

UGANDA / JUDGMENT

Omuut and Others v Okello (Miscellaneous Application 3 of 2022) [2023] UGHCCD 167 (6 June 2023) [2023] UGHCCD 167

COURT

HC: Civil Division (Uganda)

BEFORE

Adonyo, J

CASE / FILE NUMBER

Miscellaneous Application 3 of 2022

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The Republic of Uganda In the High Court of Uganda Holden at Soroti Miscellaneous Application No. 03 of 2022

(Arising from Civil Suit No. 015 of 2018 of the Chief Magistrate's Court of Kumi at Bukedea)

1. Omuut Julius (suing as a beneficiary of the estate of Opio John) 10
- 2. Okiria Simon
- 3. Oboi Michael
- 4. Ikongel Silver
5. Ikoot
6. Achom Dinah Rose 15

<pre>.....

Versus

<table>

Okello Lambert Francis :.....

Before: Hon. Justice Dr Henry Peter Adonyo

Ruling

1. Introduction:

This application was brought by way of a Notice of Motion under Sections 83 and 98 of the Civil Procedure Act, Cap 71, Section 17 of the Judicature Act, Cap 13, 25 and Order 52 Rules 1 and 3 of the Civil Procedure Rules SI 71-1 for orders that;

- a) The trial magistrate grade one, Her Worship Kimono Juliana exercised jurisdiction not vested in her in law when she transferred a file to the Assistant Registrar, High Court at Soroti, in which she lacked original jurisdiction.
- b) The trial magistrate failed to exercise a jurisdiction so vested in the same court when she declined to make a ruling on the preliminary objections raised by the applicants.
- c) The trial magistrate acted in the exercise of her jurisdiction illegally or with material irregularity or injustice as the transfer of the file to the High Court was intended to override the applicants' six preliminary objections, which had a direct possibility of dismissal of the respondent's suit before the same court.
- d) This court makes a finding on the six preliminary objections raised by the applicants and have the said suit dismissed with costs.
- e) Costs of this application be granted.

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The 1st applicant, with consent and authority of the other applicants, deposed a $\$$ supporting affidavit with the following grounds upon which the application is based, that;

- a) My late father, together with the 2nd - 6th applicants, was sued by the respondent vide Civil Suit No. 015 of 2018 of the Chief Magistrate's Court of Kumi at Bukedea.
- b) The trial magistrate illegally exercised jurisdiction not vested in her when she transferred the case file to the Assistant Registrar High Court Soroti as the Court lacked original jurisdiction since it involved land approximated at 50 acres worth UGX 250,000,000.
- c) The respondent's Letters of Administration are invalid for want of grant of

- jurisdiction. d) The respondent misled the court when he approximated the suit land at 50 acres and deliberately declined to state the monetary value as required by the law, yet in his petition for letters of administration, the respondent estimated the value of the estate which composed a semi-permanent house and land at Kocus, Kanipa village to be UGX 40,000,000.
- e) The trial magistrate caused grave injustice to the applicants when she failed to make a ruling on the six preliminary objections that were raised by the applicants before the same Honourable Court.
- f) The transfer of the file was, by law, illegal as it was intended to override the applicants' six preliminary objections, which would have warranted instant dismissal of the respondent's suit before the same court.
- g) This application has been brought without any delay, and no hardship shall be caused by granting the orders sought by the applicants.

On the other hand, the respondent, in reply, opposed the application, that; 30

- a) Paragraphs 7,8, and 9 of the supporting affidavit contains matters of the law, and the same should be struck off, and the main suit be heard on its merits since the matter is for defence hearing.
- b) the applicants have unlawfully lived on the suit land, with all efforts to have them vacate or leave the suit land being fruitless and futile after my father, the late Adengo Simon Peter, pursued justice in different authorities like the Local Council II of Kocus Parish where the late Opio was summoned, and he arrogantly refused to appear which decided in favour of my father.
- c) My late father Adengo left behind land measuring approximately 50 acres in Kocus and 50 acres in Kanyipa village, all of which is spelt out in the letters of administration during the process of applying for it in 2017 having also valued at that time at the same price.

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- d) The letters of administration dated 20th April 2018 are valid, duly granted and not yet revoked in any competent court. Civil Suit No. 15 of 2018 should have been determined on its merits rather than raising unnecessary objections that will deny the respondent justice after my witness, and I have testified in court.
- 2. Representation: 10

According to the pleadings, the applicants were represented by M/s Odokel Opolot and Company Advocates, while M/s Legal Aid Project Soroti represented the respondent.

The parties filed written submissions in support of their respective cases. I will not reproduce the submissions. Hitherto, I have studied and comprehended the same in determining the issues in the instant application.

3. Issues

The applicants' counsel formulated the issues below in the submissions, and the same has been adopted by the court for resolution of the dispute.

- a) Whether this is a proper case for revision?
- b) Whether the trial magistrate grade 1 exercised jurisdiction not vested in her in law when she transferred a file in which the court lacked original jurisdiction?
- c) Whether the trial magistrate failed to exercise a jurisdiction so vested in the same court when she declined to make a ruling on the preliminary objections raised?
- d) Whether the preliminary objections raised by the applicants before the Magistrate were valid?
- e) Whether there are any remedies available to the applicant in the circumstances?
- 4. Resolution:

This application was brought under Section 83 of the Civil Procedure Act, Cap 71, which provides for revision. It states that;

The High Court may call for the record of any case which has been determined 35 under this Act by any magistrate's court, and if that court appears to have—

- a. exercised a jurisdiction not vested in it in law;
- b. failed to exercise a jurisdiction so vested; or
- c. acted in the exercise of its jurisdiction illegally or with material irregularity or injustice,

the High Court may revise the case and may make such order in it as it thinks fit, but no such power of revision shall be exercised—

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- d. unless the parties shall first be given the opportunity of being heard; \$or\$
- e. where, from lapse of time or other cause, the exercise of that power would involve serious hardship to any person.
- The application was further brought under Section 98 of the Civil Procedure Act, 10 Cap 71, which provides for the inherent powers of the court, but states that;

Nothing in this Act shall be deemed to limit or otherwise affect the inherent power of the court to make such orders as may be necessary for the ends of justice or to prevent abuse of the process of the court.

The applicant also cited Section 17 of the Judicature Act, Cap 13, which provides for the supervision of magistrates' courts. It provides that;

- 1) The High Court shall exercise general powers of supervision over magistrates' courts.
- 2) With regard to its own procedures and those of the Magistrates' Courts, the High Court shall exercise its inherent powers
 - a. to prevent abuse of the process of the court by curtailing delays, in trials and delivery of judgement, including the power to limit and discontinue delayed prosecutions;
 - b. to make orders for expeditious trials;
 - c. to ensure that substantive justice shall be administered without undue regard to technicalities.
- 30

a. Whether this is a proper case for revision?

In resolving this application, I will consider issues 1, 2 and 3 concurrently. The respondent's counsel submits that the instant case is not a proper case for revision per se because Section 83 of the Civil Procedure Act is concerned with the High Court examining the record of cases that have been determined and yet in the instant case, the matter was due for the defendant's case which implies that it is still under consideration.

The question for this court to determine is what aspects of the record bear the fact of the lower court exercising its jurisdiction illegally, or with material irregularity or injustice.

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- Upon perusal of the record of the lower court, it my finding that the matter $\$S$ before the court arose out of preliminary points of law raised by the defendants, among which was one on the issue of pecuniary jurisdiction. In the words of the trial Magistrate, the same is stated thus;
- "Court notes that the matter before the court is in advanced stages. The plaintiff closed its case. The defendants' side is meant to begin its defence. The preliminary objections point to several issues, including the pecuniary jurisdiction of the court to hear this case. The first fault on the plaintiff's side is that the case was filed in 2018. There was no disclosure of the subject matter. Disclosure of the subject matter helps identify or determine the pecuniary jurisdiction and court fees payable. It is rather difficult for the court to determine the value of the subject matter such that the pecuniary jurisdiction can be determined. Rather than blindly determine the pecuniary jurisdiction, the court hereby forwards the court file to the High Court Judge for further management."

Arising from the above finding, the trial magistrate urged the parties to follow up on their case at the High Court and even followed up the said advice above with a letter dated 22nd September, 2022 forwarding the head file in Civil Suit No.015 of 2018 to the High Court for further management.

Black's Law Dictionary (9th Edition) defines revision as "a re-examination or careful review for correction or improvement or an altered version of work".

- The parameters for the High Court to properly apply in its revisional jurisdiction 30 are set out under Section 83 of the Civil Procedure Act already indicated above with the pertinent provisions being Section 83 (a) and (b) of the Civil Procedure Act which provides that;
- The High Court may call for the record of any case which has been determined 35 under this Act by any magistrate's court, and if that court appears to have
- exercised a jurisdiction not vested in it in law; a.
- failed to exercise a jurisdiction so vested; or b.
- the High Court may revise the case and may make such order in it as it thinks fit, 40 but no such power of revision shall be exercised
- unless the parties shall first be given the opportunity of being heard; or C.

where, from lapse of time or other cause, the exercise of that power would \$d.\$ \$ \mathsf{S}\$ involve serious hardship to any person.

The issue which arise here is whether the trial magistrate had the jurisdiction to forward a case file in respect of Civil No. 015 of 2018 to the High Court.

My perusal of the lower court record show that the lens used by trial magistrate 10 in coming up with the advice as he did above was that in regard to pecuniary jurisdiction.

As is the case, pecuniary jurisdiction can only be exercised if granted by the law and once such issue arises before any lower trial court having a deficiency of jurisdiction, it is proper for such a court to stop all proceedings and forward the

15 same to the High Court for its action as the issue of jurisdiction is amenable to revision by the High Court under its supervisory powers when brought to its attention.

Accordingly, I would find that Section 83 of the Civil Procedure Act is applicable to the instant matter making the instant miscellaneous cause before this court a proper case before this court.

This court was moved in this instant application to call for the lower court's file and examine whether or not;

- a) the trial magistrate grade 1 exercised jurisdiction not vested in her in law when she transferred a file in which the court lacked original jurisdiction?

- b) the trial magistrate failed to exercise a jurisdiction so vested in the same court when she declined to make a ruling on the preliminary objections raised?
- c) the preliminary objections raised by the applicants before the Magistrate were valid?

In the case of *Mabalaganya v. Sanga* [2005] E. A 152, it was held that in cases where High Court exercises its revisional powers, its duty entails the examination of the record of any proceedings before it for the purpose of satisfying itself as to the correctness, legality or propriety of any finding, order or any other decision and the regularity of any proceedings before the High court.

35 While it is true that the High Court has the power to make revisional orders according to the case of *Peter Mugoya versus James Gidudu and Mukabani Namonye* (1991) HCB 63, it is also true that the High Court may revise any order which would otherwise be appealed from as was pointed out in *Kyeswa v Sebunya* [1993] II KALR 26. 40

- On Whether the trial magistrate grade 1 exercised jurisdiction not vested in her $\$ \backslash \text{mathsf{S}} \$$ in law when she transferred a file in which the court lacked original jurisdiction, the applicant, in his supporting affidavit, avers that the trial magistrate illegally exercised jurisdiction not vested in her when she transferred the case file vide Civil Suit No. 015 of 2018 of the Chief Magistrate's Court of Kumi at Bukedea to the Assistant Registrar High Court Soroti yet the said court lacked original 10
- jurisdiction since it involved land approximated at 50 acres worth UGX 250,000,000. In his submissions, the applicants' counsel stated contends that the same has not been specifically rebutted by the respondent apart from making an evasive denial in paragraph 4 of his reply opposing this application.

Counsel for the applicant cited the case of *Prof. Oloka Onyango & Ors Vs Attorney* 15 General Constitutional Petition No. 8 of 2014 [2014] UGSC 14 for the position that: "Failure to rebut a fact specifically traversed in an affidavit amounts to an admission of that fact..."

- On the other hand, the respondent, in his affidavit in reply, avers that his late 20 father Adengo left behind land measuring approximately 50 acres in Kocus and 50 acres in Kanyipa village, all of which is spelt out in the letters of administration during the process of applying for it in 2017 having also valued at that time at the same price.
- Counsel for the respondent contends that after perusal of the plaint, he has 25 discerned that the issue presented for consideration was trespass. Counsel asserts that no pecuniary value of the trespass was stated in the plaint, and thus it would be erroneous and over-assuming to hold that it exceeded UGX 20,000,000. In making this assertion counsel cited the case of *Musisi Gabriel*
- versus *Edco Ltd & Anor* H. C. C. A. No. 52 of 2010 for this position for it was held in 30 that case that it was "...not possible to put a pecuniary value on a cause of action founded in trespass."

I do agree with the applicants' counsel to cited the case of Umar Asuman versus Olila Moses HCCR No. 1 of 2006 for the position that;

"jurisdiction of Courts is a creature of statute, and a judicial officer worth the name must keep abreast with developments in our laws and ensure jurisdiction. It is trite law that where a suit is filed in a Court without jurisdiction, it is a non-existent suit. Whatever is decided in such a suit amounts to no decision."

- The above is so because Section 207 of the Magistrates' Courts Act, Cap 16 S provides for the civil jurisdiction of magistrates' courts and it states that;
- 1. Subject to this section and any other written law, the jurisdiction of magistrates presiding over magistrate's courts for the trial and determination of causes and matters of a civil nature shall be as follows—
 - (a) a chief magistrate shall have jurisdiction where the value of the subject matter in dispute does not exceed fifty million shillings and shall have unlimited jurisdiction in disputes relating to conversion, damage to property or trespass;
 - (b) a magistrate grade 1 shall have jurisdiction where the value of the subject matter does not exceed twenty million shillings;
- 2. Notwithstanding subsection (1), where the cause or matter of a civil nature is governed only by civil customary law, the jurisdiction of a chief magistrate and a magistrate grade I shall be unlimited.
- 3. Whenever for the purposes of jurisdiction or court fees, it is necessary to estimate the value of the subject matter of a suit capable of a money valuation, the plaintiff shall in the pleadings, subject to any rules of court, fix the amount at which he or she values the subject matter of the suit; but if the court thinks the relief sought is wrongly valued, the court shall fix the value and return the pleadings for amendment.
- 4. In any suit where it is impossible to estimate the subject matter at a money value in which, by reason of any finding or order of the court, a declaration of ownership of any money or property is made, no decree shall be issued for an amount on the claim exceeding the pecuniary limits of the ordinary jurisdiction of the court passing the decree.

From Section 207(1)(b) of the Magistrates Courts Act, a magistrate grade 1 has jurisdiction where the value of the subject matter does not exceed twenty million shillings.

On the other hand, Counsel for the respondent argued that the claim before the lower trial court was for trespass for which Section 207 (2) of the Magistrates Courts Act was applicable as it gives Magistrates grade 1 an unlimited jurisdiction with regard to disputes relating to a cause or matter governed only by civil customary law.

I would, with due respect, disagree with the assertion of counsel for the respondent in this respect for my reading of the pleadings at paragraph 3 of the 40 pleadings, it is stated that;

"The plaintiff's claim against the defendants is for trespass and recovery of land \$ \mathsf{S} measuring 50 acres..."

The above means that claim of the plaintiff/ respondent was not restricted to trespass alone but also to "recovery of land measuring 50 acres".

Upon further perusal of the plaint in the facts constituting the cause of action, \$10\$ the plaintiff lays out the fact that the 1st defendant without any colour of right was utilizing approximately 20 acres for cultivation and that he had sold different portions to the 2nd - 6th defendants who have built homes on part of the suit land. The fact that the plaintiff/respondent included the recovery of land and the

defendants' occupation of the land makes the suit before the lower trial court to 15 constitute a joint claim for recovery and trespass which thus required an approximation of its value, among others, for purposes of proper court fees and iurisdiction etc.

I have also perused the attached letters of administration dated 20th April 2018, which were granted on the basis of an application that lists the suit land at Kocus, 20 Bukedea district of 50 acres as being part of the late Adengo Simon Peter properties and this is the same suit land in dispute before the lower trial court. In the application for the letters of administration the approximate value of the estate of the late Adengo Simon Peter is shown at 40,000,000/=.

The applicant also avers that the suit land was approximately valued at UGX 25 250,000,000.

That averment is not controverted by the respondent and so as such it is my view and holding is that the suit land's value is admitted to be in excess of the pecuniary jurisdiction of the trial magistrate grade one whose jurisdiction is capped at 20,000,000 against the uncontested approximate value of suit land

which is UGX 250,000,000.

The respondent's counsel argued that under section 18 of the Civil Procedure Act, the High Court is empowered to transfer cases unto itself or to other subordinate courts.

Whereas I agree that that is the position of the law, it is my finding that section 35 18(1)(a) of the Civil Procedure Act is not applicable in the instant facts as the High Court's powers to transfer files are not in issue in this instant matter. The issue is herein being the forwarding/ transfer of the case file in Civil Suit No. 15 of 2018 from the trial magistrate to the Assistant Registrar in the High Court vide a letter

dated 22nd September 2022 for which the applicants' counsel quotes the case of 40 Kigenyi v. Musiramo [1968] EA 43 which I am in agreement with for the position \$ \mathsf{S} in that case is that;

> "An order for transfer of a suit cannot be made unless the suit had in the first instance been brought to a court which has jurisdiction to try it."

Also David Kabungu versus Zikabenga Omal versus Godfrey Obbo Ondhoro & Anor HCMA No.17 of 2013 it was observed that:

"A suit filed in a Court without jurisdiction cannot be transferred from that Court".

According to the above, it is evident that the trial magistrate lacked the jurisdiction to hear Civil Suit No. 15 of 2018, consequently, did not have jurisdiction to transfer the file in Civil Suit No. 15 of 2018 to the Assistant Registrar in the High Court vide letter dated 22nd September 2022 for further management.

- b. Whether the trial magistrate failed to exercise a jurisdiction so vested in the same court when she declined to make a ruling on the preliminary objections raised?

The applicant averred that the trial magistrate caused grave injustice to the applicants when she failed to make a ruling on the six preliminary objections that were raised by the applicants before the same Honourable Court. The preliminary objections are;

- a. The plaintiff's letters of administration were invalid for want of grant of iurisdiction.
- b. The plaintiff failed to state the mandatory estimated monetary value of the subject matter.
- c. The court lacked pecuniary jurisdiction
- d. The suit was res judicata
- e. The plaintiff's title of the suit was frivolous and vexatious disclosing no reasonable cause of action.
- f. The plaintiff's cause of action was statute barred.

In his submissions, counsel for the applicants reiterates the applicant's averments in the supporting affidavit and additionally contends that among the main 40 objections raised by the applicants was the issue of pecuniary jurisdiction of the trial Magistrate to hear and determine the said suit land involving 50 acres of suit

- land estimated by the applicants at the sum of Ug. Shs 250.000.000/= as stated $\$S$ in paragraph 6 of the affidavit in support of the motion. Counsel submits that having been seized with this objection, the trial Magistrate in the circumstances, ought to have resolved it immediately in a ruling. In conclusion, counsel for the applicants submits that the court be pleased to
- make a declaration that the trial magistrate failed to exercise the jurisdiction 10 vested in her court when she failed to resolve the preliminary objections in a ruling and dismiss the main suit with costs.

On the other hand, the respondent avers that Civil Suit No. 15 of 2018 should have been determined on its merits rather than raising unnecessary objections

that will deny the respondent justice after his witness, and himself have testified 15 in court.

Counsel for the respondent submits that a defendant who wishes to rely on points of law as a preliminary issue is required to set out such points of law in the written statement of defence before the issue is regarded as properly raised.

My finding, upon perusal of the court record, is that the preliminary objections 20 raised were the very reason that the trial magistrate forwarded the file to High Court for further management as the trial magistrate observed that;

> "Court notes that the matter before the court is in advanced stages. The plaintiff closed its case. The defendants side is meant to begin its defence. The preliminary objections point to several issues, including the pecuniary jurisdiction of the court to hear this case. The first fault on the plaintiff's side is that the case was filed in 2018. There was no disclosure of the subject matter. Disclosure of the subject matter helps identify or determine the pecuniary jurisdiction and court fees payable. It is rather difficult for the court to determine the value of the subject matter such that the pecuniary jurisdiction can be determined. Rather than blindly determine the pecuniary jurisdiction, the court hereby forwards the court file to the High Court Judge for further management."

It is trite that points of law can be raised at any stage of the proceedings, whether they were pleaded or not.

Further, it is trite that an illegality can be raised at any time before a court of law for it was held in the case of *Makula International Limited vs His Eminence Cardinal Nsubuga Wamala and Anor* (Civil Appeal No. 4 of 1981) [1982] UGSC 2 that;

"A court of law cannot sanction what is illegal, and illegality once brought to the attention of court overrides all questions of pleadings including any admission thereon."

A look at some of the preliminary objections includes one that the court lacked pecuniary jurisdiction. Indeed, if the court proceeded without determining such 10 a preliminary objection, and if later found that the court lacked pecuniary jurisdiction, all proceedings would have been rendered a nullity.

Consequently, I would agree with the counsel for the respondent that the position of the law is that jurisdiction is a matter of law, and at any point that it is brought to the attention of Court, it must be addressed. See: *Kintu v Nsubuga*

(Revision Cause No. 14 of 2016) [2018] UGHCCD 107. This is also the position in *Lilians V. Caltex Oil (Kenya Ltd)* [1986-1989] 305 CAK where it was held that:

"... it is reasonably plain that a question of jurisdiction ought to be raised at the earliest opportunity, and the court seized of the matter is then obliged to decide the issue right away on the material before it. Jurisdiction is everything."

It is my finding, therefore, that the trial magistrate faced with the preliminary 25 objections before her, especially the one on the jurisdiction, which is everything, ought to have determined them.

c. Whether the preliminary objections raised by the applicants before the *Magistrate were valid?*

The applicant wants this court to investigate the correctness of the decisions of the Grade One Magistrate of the Chief Magistrate's Court of Kumi at Bukedea vide Civil Suit No. 015 of 2018 as to whether she was able to exercise her jurisdiction in the terms cited fully. According to the case of *Eliazali Bameka vs* Dodovico Nviiri [1973] 1 ULR 134, the High Court can call for a record of any case of a lower Court if it appears that;

- a. A lower court failed to exercise a jurisdiction so vested in it; or
- b. It exercised jurisdiction not vested in it; or
- c. It acted irregularly or illegally
- Black's Law Dictionary (9th Edition) defines Revision as "a re-examination or careful review for correction or improvement or an altered version of work".

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- In the case of *Mabalaganya v. Sanga* [2005] E. A 152, it was held that in cases $\$S$ where High Court exercises its revisional powers, its duty entails the examination of the record of any proceedings before it for the purpose of satisfying itself as to the correctness, legality or propriety of any finding, order or any other decision and the regularity of any proceedings before the High court.
- In line with the holding in **Mabalaganya* (cited above)* at revision, the High Court is concerned with the correctness, legality or propriety of any finding, order or any other decision.

And so whereas this court is enjoined by Section 83 of the Civil Procedure Act to revise a case brought before it and make such order in it as it thinks fit, I would

decline to consider these preliminary objections as they can ably be dealt with by the trial magistrate to their full conclusion and determination and any issue arising therefrom may then be appealed.

- d. Issue No. 5: Whether there are any remedies available to the applicant in the circumstances?

- Since it is the finding of this court that; 20
- a) the trial magistrate grade 1 exercised jurisdiction not vested in her in law when she transferred a file in which the court lacked original jurisdiction;
- b) the trial magistrate failed to exercise a jurisdiction so vested in the same court when she declined to make a ruling on the preliminary objections raised.
- c) the preliminary objections raised by the applicants before the Magistrate should be handled by the trial magistrate to establish whether they are valid or not?
- This application is, therefore, allowed with costs against the respondent. 30
- 5. Conclusion:

The applicants prayed for orders that, and it is hereby declared that;

- a) The trial magistrate grade one, Her Worship Kimono Juliana exercised jurisdiction not vested in her in law when she transferred a file to the Assistant Registrar, High Court at Soroti, in which she lacked original
- jurisdiction.
- b) The trial magistrate failed to exercise a jurisdiction so vested in the same court when she declined to make a ruling on the preliminary objections raised by the applicants.
- c) Costs of this application are granted to the applicant.

These orders and declarations prayed for are not granted;

- As regards to the issue that the trial magistrate acted in the exercise of her $\mathcal{S}$ jurisdiction illegally or with material irregularity or injustice to transfer the alluded file to the High Court with an intention to override the applicants' six preliminary objections, I do find that this is a possibility or a lack of confidence by the magistrate in handing issues before her which should not be the case.
- Accordingly, I do direct that the head file be returned to the trial magistrate who should consider the preliminary objections raised by the applicants to establish whether they are valid or not and make appropriate decisions thereto.
- 6. Orders:
- Consequently, the following orders do issue; 15
 - a. Civil Suit No. 015 of 2018 is ordered sent back to the trial magistrate who is ordered to consider and make the findings thereto and/or determine the six preliminary objections raised by the applicants in line with my findings herein.
 - b. No order as to costs is awarded to any party since this matter was referred 20 to this court by the trial court

I so order.

Hon. Justice Dr Henry Peter Adonyo Judge 6th June 2023

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