's salary from the month of June 2021;
 - c) A declaration that by its acts or omissions the Petitioner's rights as enshrined in [the Constitution](#) for Fair Hearing have been breached and continue to be breached by the Respondent.



- d) A declaration that by its acts or omissions the Petitioner’s rights as enshrined in *the Constitution* that the Respondent would take Administrative Action against the Petitioner in a procedurally fair manner had been breached and continue to be breached by the Respondent.
 - e) A declaration that the Respondent’s letter dated 9th September 2021 be declared ultra vires:
 - f) An order be issued that the 1st Interested Party reinstate the Petitioner’s employment as its Chief Executive Officer as per the contract of service dated 24th July 2019;
 - g) A declaration that the Petitioner is deserving damages to be assessed by this Honourable Court.
2. The Petitioner states that the Respondent is a statutory body created under the *SACCO Societies Act* 2008 with its main and principle objectives specified in section 5 of the Act, inter alia to licence and regulate SACCOs.
 3. In the Petition, the Petitioner stated that he joined the employment of the 1st interested party in the year 1993 as an entry level manager, and rose through the ranks to be the acting Chief Executive Officer in August 2017 and got confirmed in the position in March 2018.
 4. That on the 11th June 2021 he received a letter from the Respondent captioned “Suspension and Notice to show cause of intention to remove as an officer of a SACCO Society.” The notice was expressed to be under the provisions of section 48, 50 and 51 [c] of the *SACCO Societies Act*. The Petitioner was given therein, 30 days to present the Respondent with a written explanation why the Respondent should not take the prescribed supervisory action directing his permanent removal from the service of the 1st Interested Party.
 5. The Petitioner contended that he was not invited to make oral representations to the Respondent and that the show cause letter did not demand of him to make oral submissions.
 6. It was clear that the purported investigations that were initiated against him were at the instance of and conducted by the Respondent.
 7. Through his letter dated 8th July 2021, in response to the Respondent’s show cause letter, the Petitioner denied in toto all the allegations that had been levelled against him in the said letter, regarding his management of the 1st Interested Party.
 8. The Petitioner takes a position that according to the By-Laws of the Interested Party, as the Chief Executive Officer, he was under the control and supervision of the Board.
 9. In its findings that were enveloped in its letter dated 9th September 2021, the Respondent found the Petitioner to be in breach of the provisions of the SACCO Societies Act and its Regulations, consequently holding that as such he was not eligible to hold the office of Chief Executive Officer of the 1st Interested Party or any other SACCO, and that he be barred from holding the office of the Chief Executive Officer of any society for a period of 3 years; and that he may never hold the office of Chief Executive of any SACCO.
 10. Being aggrieved by the Respondent’s decision, he assailed the same by way of an appeal to the 2nd Interested Party pursuant to Regulation 72 [8] of the SACCO Societies [Deposit Business] Regulations 2010. Through his letter dated 13th October 2021, he made it known to the 1st Interested Party that he had exercised his right of Appeal.
 11. The foregoing premise notwithstanding the 1st Interested Party terminated his employment through its letter dated 24th November 2021.



12. It is against this background that the petitioner took a position that his fundamental rights and freedoms had been breached by the Respondent as specifically brought forth in the Petition that he lodged this Petition.
13. The 1st Respondent filed a notice of preliminary objection dated 18th February 2022, wherein it raised a preliminary objection touching on the jurisdiction of this Court in the following manner:

“The Respondent herein submits that the Honourable Court is not seized of the requisite jurisdiction as the suit embodied both by the Notice of Motion and the Petition dated 31st December, 2021 does not fall within the confines of section 12 [1], [a], [b], [c], [d], [e], [f], [g], [h], [i] and [j] of the *Employment and Labour Relations Court Act*.

Furthermore, the Petitioner has not exhausted the laid out statutory avenues available for the resolution of the dispute herein. As such the same should be dismissed with costs to the Respondent.”
14. Through its notice of preliminary objection dated 17th February 2022, the 1st Interested Party indicated that it was raising a preliminary objection on the following grounds:
 - a) That the Petition and the Application are fatally bad in law as they offend the doctrine of exhaustion of remedies.
 - b) That the Petition and the application as against the 1st Respondent are fatally bad in law as they offend section 92 of the *Employment Act*, 2007.
 - c) That the Petition and the application should be struck out in limine.
15. On their part, the 2nd and 3rd Interested parties through their notice of preliminary objection dated 25th April 2022, put forth the grounds hereunder as their base to the objection, thus;
 - a) That the Petition and the Application is premature as the Appeal filed by the Petitioner pursuant to Regulation 72 [8] of the SACCO Societies [Deposit Taking SACCO Business] Regulations, 2010 is pending determination. Regulation 72 [8] of the SACCO Societies [Deposit Taking SACCO Business] Regulations, 2010 provides that;

“A person aggrieved by the removal order may appeal to the Minister.”
 - b) That therefore the Petitioner has not exhausted the statutory appeal mechanism established under the above stated law.
 - c) That in light of section 9 [2] and 9 [3] of the *Fair Administrative Action Act* 2015, this Court lacks jurisdiction to hear and determine this present Petition and Application.
 - d) By virtue of the foregoing, the Petitioner is forum shopping and the Court should guard against abuse of its process.
 - e) That accordingly, this Petition and Application is misconceived.
16. Considering that the preliminary objections raised by the Respondent and the Interested Parties touch on the jurisdiction of this Court, and cognizant of the trite principle of law that jurisdiction is



everything and if the court does not have it, it downs its tools, the Court directed that the objections be canvassed first and by way of written submissions.

The 1st Interested Party's submissions

17. The 1st Interested Party distils a single issue for determination in this matter, whether the preliminary objection is merited. It was submitted that the Part XI of the SACCO Societies Act, 2008 bestows powers on the Respondent to regulate and supervise SACCO Societies. The 1st Interested Party, being registered as such is therefore under the supervision of the Respondent.
18. In the discharge of its supervisory role the Respondent initiated an inquiry into the business of the 1st Interested Party on various matters. The inquiry culminated into the findings of the impugned letter dated 9th September 2021. The Respondent found culpability on the part of the Petitioner and consequently ineligibility to hold the office of Chief Executive Officer of a SACCO. This was a removal order.
19. The Respondent submitted that Regulation 72 of the SACCO Societies Act, 2008 provides:

“Prohibitions and removal officers.

 - (1) The Authority may prohibit any individual seeking to be a director or employee of a SACCO society, if the individual has been charged or convicted with a crime involving monetary loss, fraud, perjury or breach of contract of a licensed financial institution.
 - (2) The Authority may prohibit an individual from seeking to be a director or employee if he or she is likely to pose a threat to the interest or threaten to impair public confidence in the SACCO society.
 - (3) A person against whom disciplinary action has been taken by way of removal from office shall be ineligible to hold office in any SACCO society for a period three years or such other period as may be determined by the Authority.
 - (4)
 - (5) The prohibition order shall be addressed to the SACCO Society Board of Directors and the prohibited Party, stating specifically the reason for prohibition and that it shall take immediate effect.
 - (6)
 - (7) A notice to remove an officer from office by the Authority shall contain specific statement of facts constituting the grounds for removal and shall take immediate effect”.
20. It was further submitted that Regulation 8 of the Act provides an appeal mechanism, should the affected individual be aggrieved by the Authority's removal order. An appeal to the minister responsible for the matters relating to SACCO societies.
21. The Petitioner exercised its right of appeal under the said provision through his letter dated 14th September 2021. The appeal is pending before the cabinet secretary. This Court cannot exercise jurisdiction over the matter unless the internal mechanism provided for has been exhausted or the Petitioner has sought for an exemption.



22. To buttress this submission, the 1st Interested Party placed reliance on the case of James Mweri Kahunyo & 6 others [2019] eKLR.
23. Further reliance was placed in the Court of Appeal decision in *United Miders Limited v Kenya Bureau of Standard & 5 others* [2021] eKLR, where the Court held;

“Accordingly, having failed to revert to the internal dispute resolution mechanism provided for in the Act and having also failed to apply for exemption from the requirement as provided for under FAA Act the Court was divested of jurisdiction to entertain the judicial review proceedings as it correctly found. Having reached that conclusion, the Court ought to have downed its tools in line with the case of “The Owners of Motor Vessel Lilian S.” [Supra].

The 2nd and 3rd Interested Parties’ submissions.

24. The Interested parties identified two issues as those that present themselves for determination in this application thus;
 - a) Whether this Honourable Court should entertain this Petition where the Petitioner has failed to exhaust the statutorily provided mechanism.
 - b) Whether the Interested parties are entitled to costs.
25. On the first issue it was contended that the Petition is premature as the Petitioner’s appeal that he lodged pursuant to Regulation 72 [8] of the SACCO Societies [Deposit Taking SACCO Business] Regulations 2010 is pending determination by the Cabinet Secretary, Ministry of Agriculture, Livestock, Fisheries and Cooperatives, the 2nd Respondent.
26. The Petitioner having not exhausted the statutory appeal mechanism established under the stated Regulation, the exhaustion doctrine sets in against the Petition herein.
27. It was submitted that where a dispute resolution mechanism exists outside court, the same ought to be exhausted before the jurisdiction of the courts is invoked. By dint of section 9[2] and 9 [3] of the Fair Administrative Action Act 2015, this Court lacks jurisdiction to hear and determine the present Petition and Application.
28. Reliance was placed on the Court of Appeal decision in the case of *Geoffrey Muthinji & another vs. Samuel Muguna Henry & 1756 others* [2015] eKLR, where the Court delivered itself, thus;

“It is imperative that where a dispute resolution mechanism exists outside courts, the same be exhausted before the jurisdiction of the courts is invoked. Courts ought to be the last resort and not the first port of call the moment a storm brews within churches, as is bound to happen. The exhaustion doctrine is a sound one and serves the purpose of ensuring that there is postponement of judicial consideration of matters to ensure that a party is first of all diligent in the protection of his own interest within the mechanisms in place of resolution outside courts. This accords with Article 159 of *the Constitution* which commands courts to encourage alternative means of dispute resolution.”
29. The Petitioner’s appeal is pending determination by the Cabinet Secretary and as such he ought to await the decision of the Cabinet Secretary. In the event that he is aggrieved by his decision, the petitioner has a right to appeal against the decision to this court.



30. As regards the 2nd issue, it was submitted that where a litigation is shown to be frivolous and vexatious as is the case here, the offending party should be condemned to pay costs. The Petitioner totally disregarded the statutorily provided mechanisms, occasioning inconvenience to the court, the Respondent and the interested parties. He should be condemned to bear the costs of this Petition.

The Respondent's submissions

31. Citing the case of *Mukbisa Biscuit Manufacturers Limited vs. West End Distributors Limited* [1969] E.A. 696, Counsel for the Respondent submits that what is raised by the Respondent squarely falls under the definition accorded by the decision thus;

“a preliminary objection is in the nature of what used to be a demurrer. It raises a pure point of law which if argued on the assumption that all the facts pleaded by the other side are correct it cannot be raised if any fact has to be ascertained or if what is sought is the exercise of judicial discretion.

And as law, JA rendered himself;

“So far as I am aware a preliminary objection consists of a point in law which has been pleaded or which arises by clear implication out of pleading and which if argued as a preliminary objection may dispose of the suit.”

32. The Respondent submits that the decision that the Petitioner impugns, is one that flowed from the exercise of the Respondent's supervisory role provided for under the SACCO Societies Act as a whole and in particular Part V thereof, as read with the Regulations 2010. The decision was not made in an employer-employee relationship. There existed no employer-employee relationship between the Petitioner on the one hand and, the Respondent on the other hand. The SACCO Societies Act and the Regulations do not contemplate such a relationship.

33. The dispute herein that is principally between the Petitioner and the Respondent does not fall under any category of those disputes stipulated under section 12 [1] [a] [b] [c] [d] [e] [f] [g] [h] [i] and [j] of the *Employment and Labour Relations Court Act*, over which this Court has jurisdiction. This being so this Court should down its tools in line with the holding of Nyarangi J.A. [as he then was] in *Owners of Motor Vessel Lillian S vs. Caltex Oil [Kenya] Limited* [1989] eKLR, thus;

“Jurisdiction is everything. Without it, there would be no basis for a continuation of proceedings pending other evidence. A court of law downs tools in respect of the matter before it the moment it holds the opinion that it is without jurisdiction.”

34. The Petitioner is yet to exhaust all avenues available to him under law for purposes of resolving the present dispute. Regulation 72 [8] of the Regulations, 2010 provides for a right of appeal to a person aggrieved by the removal order to the minister. It is not a contested fact that the Petitioner did exercise this right. The appeal is pending before the Cabinet Secretary for Agriculture, Livestock, Fisheries and Co-operatives as the Petitioner prosecutes the current Petition. The state of affairs here is untenable.



The Petitioner's Submissions

35. In response to the various preliminary objections Senior Counsel Dr. Khaminwa for the Petitioner addressed two issues that according to him emerge for determination by this Court on the preliminary objections as raised thus;
- (i) Whether this Honourable Court has jurisdiction to entertain this matter.
 - (ii) Whether the matter should be heard on merit.
36. Counsel submits that largely the 1st Interested Party's and the Respondent's preliminary objection rotate around the ground that the Petitioner did not exhaust all the mechanisms for settling a dispute emanating under the above stated Act before approaching this Court. He referred the Court to Part XI of the SACCO Societies Act, 2008 and more specifically to Regulation 72 [8], and appreciated that the Petitioner did pursuant to the provision lodge an appeal with the minister on the 15th of September 2021. He lodged this Petition on the 31st of December 2021 after waiting in vain for the Ministry to hear his appeal for [3] months.
37. That while the appeal is pending the Interested Party terminated the Petitioner's contract of service without waiting for the appeal to be determined. This informed the Petitioner's discussion to approach the Court under urgency to stop the actions of the 1st Interested Party which amounted to a breach of Fair Administrative Action.
38. To buttress this argument that in the circumstances of the matter, the approach of the Petitioner is one that the Court can sanction, Counsel placed reliance on the emphasis by Sir William Buffes P, in *Patel v. E.A. Cargo Handling Services Limited* [1974] E.A. 75 at page 76 thus;
- “The main concern of the Court is to do justice to parties.”
39. Further reliance was placed on what the learned Author John Beacroft Saunders in a Treatise headed words and phrase legally defined – Volume 3:1N states at page 113 about jurisdiction: -
- “By jurisdiction is meant the authority which the Court has to decide matters that are litigated before it or to take cognizance of matters presented in a formal way. The limits of this authority are imposed by the statute, charter, or commission under which the court is constituted, and may be extended or restricted by like means. If no restrictions or limits is imposed the jurisdiction is said to be unlimited. A limitation may be either as to the kind and nature of actions and matters of which a particular court has cognizance or as to the area over which the jurisdiction shall extend, or it may partake of both, these characteristics. If the jurisdiction of an inferior court or tribunal including an arbitrator, depends on the existence of a particular set of facts, the court or tribunal must inquire into the existence of the facts in order to decide whether it has jurisdiction; but, except where the court has been given power to determine conclusively whether the facts exist. Where a court takes it upon itself to exercise a jurisdiction which it does not possess, its decision amounts to nothing. Jurisdiction must be acquired before judgment is given.”
40. It was submitted that the Constitution clearly envelopes under Article 23 which deals with authority of courts to uphold and enforce the Bill of Rights, confers on the High Court jurisdiction, in accordance with Article 165, to hear and determine applications for redress of a denial, violation or infringement of or threat to, a right or fundamental freedom in the Bill of Rights. The Petitioner approached this Court for protection of his fundamental right as provided for under Article 47 on Fair Administrative



Action and Fair Trial as provided for under Article 50 of the Constitution of Kenya, 2020 which was being threatened or denied by the Interested Party and the Respondent.

41. This Court has jurisdiction to grant the conservatory orders in protection of the Constitution of Kenya 2010, and more specifically the Bill of Rights which is an integral part of the Constitution.
42. On the 2nd issue Counsel submits that Article 165 [3] of *the Constitution* of Kenya vests the High Court with unlimited original and appellate jurisdiction in criminal and civil matters; jurisdiction to determine the question whether a right or fundamental freedom in the Bill of Rights has been denied, violated, infringed or threatened to be violated, denied or infringed. Therefore, this Court has jurisdiction to hear the Petition.

Analysis and Determination

43. Considering the various notices of preliminary objection filed by the Interested Parties and the Respondent, and the grounds that have been put forth therein, I am of the view that they revolve around the fact that at the moment this Court lacks the authority to proceed to hear the Petition and the Application that has been filed thereunder on two accounts, first that the exhaustion doctrine militates against handling of the Petition by this Court, second, that the dispute as brought out in this matter does not arise from an employer-employee relationship to put it under the category of those contemplated under the provisions of section 12 [1] of the Employment and Labour Relations Court Act, over which this Court has jurisdiction.
44. And from the material placed before this Court inclusive of submissions by the parties, on the preliminary objections, I distil the following issues for determination:
 - a) Whether there is an appeal pending before the minister;
 - b) If the answer to [a] above is in the affirmative, whether the Petitioner was in order to file the Petition herein, and in its determination by this Court.
 - c) Whether in the circumstances of this matter, the Court has jurisdiction under section 12 [1] of the Employment and Labour Relations Court Act, to hear the Petition.
 - d) What are the appropriate orders to be given on the preliminary objections.

Whether there is an appeal pending before the minister.

45. The dispute herein springs out of a decision by the Respondent against the Petitioner in exercise of its powers under the SACCO Societies Act, 2008 and the Regulations allied thereto, Regulations 2010, which decision culminated to the termination of his contract of service, as the Chief Executive Officer of the 1st Interested Party, by the 1st Interested Party.
46. From the material placed before me, inclusive of the Petition, the affidavit in support of the Notice of Motion Application, and submissions by Counsel for the Petitioner it is common cause that aggrieved by the decision of the Respondent the claimant exercised his right of appeal pursuant to the Provisions of Regulation 72 [8], which provides;

“A person aggrieved by the removal order may appeal to the minister.”

on the 15th September 2015, and the appeal is pending.

47. The answer to this issue is in the affirmative therefore.



Whether the Petitioner was in order to file this Petition and crave this Court to hear it.

48. The Respondent and the Interested Parties have taken a very strong position that the dispute herein was not ripe to be brought to this Court. The exhaustion doctrine and its applicability to the dispute was ignored by the Petitioner. I have carefully considered the Petitioner’s submissions against the preliminary objections, and find no difficulty to discern that they do not address the doctrine and its applicability on the instant Petition and the notice of motion filed thereunder. That be as it may, I would move.
49. As I consider this matter, I have not lost sight of the fact that in our constitutional democracy, the courts are the ultimate guardians of the Constitution and that the Court should set its eyes on the long term and the rule of law.
50. It is a trite principle of law that where there is a clear procedure for redress of any particular grievance prescribed by the Constitution or an Act of parliament, that procedure should be strictly followed. Put in another way, where a dispute resolution mechanism exists outside courts the same has to be exhausted before recourse is had to court in the manner permitted by the law. Numerous courts have delivered themselves to this effect. On the point, the Court of Appeal expressed itself in the case of *Speaker of National Assembly v Njenga Karume* [2008] eKLR, thus:
- “Where there is an alternative remedy and especially where Parliament has provided a statutory procedure, it is only in exceptional circumstances that an order for judicial review would be granted, and that in determining whether an exception should be made and judicial review granted, it was necessary for the court to look carefully to the suitability of the statutory appeal in the context of the particular case and ask itself what, in the context of the statutory powers, was the real issue to be determined and whether the statutory appeal procedure was suitable to determine it.”
51. In *Albert Chaurembo Mumba & 7 others v Maurice Munyao & 148 others* [2019] eKLR the Court expressed itself;
- “In pursuit of sound legal principles, it is our disposition that the dispute disguised and pleaded with erroneous intention of attracting the jurisdiction of the superior courts is not a substitute for known legal procedures. Even where superior courts had jurisdiction to determine the profound question of law, first opportunity had to be given to the relevant persons, bodies, tribunals or any other quasi-judicial authorities and organs to deal as provided for in the relevant parent statute.”
52. Having stated this, I come to a conclusion that the Petitioner did not, and this he has admitted, exhaust the statutory appeal procedure under the SACCO Societies Act, and the allied Regulations 2010. It was improper for him to lodge this Petition and urge for its hearing by this Court, even when the appeal is pending before the Cabinet Secretary. It should be appreciated that statutory procedures and or mechanisms for dispute resolution outside courts are in accord with, and furtherance of, the provisions of Article 159 of the Constitution. They are there for a purpose.
53. The Petitioner’s Counsel argued that the filing of the Petition before this Court was necessitated by the urgency of the matter, that the 1st Interested Party terminated the Petitioner’s contract of service before the appeal before the Cabinet Secretary would be heard, and that the minister has taken more than three months without considering the appeal. Those sounds like grounds that would justify the exemption contemplated under the provisions of section 9 [2] of the Fair Administrative Action Act.



The Petitioner didn't seek any exemption to bypass the statutory appeal process provided for under the SACCO Societies Act. The argument and the reasons advanced by Counsel cannot come to the aid of the Petition, it was improperly filed.

54. The petitioner had and has legally known avenues to pursue for purposes of compelling the Cabinet Secretary to discharge his/her statutory mandate as regards the pending appeal.

Of jurisdiction under Section 12 [1] of the Employment and Labour Relations Act

55. The Petitioner did not directly respond to the argument by the Respondent that the dispute the subject matter herein does not fit in the ambit of those disputes contemplated under section 12 [1] of the Employment and *Labour Relations Act*. However, on the issue, much dwelling was done on the unlimited jurisdiction of the Court under Article 165 of the Constitution. I will first address the Respondent's argument then turn to the Petitioner's.
56. A keen look at the Petition in its entirety, the facts upon which it is premised, the alleged breach of the Fundamental Rights and Freedoms and the reliefs sought, it is not difficult to conclude that they are all directed at the Respondent
57. The dispute is purely a dispute under the SACCO Societies Act, and not any of those contemplated under the Employment and Labour Relations Court Act. Joinder of the other parties has not changed the character of the pith and substance of the case.
58. As regards the Petitioner's argument, on Article 165 of the Constitution and its applicability to the instant matter, I can only draw support from the holding in *Albert Chaurembo Mumba & 7 others vs. Maurice Munyao and 148 others* [supra], and say that the same is erroneous.

Of the appropriate orders

59. By reason of the premises hereinabove, I find that the Petition was improperly filed before this Court without regard to the doctrine of exhaustion, and that this court lacks the jurisdiction to entertain the dispute between the Petitioner and the Respondent.
60. Consequently, I uphold the preliminary objection by the Respondent and the Interested Parties. The Petition is struck out with no order as to costs.

READ, SIGNED AND DELIVERED VIRTUALLY, THIS 30TH DAY OF JUNE 2022.

OCHARO KEBIRA

JUDGE

In Presence of

Mr. Omogo for the Respondent.

Juma for 1st Interested Party.

Mercy Kinyua for 2nd and 3rd Interested Parties.

Dr.Khaminwa for Petitioner.

ORDER

In view of the declaration of measures restricting Court operations due to the COVID-19 pandemic and in light of the directions issued by His Lordship, the Chief Justice on 15th March 2020 and subsequent directions of 21st April 2020 that judgments and rulings shall be delivered through video conferencing or via email. They have waived compliance with Order 21 Rule 1 of the *Civil Procedure Rules*, which requires that all judgments



and rulings be pronounced in open Court. In permitting this course, this Court has been guided by Article 159(2)(d) of the Constitution which requires the Court to eschew undue technicalities in delivering justice, the right of access to justice guaranteed to every person under Article 48 of the Constitution and the provisions of Section 1B of the Procedure Act (Chapter 21 of the Laws of Kenya) which impose on this Court the duty of the Court, inter alia, to use suitable technology to enhance the overriding objective which is to facilitate just, expeditious, proportionate and affordable resolution of civil disputes.

A signed copy will be availed to each party upon payment of Court fees.

OCHARO KEBIRA

JUDGE

