



**Wayaffe v Toner Holdings Limited & another; Muthaiga Heights
Apartments Co Ltd (Objector) (Environment & Land Case
E112 of 2022) [2024] KEELC 7577 (KLR) (14 November 2024) (Ruling)**

Neutral citation: [2024] KEELC 7577 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NAIROBI
ENVIRONMENT & LAND CASE E112 OF 2022**

**JO MBOYA, J
NOVEMBER 14, 2024**

BETWEEN

ALEXANDRE WAYAFFE PLAINTIFF

AND

TONER HOLDINGS LIMITED 1ST DEFENDANT

CORRINE MARIE MADELEINE GENEVIEVE 2ND DEFENDANT

AND

MUTHAIGA HEIGHTS APARTMENTS CO LTD OBJECTOR

RULING

Introduction and Background:

1. The Objector/Applicant has approached the court vide Notice of Motion Application dated 30th September 2024 brought pursuant to the provisions of Sections 1A, 1B, 3A of the *Civil Procedure Act* and Order 22 Rules 51, 52, 53 and 54 of the Civil Procedure Rules 2010 and in respect of which same [Applicant] seeks the following reliefs [verbatim]:
 - i. That the Application be certified as urgent and service upon the Respondents be dispensed with in the first instance.
 - ii. That the Plaintiff/Decree Holder either by himself, agent or servants and Elimonyaco Auctioneers be and are hereby restrained from seizing, advertising for sale, selling through public Action assorted movable goods listed in the proclamation dated [sic] 25th September, 2025 by Elimonyaco Auctioneers.



- iii. That the proclamation dated 25th September, 2024 by Elimonyaco Auctioneers be and is hereby declared unlawful.
 - iv. That the assorted goods proclaimed on 25th September, 2024 by the agents of the Plaintiff/Decree holder be and hereby declared as belonging to the Objector.
 - v. That the Defendants/Judgement Debtors have no legal or equitable interest in the items proclaimed on 25th September, 2024.
 - vi. That costs of this Application be provided for.
2. The subject application is anchored on various grounds which have been highlighted at the foot thereof. In addition, the application is supported by the affidavit of Pravin Patel [Deponent] sworn on 30th September 2024; and a further affidavit sworn on the 23rd October 2024.
 3. Upon being served with the subject application, the Plaintiff/Respondent filed a replying affidavit sworn/notarized on the 11th October 2024 and to which the deponent has annexed three [3] sets of documents, including a copy of the CR12 for the 1st Defendant/Judgment Debtor.
 4. The instant application came up for hearing on the 16th October 2024 whereupon the advocates for the parties covenanted to file and exchange written submission. In this regard, the court ventured forward and circumscribed the timelines for the filing and exchange of the written submissions.
 5. Thereafter the Objector/Applicant filed written submissions dated the 30th October 2024; whereas the Plaintiff/Decree Holder filed written submissions dated the 29th October 2024.
 6. For coherence, both sets of written submissions forms part of the record of the court and same [written submissions] shall be relied upon and taken into account in determining the issues in dispute.

Parties' Submissions:

a. Applicant's Submissions:

7. The Objector/Applicant filed written submissions dated the 23rd October 2024 and wherein same [Objector/Applicant] has adopted the grounds contained at the foot of the application and reiterated the averments in the body of the supporting affidavit. In addition, the Objector/Applicant has also highlighted the contents of the further affidavit.
8. Furthermore, the Objector/Applicant has proceeded to and canvassed three [3] salient issues for consideration by the court. Firstly, the Objector/Applicant has submitted that the Plaintiff/Decree Holder herein retained and instructed a nominated auctioneer with a view to executing the warrants of attachment and sale issued by this court.
9. Pursuant to the warrants of attachment and sale, it has been contended that the nominated auctioneer proceeded to and proclaimed the movable properties belonging to the Objector/Applicant. In this regard, learned counsel for the Applicant has contended that the impugned proclamation is therefore wrongful and illegal, insofar as the Objector/ Applicant herein was not a party to the instant proceedings.
10. Secondly, learned counsel for the Applicant has submitted that the movable properties which were proclaimed by the nominated auctioneer belong to the Objector/Applicant. In this regard, it has been contended that the said goods were therefore not available for execution/attachment because the Objector/Applicant was not a party to the instant suit.



11. Thirdly, learned counsel for the Objector/Applicant has submitted that the goods which have been proclaimed were proclaimed at the offices of the Objector/Applicant. In any event, it has been contended that the 1st Defendant/Judgment Debtor does not have any offices situate within the subject property.
12. Additionally, it was submitted that though the 1st Defendant was the developer of the housing unit known as Muthaiga Heights Apartment, situated along 5th Parklands Avenue, the Apartments were thereafter sold to various individuals. Furthermore, it has been posited that upon the sale of the apartments, the owners of the apartments incorporated the Objector/Applicant to run the affairs of the property.
13. In support of the contention that the Objector/Applicant has demonstrated and established that same [Objector/Applicant] is the owner of the proclaimed goods, learned counsel for the Objector/Applicant has cited and referenced various decisions including *Stephene Kiprotich Koech v Edwin K Barchilei*; *Joel Sitienei [Objector] [2019]eKLR* and *Pricast Potal Structures v Kenya Pencil Company Ltd & 2 Others [1993]eKLR*, respectively.
14. Arising from the foregoing submissions, learned counsel for the Objector/Applicant has invited the court to find and hold that the Objector/Applicant has established and demonstrated that same is the lawful owner of the proclaimed goods. In this regard, the court has been invited to proceed and allow the application.

b. Respondent's Submissions:

15. The Respondent filed written submissions dated the 29th October 2024; and wherein the Respondent has adopted and reiterated the contents of the replying affidavit sworn/notarized on the 11th October 2024. In addition, the Respondent herein has highlighted and canvassed three[3] salient issues for consideration.
16. First and foremost, learned counsel for the Respondent has submitted that the Objector/Applicant was obligated to tender and place before the court credible evidence to establish that same is either the legal owner or beneficial owner of the proclaimed goods. However, it has been posited that the Objector/Applicant has failed to demonstrate ownership of the proclaimed goods.
17. At any rate, learned counsel for the Respondent has submitted that the burden of proof laid on the shoulders of the Objector/Applicant. In this regard, learned counsel for the Respondent has cited and referenced various decisions including *Pricast Potal Structures v Kenya Pencil Company Ltd & 2 Others [1993]eKLR*, *Electroalwatts Ltd v Country Side Suppliers Ltd & Another*; *Mary W Kamau [Objector] [2021]eKLR* and *Arun C Sharma v Ashana Raikundalia T/a A. Raikundalia & Co Advocates & 4 Others [2014]eKLR*.
18. Secondly, learned counsel for the Respondent has submitted that the Respondent herein took out/extracted summons to enter appearance and related court processes which were thereafter served on the 1st Defendant at the same offices wherein the proclamation was undertaken.
19. To the extent that the summons to enter appearance and related court processes were served at [sic] the same offices where goods were proclaimed, learned counsel for the Respondent has submitted that the proclaimed goods therefore belong to and are the properties of the 1st Defendant.
20. Additionally, learned counsel for the Respondent has submitted that the contents of the affidavit of service, namely, annexure AW2 attached to the replying affidavit, has not been controverted. In this



regard, learned counsel for the Respondent invited the court to draw appropriate inference taking into account the provisions of Section 120 of the *Evidence Act*, Chapter 80 Laws of Kenya.

21. Finally, learned counsel for the Respondent has submitted that the instant application is a calculated scheme and/or ploy by the Objector/Applicant in connivance with the 1st Defendant/Judgment debtor to defeat the realization of the fruits of the judgment and decree of the court. In this respect, learned counsel for the Respondent has invited the court to find and hold that the application has been informed by ulterior motives.
22. Flowing from the foregoing submissions, learned counsel for the Respondent has implored the court to find and hold that the application beforehand is not only misconceived but devoid of merits.
23. In the circumstances, the court has been invited to dismiss the application.

Issues for Determination:

24. Having reviewed the application beforehand and the response thereto and upon consideration of the written submissions filed by and on behalf of the respective parties, the following issues do arise and are thus worthy of determination;
 - i. Whether the Objection proceedings and in particular the application dated the 30th September 2024 is legally competent or otherwise.
 - ii. Whether the Objector/Applicant has established or demonstrated legal or equitable rights to the proclaimed goods or otherwise.

Analysis and Determination

Issue Number 1

Whether the Objection proceedings and in particular the application dated the 30th September 2024 is legally competent or otherwise.

25. The Objector/Applicant herein contends that the Plaintiff/Decree Holder instructed and/or retained a nominated auctioneer with instructions to execute the warrant of attachment and sale which were issued in respect of the instant matter. Furthermore, the Objector/Applicant has contended that upon receipt of the warrant of attachment and sale, the nominated auctioneer proceeded to and proclaimed goods belonging to herself [Objector/Applicant].
26. To the extent that the Objector/Applicant was not a party to the instant suit, same [Objector/Applicant] proceeded to and instructed her advocates to lodge the instant objection proceedings. Pertinently, the Objector/Applicant contends that the proclaimed goods belong to her.
27. Insofar as the objection proceedings are regulated by the provisions of inter-alia Order 22 Rule 51 of the Civil Procedure Rules, 2010; is important to cite and reproduce the said provisions.
28. For ease of appreciation, the said provisions are reproduced as hereunder;
[Order 22, rule 51.] Objection to attachment.
- 51.

- (1) any person claiming to be entitled to or to have a legal or equitable interest in the whole or of part of any property attached in execution of a decree may at any time prior to payment out of the proceeds of sale of such property give notice in writing to the court



and to all the parties and to the decree-holder of his objection to the attachment of such property.

- (2) Such notice shall be accompanied by an application supported by affidavit and shall set out in brief the nature of the claim which such objector or person makes to the whole or portion of the property attached.
- (3) Such notice of objection and application shall be served within seven days from the date of filing on all the parties.

29. The foregoing provisions which underpin the lodgement of the objection proceedings are explicit and crystal clear. Instructively, any person, the Objector/Applicant herein not excepted, who is keen to mount objection proceedings is called upon to issue/give a notice in writing to the court and to all the parties and to the Decree Holder.
30. My reading of the said provisions drives me to the conclusion that it was incumbent upon the Objector/Applicant herein to give/issue the notice of objection to all the parties including the Judgment Debtor. For good measure, the requirement that the notice of objection be given/issued to all the parties, including the Judgment Debtor is to avert a scenario where there is connivance and/or collusion between the objector and the Judgment Debtor to defeat/ obstruct the lawful court process.
31. Nevertheless, in respect of the instant matter there is no gainsaying that the notice of objection dated the 30th September 2024 was neither given to nor served upon the 1st Defendant/Judgment Debtor. For good measure, there is no indication shown at the foot of the notice of Objection that same [notice of objection] was ever intended to be served on the 1st Defendant/Judgment Debtor.
32. Additionally, it is also not lost on this court that the application for objection proceedings dated the 30th September 2024, was equally not served upon the 1st Defendant/Judgment debtor. At any rate, there is no gainsaying that if same [application] was intended to be served upon the 1st Defendant/Judgment Debtor, such indication would have been adverted to at the foot of the application.
33. To my mind, the requirement that the notice of objection and by extension the objection proceedings be served on all the parties, the Judgment Debtor, was for a good cause. In any event, the requirement to serve all parties is clearly captured and underscored at the foot of Order 22 Rule 51[1] of the civil Procedure Rules, 2010.
34. To the extent that it was a requirement that all parties be served with the notice of objection and by extension the application, it was therefore incumbent upon the Objector/Applicant to comply. Nevertheless, if there was any difficulty in complying with the provisions of the law, then it behoved the Objector/Applicant to account for such failure or explain the default.
35. Be that as it may, the Objector/Applicant herein not only failed to comply with the peremptory provisions of Order 22 rule 51[1] of the Civil procedure Rules, 2010, but also failed to account for the neglect. In this regard, what then comes to the fore is that the failure to comply with and/or abide by the said provisions was not only intentional but deliberate. No wonder the Plaintiff/ Respondent has contended that the instant application is a ploy by the Objector and the Judgment Debtor to defeat and/ or delay the Execution of the Decree of the Court.
36. The question that then does arise is whether the default under reference impacts upon the validity and propriety of the objection proceedings. In this regard, it is my humble albeit considered view that the intendment of the law was that all the parties were to be served and for good measure.



37. To the extent that the provisions of Order 22 Rule 51[1] of the Civil Procedure Rules 2010 were neither adhered to nor complied with, it is my finding and holding that the failure in question negates and invalidates the objection proceedings. Suffice it to underscore, that the rules of procedure were not made in vain and hence same cannot be disregarded with licentious abandon.
38. To underscore the foregoing exposition of the law, I beg to cite and reference the holding of the Supreme Court of Kenya in the case of *Mwicigi & 14 others versus Independent Electoral and Boundaries Commission & 5 others (Petition 1 of 2015)* [2016] KESC 2 (KLR) (Election Petitions) (26 April 2016) (Judgment), where the court stated thus;
65. This court has on a number of occasions remarked upon the importance of rules of procedure, in the conduct of litigation. In many cases, procedure is so closely intertwined with the substance of a case, that it befits not the attribute of mere technicality. The conventional wisdom, indeed, is that procedure is the handmaiden of justice. Where a procedural motion bears the very ingredients of just determination, and yet it is overlooked by a litigant, the court would not hesitate to declare the attendant pleadings incompetent.
39. The importance of rules of procedure and the necessity to comply with same was also underscored by the Supreme Court of Kenya in the case of *Patricia Cherotich Sawe v Independent Electoral & Boundaries Commission(IEBC), United Republican Party(URP), Rose Kisama, Naum Chelagat & Cheruiyot Maritim (Petition 8 of 2014)* [2015] KESC 7 (KLR) (Civ) (22 July 2015) (Ruling), where the court stated thus;
- (31) Although the appellant involves the principal 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.
40. On the other hand, the Court of Appeal has also added its voice to the necessity to comply with rules of procedure. In this regard, it is imperative to cite and reference the holding in the case of *Kakuta Maimai Hamisi v Peris Pesi Tobiko, Independent Electoral and Boundary Commission (IEBC) & Returning Officer Kajiado East Constituency (Civil Appeal 154 of 2013)* [2013] KECA 279 (KLR) (Civ) (8 August 2013) (Judgment), where the court held as hereunder;

A five judge bench of this Court expressed itself very succinctly but a few days ago on this precise point is the case of *MUMO MATEMU Vs. TRUSTED SOCIETY OF HUMAN RIGHTS ALLIANCE & 5 OTHERS Civil Appeal No. 290 of 2012* as follows;

“In our view it is a misconception to claim, as it has been in recent times with increased frequency, that compliance with rules of procedure is antithetical to Article 159 of *the Constitution* and the overriding objective principle under Section 1A and 1B of the *Civil Procedure Act* (Cap 21) and Section 3A and 3B of the *Appellate Jurisdiction Act* (Cap 9). Procedure is also a handmaiden of just determination of cases.”

41. Flowing from the foregoing analysis, my answer to issue number one [1] is twofold. Firstly, it was incumbent upon the Objector/Applicant to comply with and adhere with the preemptory provisions of Order 22 Rule 51[1] of the Civil Procedure Rules, 2010. In any event, where there was a difficulty to comply with the said rules then it behoved the Applicant to account for such difficulty and/or explain the failure.



42. Secondly, it is my finding that the failure to comply with and/or abide by the peremptory provisions of Order 22 Rule 51[1] of the Civil Procedure Rules negates and/or invalidates the Objection proceedings beforehand.

Issue Number 2

Whether the Objector/Applicant has established or demonstrated legal or equitable rights to the proclaimed goods or otherwise.

43. Other than the finding that the objection proceedings beforehand are premature and thus invalid, there is the critical question of whether or not the Objector/Applicant has established that same [Objector/Applicant] has legal or beneficial interests over the proclaimed properties.
44. To start with, it is the Objector/Applicant who has approached the court contending that the proclaimed goods lawfully belong to her. In this regard, there is no gainsaying that the Objector/Applicant therefore bore the burden/obligation to place before the court plausible evidence to demonstrate her rights or interests in respect of the proclaimed goods.
45. Put differently, it is the Objector/Applicant who made the assertion that the proclaimed goods belong to her. In this regard, the burden of proof was therefore cast upon the Objector/Applicant to prove her claim on a preponderance of probabilities. [See Sections 107, 108 and 109 of the *Evidence Act*, Chapter 80 Laws of Kenya].
46. To the extent that the burden of proof laid on the shoulders of the Objector/Applicant, it is now apposite to take cognizance of the totality of the averments [evidence] placed before the court and thereafter to discern whether or not the Objector/Applicant has met/satisfied the requisite threshold.
47. Suffice it to point out that the Objector/Applicant herein has posited at the foot of paragraphs 9 and 10 of the supporting affidavits that the Judgment Debtor does not own the goods set out in the proclamation. In addition, the Objector/Applicant has contended that the nominated auctioneer has wrongfully proclaimed the goods belonging to the Objector.
48. Beyond the foregoing averments, the Objector/Applicant did not find it fit and/or expedient to tender and/or place before the court any scintilla of evidence, whether a receipt denoting purchase, sale agreement [if any] or the warranties [which ordinarily accompany electronic gadgets]. Instructively, the Objector/Applicant herein has simply thrown onto the face of the court omnibus averments/allegations, devoid of any evidential anchorage.
49. In my humble view, the person chargeable with the burden of proof is called upon to walk the extra mile and place before the court plausible and cogent evidence to underpin the assertion before the court. It is not enough for an Applicant to throw on the face of court averments and thereafter imagine that a court of law would take the omnibus averments as golden truth.
50. In my humble view, the Objector/Applicant was chargeable with both the evidential and legal burden. Whereas the evidential burden would shift upon placement of plausible evidence before the court, the legal burden remains static and cast upon the Applicant.
51. In respect of the instant matter, I am afraid that the Objector/Applicant did not discharge the evidential burden of proof pertaining to ownership of the proclaimed goods. Having not discharged the initial burden, the Plaintiff/ Decree Holder was therefore not called upon to rebut any averments.
52. To underscore, the obligation of the Objector/Applicant to discharge the evidential proof in the first instance, it suffices to cite and reference the holding of the Supreme Court of Kenya in the case of



Gwer & 5 others v Kenya Medical Research Institute & 3 others (Petition 12 of 2019) [2020] KESC 66 (KLR) (Civ) (10 January 2020) (Judgment), where the court held thus;

49. Section 108 of the *Evidence Act* provides that, “the burden of proof in a suit or procedure lies on that person who would fail if no evidence at all were given on either side;” and section 109 of the Act declares that, “the burden of proof as to any particular fact lies on the person who wishes the court to believe in its existence, unless it is provided by any law that the proof of that fact shall lie on any particular person.”
50. This Court in *Raila Odinga & others v Independent Electoral & Boundaries Commission & others, Petition No 5 of 2013*, restated the basic rule on the shifting of the evidential burden, in these terms:...a petitioner should be under obligation to discharge the initial burden of proof before the Respondents are invited to bear the evidential burden....”
51. In the foregoing context, it is clear to us that the petitioners, in the instant case, bore the overriding obligation to lay substantial material before the Court, in discharge of the evidential burden establishing their treatment at the hands of 1st respondent as unconstitutional. Only with this threshold transcended, would the burden fall to 1st respondent to prove the contrary. In the light of the turn of events at both of the Superior Courts below, it is clear to us that, by no means, did the burden of proof shift to 1st respondent.
53. The question of burden of proof and on whom same lies was also elaborated by the Court of Appeal in the case of *Agnes Nyambura Munga (suing as the Executrix of the Estate of the late William Earl Nelson) v Lita Violet Shepard (sued in her capacity as the Executrix of the Estate of the Late Bryan Walter Shepard)* [2018] eKLR, where the court held thus;

The burden of proving the existence of any fact lies with the person who makes the assertion. That much is clear from Sections 107 and 109 of the *Evidence Act*. The standard of proof is on a balance of probabilities which Lord Denning in the case of *Miller vs Minister of Pensions (1947)* ALL ER explained as follows:-

“That degree is well settled. It must carry a reasonable degree of probability, but not so high as is required in a criminal case. If the evidence is such that the tribunal can say: ‘We think it more probable than not’, the burden is discharged, but, if the probabilities are equal, it is not. Thus, proof on a balance or preponderance of probabilities means a win, however narrow. A draw is not enough. So, in any case in which the tribunal cannot decide one way or the other which evidence to accept, where both parties’ explanations are equally (un)convincing, the party bearing the burden of proof will lose, because the requisite standard will not have been attained.”

See *D. T. Dobie & Company (K) Ltd vs Wanyonyi Wafula Chebukati* [2014] eKLR.

54. Notwithstanding the foregoing, the Objector/Applicant herein has taken an interesting position. Suffice it to underscore that at the foot of her submissions learned counsel for the Objector has posited that it was the Plaintiff who was chargeable with the obligation of proving that the goods do not belong to the Objector.



55. For ease of appreciation, it is imperative to reproduce the pertinent segments of the Objector's submissions. To this end, the aspect under reference is reproduced as hereunder;

The Plaintiff has not disputed and/or controverted the established fact that the objector operates an office at the premises and is the legal and/beneficial owner of the goods subject of the impugned proclamation. The Plaintiff has not demonstrated any nexus between the Defendants/judgement debtors, the Objector and goods to warrant the proclamation against the said goods.

56. In my humble view, the foregoing position taken and espoused by learned counsel for the Objector/Applicant is un-orthodox. Instructively, the legal position has always been and remains that he who asserts proves. It is not the reverse.

57. In this regard, it suffices to take cognizance of the holding of the court of appeal in the case of *Daniel Toroitich Arap Moi v Mwangi Stephen Muriithi & Raymark Limited (Civil Appeal 240 of 2011)* [2014] KECA 642 (KLR) (Civ) (9 May 2014) (Judgment), where the court held as hereunder;

With respect, that was entirely a wrong approach to this case and the entire practice of civil litigation. Whether or not the appellant had not denied the facts by affidavit or defence, when the 1st respondent came to court, he was bound by law and practice to lay the evidence to support existence of the facts he pleaded. That is what we understand Section 108 of the *Evidence Act* to be demanding of a party like the 1st respondent that:

“The burden of proof in a suit or proceedings lies on that person who would fail if no evidence at all were given on either side.”

58. Furthermore, the Court of Appeal ventured forward and stated thus;

It is a firmly settled procedure that even where a defendant has not denied the claim by filing of defence or an affidavit or even where the defendant did not appear, formal proof proceedings are conducted. The claimant lays on the table evidence of facts contended against the defendant. And the trial court has a duty to examine that evidence to satisfy itself that indeed the claim has been proved. If the evidence falls short of the required standard of proof, the claim is and must be dismissed.

The standard of proof in a civil case, on a balance of probabilities, does not change even in the absence of a rebuttal by the other side.

59. I have said enough to demonstrate that the Objector/Applicant did not discharge the burden of proof. For good measure, it is the Objector who stated that same is the legal owner of the proclaimed goods. In this respect, the obligation was cast upon same [Objector/Applicant] to demonstrate ownership.

60. For the avoidance of doubt, the obligation to demonstrate and prove ownership remains even where the Plaintiff/Respondent did not tender any evidence. Nevertheless, in respect of the instant matter the Plaintiff/Respondent tendered evidence vide replying affidavit and indeed contended that the proclaimed goods were proclaimed at the offices where the 1st Defendant/Judgment Debtor was served with court processes.

61. In a nutshell, my answer to issue number two [2] is to the effect that the Objector/Applicant has failed to discharge the burden of proof. Suffice to posit that in this case, the averments/allegations contained at the foot of the application remain unsubstantiated.



Final Disposition:

62. Flowing from the discussion highlighted in the body of the ruling herein, it must have become apparent that the Objector/Applicant did not comply with the law regulating the lodgement of proceedings. Furthermore, the Objector/Applicant has also not demonstrated any legal or equitable interests that same [objector] has in respect of the proclaimed goods.
63. Consequently and in the premises, the application dated the 30th September 2024; is devoid of merits. In this regard, same be and is hereby dismissed with costs to the Plaintiff/Respondent.
64. it is so ordered.

DATED, SIGNED AND DELIVERED AT NAIROBI THIS 14TH DAY OF NOVEMBER 2024.

OGUTTU MBOYA.

JUDGE.

In the Presence of:

Benson - Court Assistant.

Mr. Macharia for the Objector/Applicant.

Mr. Hans Oichoe for the Plaintiff/Respondent/Decree Holder.

Mr. Ochieng h/b for Mr. Charlse Agwara for the 1st Defendant/Respondent.

