



**Chemonges & another v Director of Criminal Investigation & 3 others (Petition E013 of 2023) [2024] KEHC 15024 (KLR) (29 November 2024) (Ruling)**

Neutral citation: [2024] KEHC 15024 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT ELDORET  
PETITION E013 OF 2023  
JRA WANANDA, J  
NOVEMBER 29, 2024**

**BETWEEN**

**MARTIN SIWA CHEMONGES ..... 1<sup>ST</sup> PETITIONER**

**ZEDKA TECHNICAL SERVICE LIMITED ..... 2<sup>ND</sup> PETITIONER**

**AND**

**DIRECTOR OF CRIMINAL INVESTIGATION ..... 1<sup>ST</sup> RESPONDENT**

**DIRECTOR OF PUBLIC PROSECUTION ..... 2<sup>ND</sup> RESPONDENT**

**INSPECTOR GENERAL OF POLICE ..... 3<sup>RD</sup> RESPONDENT**

**THE ATTORNEY GENERAL ..... 4<sup>TH</sup> RESPONDENT**

**RULING**

1. Before this Court for determination is the Notice of Motion dated 24/10/2023 and filed through Messrs C.D. Nyamweya & Co. Advocates. On the face thereof however, the Application does not disclose the identity of the Applicant is. Be that as it may, it seeks orders as follows:
  - a. [.....] spent
  - b. [.....] spent
  - c. The Applicant herein be enjoined as an Interested Party herein.
  - d. The Honourable Court do set aside the conservatory orders granted herein.
  - e. Costs of this application be provided for.
2. The Application is premised on the grounds stated on the face thereof and is supported by the Affidavit sworn by one Njeri Kamau who described herself as a director of Aspire Limited, whom she now mentioned as being the Applicant.



3. In the Affidavit, the deponent stated that on 23/10/2023, she and other witnesses attended before the Magistrate's Court as complainant and witnesses in Eldoret Chief Magistrate Criminal Case No. E3469 of 2021 in which the 1<sup>st</sup> Petitioner is the accused person, that they were ready for the hearing of the case but were surprised when Counsel for the 1<sup>st</sup> Petitioner informed the Magistrate that there was an order issued by this Court staying proceedings of the criminal case. She deponed that upon being supplied with the Court order, she instructed their Advocates to peruse the Court file herein and find out the status of this matter, that upon such perusal, the Advocate informed her that this Petition was filed way back in July 2023 and has been proceeding before this Court and that this Court had given the parties timelines to comply with directions. She added that upon perusal of the Petition, she noted that the Applicant was never enjoined in the Petition and that the criminal case has come up on several occasions in Court since July 2023 but the Petitioners have never brought the existence of this Petition to that Court's attention, a sign that the Petitioners are up to some mischief. She contended that also upon perusal of the Petition, she noticed that the interim orders granted to the Petitioners were issued upon concealment of material facts to the Court.
4. She further deponed that the Applicant is the registered owner of land parcel Eldoret Municipality/ Block 8/527, whose title was issued in its name on 11/12/2006, that the Applicant has the original title thereof in its possession and has all along been in possession of the property to date, and that the Applicant has never sold or alienated its title to the property to anyone. She contended further that the Petitioners fraudulently acquired a fake title to the property and sometimes in the January 2021, attempted to fence the property, that the Applicant, through its directors, made a report to the police who initiated investigations on how the Petitioners acquired the title, that the police found that the title held by the Petitioners was acquired fraudulently and the police recorded statements from all relevant witnesses and preferred charges against the 1<sup>st</sup> Petitioner in the said criminal case. She deponed that the Applicant and the said land parcel have been mentioned severally in this Petition but the Petitioners have cleverly chosen not to enjoin the Applicant as an Interested Party or a Respondent herein and that all this is calculated to conceal material facts from this Court which could have been provided to the Court by the complainant - the Applicant herein.

### **Petitioners' Replying Affidavit**

5. The Application is opposed vide the Replying Affidavit sworn by the 1<sup>st</sup> Petitioner, Martin Siwa Chemonges, and filed on 22/11/2023. He deponed that the Application does not disclose who the proposed Interested Party is and that therefore the Court cannot join a party who is unknown. He contended further that the said Njeri Kamau who has sworn the Supporting Affidavit has never had any dispute with the Petitioners as the suit, ELC Case No. 2 of 2021 is between Aspire Limited and the Land Registrar, nor has she ever been registered as proprietor of the said land parcel. He deponed further that even if Aspire Limited were to be named as the Interested Party, it only remained a witness in the said criminal case, and that it does not have any prosecutorial or investigatory powers in the case. According to him, for an Application of this nature to succeed, the Applicant has to demonstrate what prejudice he will suffer were the case to proceed in his absence which prejudice has not been demonstrated herein, that the Applicant also has to demonstrate an interest or a right that it intends to protect, and that the only interest that the unnamed Interested Party may have is that of a witness and which is not a right that this Court needs to protect. He contended that the Applicant has alluded to concealment of material facts, but other than assertions, such alleged concealed material facts have not been demonstrated or disclosed. He contended that it would therefore be futile for this Court to belabour the Application when the beneficiary of the orders sought is not known, and that although it is alluded that the Petitioners swore false statements to obtain the restraining orders, again, such false statements have not been disclosed.



### **Applicant's Further Affidavit**

6. In a rejoinder, the Applicant filed a Further Affidavit on 14/03/2024. The same was sworn by the same Njeri Kamau, who reiterated that Aspire Limited is the proprietor of the said land parcel, that the 1<sup>st</sup> Petitioner has been charged in the criminal case with forging title documents for the land parcel which is the subject of this Petition, that Aspire Limited made a complaint through its director, one Kamau Ng'ang'a, who is her co-director therein and that therefore she is not a stranger to these proceedings. She denied that she has no dispute with the Petitioners and reiterated that Aspire Limited, through its directors, is the complainant in the criminal case, and that it is therefore imperative that it be joined herein. She deponed further that Aspire Limited does not therefore need to have prosecutorial or investigative powers to be joined in this case, and that Aspire Limited being the owner of the land parcel whose title was forged by the Petitioners has a stake herein and will suffer prejudice if not so joined.

### **Hearing of the Application**

7. The Application was canvassed by way of written Submissions. Prosecution Counsel, Ms. Okok, acting for the 1<sup>st</sup> and 2<sup>nd</sup> Respondents, informed the Court that she is not opposed to the Application and would therefore not file Submissions. As for the 3<sup>rd</sup> and 4<sup>th</sup> Respondents, although there are Affidavits of Service on record indicating that service was effected upon them, they never appeared in Court or file any Submissions or participate in any way.
8. On their part, the Applicant filed its Submissions on 14/03/2024 while the Petitioners had filed theirs earlier on 6/03/2024.

### **Applicant's Submissions**

9. In respect to the question of the identity of the intended Interested Party and the claim that the Application does not disclose who the Applicant is, that the Court cannot join an unknown Applicant, and that even if Aspire Limited were to be named as the proposed Interested Party, it only remained a witness in the criminal case, Counsel for the Applicant submitted that in the Applicant's Supporting Affidavit, the deponent has stated that she is the "director of the Applicant, Aspire Limited", and that this statement is not disputed in the Replying Affidavit. Counsel appreciated that although perhaps an attachment of the CR12 Certificate would have served to dispel any doubt, he invoked Section 107, 108 and 109 of the Evidence Act under which, according to him, the burden of proof shifts to the Petitioners. He urged the Court to find the issue of the identity of the Interested Party to be as clear as day and night.
10. On joinder as an Interested Party, Counsel cited the definition given in "Black's Law Dictionary" and also the Supreme Court citation of the Mumo Matemu case in the latter case of Communications Commission of Kenya & 5 Others v Royal Media Services Limited & 5 Others [2014] eKLR. He then pointed out that the Applicant is the complainant and a witness in the criminal case in which the 1<sup>st</sup> Petitioner is the accused person, that the Applicant had begun civil proceedings in the Environmental and Land Court at Eldoret, that the heart of the matter is the ownership of the said land parcel between the Applicant and the 1<sup>st</sup> Petitioner and that a reading of the Complaint exhibits ownership of the property by the Applicant and the particulars of fraud. He argued that the Complaint gives an insight into the Applicant's story, that a reading of the Petition herein contains a one-sided story which is that of the Petitioners, that this points to what is usually coined as the "danger of a one-sided story" and that it is likely that it is for that reason that the Court was constrained to grant the conservatory orders. According to him, the Applicant, if joined as Interested Party, would not be a mere spectator in the case but would assist in the proper settlement of the questions involved. He cited the case of Skov Estate



Limited & 5 Others versus Agricultural Development Corporation & Another (2015) eKLR. He then submitted that the Applicant is a victim of the actions of the 1<sup>st</sup> Petitioner, and urged the Court to find this, on a balance of probabilities, to be evidence of a clear and identifiable interest and stake in this Petition and argued that should this Application be denied, the Applicant would suffer great prejudice.

11. On whether the Court should set aside the conservatory orders granted herein, Counsel submitted that the justification for setting aside the orders is that the same were issued upon concealment of material facts from the Court. He submitted that the absence of the Applicant from these proceedings leading to issuance of the conservatory orders was an error on the face of the record since there was material information not brought to the attention of the Court and that this Court has the residual power to set the same aside. He cited the case of Lydia Kaguna Japeth & 2 Others versus Mbesa Investment Limited & 2 Others (2022) eKLR. He submitted that the Applicant was not aware of the existence of this case herein until 23/10/2023 when the criminal case came up for hearing, that the Petitioners had not informed the Applicant of the existence of the Petition and that upon perusing the same, the Applicant found a barrage of falsehoods and misrepresentation of facts which ultimately led the 1<sup>st</sup> Petitioner to obtain an advantage in the Petition. He also cited the case of Okiya Omtatah Versus Joseph Kinyua & 2 Others (2018) eKLR in which, he submitted, the Court cited the case of The King Versus The General Commissioners For The Purposes Of *Income Tax Act* For The District Of Kensigton (1917) 1 K.B 486. In the end, he submitted that the Petitioners weaved a complex web of allegations all meant to lead the Court to rule in their favour.

### **Petitioners' Submissions**

12. Counsel for the Petitioners reiterated that the Application does not disclose the name of the proposed Interested Party, that the deponent of the Applicant's Affidavit has never had a dispute with the Petitioners, that even if Aspire Limited were to be named as the proposed Interested Party, its role in the criminal case is only that of a witness and thus has no prosecutorial or investigatory powers. He also reiterated that no prejudice has been demonstrated by the Applicant and that material facts claimed to have been concealed have also not been demonstrated.
13. Counsel also pointed out that contrary to the timelines set by the Court, by the time that the Petitioners were filing their Submissions, the Applicant had not yet served them with any Further Affidavit.
14. On the submission that the Interested Party is not named or disclosed in the heading of the case, and that therefore the Court cannot grant orders that have not been sought, Counsel cited the case of *Mary Muthoni Nvamu vs Dalphine Nyabikari (Misc Civil No. 127 of 2021)* Kiambu and urged the Court to disallow the Application on that score alone. He further submitted that it was the duty of the Applicant to demonstrate where in the Petition and in what context the Applicant and/or the land parcel was mentioned, and that the Applicant has not discharged this burden of proof. He cited the case of *Alice Wanjiru Rabinu vs Messiac Assembly of Yabweb, Civil Appeal No. 521 of 2019* (Nairobi) and also Sections 107 and 108 of the *Evidence Act*.
15. On his submission that in criminal proceedings, it is the State or Republic which prosecutes offenders, and that the role of a party complaining is only that of a witness, he cited the case of Republic (Director of Public Prosecution) *vs Judith Achola Mulala Kakamega Criminal Revision No. 5 of 2019*. He argued that the Petitioner has sued the Director of Criminal Investigations, the Director of Public Prosecutions, the Inspector General of Police and the Attorney General, which 4 institutions are mandated to take up the case on behalf of the Applicant, being a complainant in the criminal matter, and that any information or evidence that the Applicant possesses can be channelled through them. According to him therefore, the Applicant will not suffer any prejudice if it is not joined herein.



**Determination**

- 16. The issues that arise for determination are evidently the following:
  - a. Whether the failure to expressly name the Applicant in the title of the Application herein is fatal.
  - b. Whether the Applicant should be joined into this matter as an interested party.
  - c. Whether the conservatory orders issued herein should be set aside.
- 17. I now proceed to analyze and answer the above issues.

**a. Whether the failure to expressly name the Applicant in the title of the Application herein is fatal**

- 18. The Petitioners have correctly pointed out the Applicant’s failure to name the Intended Interested Party in the title to, and also in the body of the Application. I, too, noted this irregularity in my recounting of the Application. On the face of it therefore, one cannot tell the identity of the Applicant-Intended or Proposed Interested Party. I agree with the Petitioners that this is a glaring omission and irregularity which may as well lead to striking out of the Application. It does not require a remainder to Advocates that they need to ensure that they always uphold the need for proper drafting of pleadings and avoid presenting carelessly drawn pleadings when laced with omissions and expect the Court to accept them. In this case, the first time that the identity of the Applicant is disclosed or is discernible is in the Supporting Affidavit when the deponent thereof states that “I am a director of the Applicant herein Aspire Limited”. This is clearly an irregularity.
- 19. Be that as it may, the question is whether the said defect affects the root of the Application and whether it therefore renders the Application fatally defective. My view is that it did not. I say so because a Supporting Affidavit is basically part and parcel of the Application which it is filed to compliment and it is for this reason that the two are filed together, and at the same time. The two should therefore be construed together. In this case, a holistic reading of the Application and the Supporting Affidavit reveals the identity of the Applicant. It will therefore be dishonest for any party to claim that it cannot identify the proposed Interested party referred to in the Application. Even in its Replying Affidavit and its Submissions, after pointing out the said irregularity, the Petitioners proceeded to respond on the evident understanding that the Applicant is the said Aspire Limited. It cannot therefore be argued with justification, that the omission to expressly name the Applicant in any prejudiced the Appellant.
- 20. On this issue, Article 159(2)(d) of *the Constitution* provides as follows:

“(2) In exercising Judicial authority, the courts and tribunals shall be guided by the following principles:

.....

d) Justice shall be administered without undue regard to procedural technicalities and,

.....”



21. Further, under Section 3A *Civil Procedure Act*, the Court has inherent powers to issue orders necessary to meet the ends of justice. The Section provides as follows:

“Nothing in this Act shall 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.”

22. This is further buttressed by Section 1A & 1B of the *Civil Procedure Act* which recognize that the overriding objective of the Act is to facilitate the just and expeditious resolution of disputes.

23. It is therefore clear that the said provisions require the Court to prioritize determination of disputes on merits rather than on procedural technicalities. In view thereof, and although I do not in any way excuse the Applicant’s omissions pointed out above, I choose to consider substantive justice. Consequently, I overrule the objection.

**b. Whether the Applicant should be joined into this matter as an interested party.**

24. Joinder of parties in civil cases is governed by Order 1 Rule 10(2) of the Civil Procedure Rules which provides as follows:

“(2). The Court may at any stage of the proceedings, either upon or without the application of either party, and on such terms as may appear to the Court to be just, order that the name of any party improperly joined, whether as Plaintiff or Defendant, be struck out, and that the name of any person who ought to have been joined, whether as Plaintiff or Defendant, or whose presence before the Court may be necessary in order to enable the Court effectually and completely to adjudicate upon and settle all questions involved in the suit, be added.

25. The principles to be applied when considering an Application for joinder of a party as an “interested party” were well set out in the case of *Trusted Society of Human Rights Alliance Vs. Mumo Matemu & 5 others, Supreme Court Petition No. 12 2013*, [2014] eKLR in which the Supreme Court defined the term “interested party” as follows:

“(17) Suffice it to say that while an Interested Party has a ‘stake/interest’ directly in the case, an amicus’s interest is its ‘fidelity’ to the law: that an informed decision is reached by the Court having taken into account all relevant laws, and entertained legal arguments and principles brought to light in the Courtroom.

“(18) An Interested Party is one who has a stake in the proceedings, though he or she was not party to the cause ab initio. He or she is one who will be affected by the decision of the Court when it is made, either way. Such a person feels that his or her interest will not be well articulated unless he himself or she herself appears in the proceedings, and champions his or her cause...”

26. On its part, Rule 25 of the Supreme Court Rules, 2012, although not directly applicable herein, gives a helpful guide on what the term “interested party” entails. It provides as follows:

1. A person may at any time in any proceedings before the Court apply for leave to be joined as an Interested Party.”
2. An application under this rule shall include-



- (a) a description of the Interested Party;
- (b) any prejudice that the Interested Party would suffer if the intervention was denied; and
- (c) the grounds or submissions to be advanced by the person interested in the proceeding, their relevance to the proceedings and the reasons for believing that the submissions will be useful to the Court and different from those of the other parties”.

27. I also cite the “Black’s Law Dictionary, 9<sup>th</sup> Edition” which defines “Interested Party” thus:

“A party who has a recognizable stake (and therefore standing) in the matter.”

28. Further, in the case of *Judicial Service Commission Vs. Speaker of the National Assembly & 8 others* [2014] eKLR a 5-Judge bench of the High Court commented on the definition of the term “Interested Party” as set out in the “*The Constitution* of Kenya (Protection of Rights and Fundamental Freedoms) Practice and Procedure Rules, 2013” commonly known as the “Mutunga Rules” in the following terms:

“Rule 2 of the Mutunga Rules defines an Interested Party as a person or entity that has an identifiable stake or legal interest or duty in the proceedings before the Court, but is not a party to the proceedings or may not be directly involved in the litigation.”

29. Similarly, the Supreme Court, in *Muruatetu & another v Republic; Kenya National Commission on Human Rights & 2 others (Interested Parties); Death Penalty Project (Intended Amicus Curiae) (Petition 15 & 16 of 2015 (Consolidated))* [2016] KESC 12 (KLR) further set out the principles to be considered where dealing with an Application seeking joinder into proceedings as an “Interested Party”. The Court stated the following:

“ 37. ....

One must move the Court by way of a formal application. Enjoinment is not as of right, but is at the discretion of the Court; hence, sufficient grounds must be laid before the Court on the basis of the following elements.

The personal interest or stake that the party has in the matter must be set out in the application. The interest must be clearly identifiable and must be proximate enough, to stand apart from anything that is merely peripheral. The prejudice to be suffered by the intended Interested Party in case of non-joinder, must also be demonstrated to the satisfaction of the Court. It must also be clearly outlined and not something remote. Lastly, a party must, in its application, set out the case and/or submissions it intends to make before the Court, and demonstrate the relevance of those submissions. It should also demonstrate that these submissions are not merely a replication of what the other parties will be making before the Court.”

30. The Court observed further as follows:

“ 41. Having carefully considered all arguments, we are of the opinion that any party seeking to join proceedings in any capacity, must come to terms with the fact that the overriding interest or stake in any matter is that of the primary/principal parties before the Court. The determination of any matter will always have a direct effect on the primary/principal parties. Third parties



admitted as interested parties may only be remotely or indirectly affected, but the primary impact is on the parties that first moved the Court. This is true, more so, in proceedings that were not commenced as Public Interest Litigation (PIL), like the proceedings now before us.

42. Whether some parties are enjoined as interested parties or not, the issues to be determined by the Court will always remain the issues as presented by the principal parties, or as framed by the Court from the pleadings and submissions of the principal parties. An Interested Party may not frame its own fresh issues, or introduce new issues for determination by the Court. One of the principles for admission of an Interested Party is that such a party must demonstrate that he/she has a stake in the matter before the Court. That stake cannot take the form of an altogether a new issue to be introduced before the Court.”
31. Applying the principles set out above to the facts of this case, and having appreciated the contents of the pleadings on record, I am satisfied that the Applicant has demonstrated that it has an identifiable stake in this matter. This is because the Applicant is, or has, at all material times, been the registered owner of the parcel of land the subject hereof, namely, Eldoret Municipality Block 8/527. The copy of the Certificate of Lease exhibited is clear on this. The Applicant is also the complainant in Eldoret Chief Magistrate’s Court Criminal Case No. E3469 of 2021 wherein the 1<sup>st</sup> Petitioner is the accused person facing a charge of fraud surrounding acquisition of a title to the same property Eldoret Municipality Block 8/527.
32. As complainant, the Applicant alleges that the 1<sup>st</sup> Petitioner has fraudulently acquired a parallel title for the same parcel of land. It is not disputed that upon the Applicant reporting the matter to the police, and upon conduct of investigations, the 1<sup>st</sup> Petitioner, who is a director of the 2<sup>nd</sup> Petitioner was charged in the said criminal case with the offence of fraud. The prayer by the Petitioners herein being for an order of mandamus to stop the criminal case, there is no doubt that the Applicant will be directly affected by the decision that this Court shall make, particularly should such decision be to stop the criminal case. This clearly demonstrates the Applicant’s direct link to this case. By virtue thereof, the Applicant, as a necessary party, ought to be given a hearing before this Court determines this Petition. There is no doubt that the Applicant has an identifiable stake or legal interest in the subject matter of this case and ought to therefore be allowed to join this case.
33. As found by the Court of Appeal in the case of Galot & 7 others v *Inspector General of the National Police Service, the National Police Service & 8 others (Civil Appeal 130 of 2020)* [2023] KECA 185 (KLR) (17 February 2023) (Judgment), whose facts are almost similar to the case herein, I, too, find that the joinder of the Applicant in this matter, being the complainant in the criminal case “will not in any way prejudice the proceeding or the parties, and will in fact afford the court an opportunity to hear the various perspectives of the concerned parties which in turn will enable the Court to conclusively determine the matter”.
34. Having founds as above, I agree with the Applicant that the Petitioner, having no doubt been aware of the Applicant’s stake and interest in this matter, it was mischievous on its part to withhold or conceal from the Applicant the information that the Petitioner had filed this Petition. On the same breath, the Petitioner should even be grateful to the Applicant for filing this Application since in the course of writing the Judgment herein, the Court would no doubt have discovered that the Applicant, an interested and necessary party in these proceedings, had not been joined or served, and on that ground alone, this Court would most likely have struck out or dismissed the Petition. In leaving out the



Applicant from this Petition therefore, the Petitioner was treading on dangerous grounds as its tactic of shutting out the Applicant from this case would have very easily backfired.

**c. Whether the conservatory orders issued herein should be set aside**

35. This matter was commenced vide the Petition filed on 26/09/2023. At the same time, the Petitioners, on the same date, also filed an Application seeking, in the interim, conservatory orders to stop the criminal case aforesaid, pending the hearing and determination of the Petition. Ordinarily therefore, the Application for conservatory orders would have had to be heard first and determined before the Petition could be canvassed. However, when the matter came up before me on 9/10/2023, the parties, with concurrence of the Court, agreed to fast-track the case by holding the Application for conservatory orders in abeyance and to, instead, proceed directly to canvassing the Petition whose determination would then bring this matter to an expedited end. It therefore followed that the conservatory orders would, by necessity, be issued as a stop gap measure, without the need to hear the Application on merit. Accordingly, I gave directions and timelines for filing and exchange of Affidavits and Submissions and fixed a date for confirming compliance and fixing of a date for Judgment. This therefore is the background upon which the conservatory orders were issued. The Judgment in respect to the Petition would have by now therefore have been delivered and this matter long closed. However, before the parties could comply with the said directions, the Applicant, on 25/10/2023, filed the present Application which therefore stalled the hearing of the Petition. The Applicant is therefore wrong when it alleges that this Court issued the orders because material facts were concealed from it. The conservatory orders were basically consent orders.
36. In any event, the basic ground advanced by the Applicant in asking for the setting aside of the conservatory orders is that the Petitioner concealed material facts from this Court. However, it is clear from a perusal of the Application and the Supporting Affidavit thereto that such concealed “material facts” have not been demonstrated to a satisfactory extent. In light of the above, and considering that there is also another case pending before the Environment & Land Court involving the same parties over the same parcel of land, namely Eldoret ELC No. 2 of 2021, I am satisfied that the interest of justice would be served by allowing the conservatory orders to remain in place, pending the hearing and determination of the Petition.

**Final Orders**

37. In conclusion, I hereby rule and/or order as follows:
- i. The Notice of Motion dated 24/10/2023 filed by the Applicant – Aspire Limited – is hereby partially allowed, namely, only in terms of prayer (c) thereof. Consequently, the Applicant is granted leave and/or allowed to join this suit, as an Interested Party.
  - ii. The Applicant, as such Interested Party, is granted leave to file and serve its response to the Petition herein, within fourteen (14) days from the date hereof.
  - iii. The Petitioners and the Respondents, upon being served with the Interested Party’s said response, shall within twenty-one (21) days of such service, be at liberty to file and serve their responses thereto.
  - iv. Within the same twenty-one (21) days, together with their responses as aforesaid, the Petitioners and the Respondents, in the event that they had already filed their written Submissions, shall be at liberty to file and serve their Supplementary Submissions on the Petition and if not yet so filed, to now file such written Submissions.



- v. The Applicant, as such Interested Party, upon being served with the Petitioners' and Respondents' responses and Submissions as aforesaid, shall within fourteen (14) days of such service, be at liberty to also file and serve its written Submissions on the Petition.
- vi. The Court shall now fix a date for Mention to confirm compliance with the above directions, and for fixing of a Judgment date on the Petition.
- vii. The prayer for lifting or setting aside of the conservatory orders issued herein is disallowed.
- viii. Costs shall be in the Cause.

**DELIVERED, DATED AND SIGNED AT ELDORET THIS 29<sup>TH</sup> DAY OF NOVEMBER 2024**

.....

**WANANDA J.R. ANURO**

**JUDGE**

Delivered in the presence of:

Ms. Chepkwony h/b for Nyamweya

Ms. Satia h/b for Kitiwa for Interested Party

Court Assistant: Brian Kimathi

