



**Kamau & 6 others v Office of the Director of Public Prosecution - Busia;
Bungoma Line Safaris Ltd & 4 others (Interested Parties) (Constitutional Petition
E014 of 2023) [2024] KEHC 14843 (KLR) (27 November 2024) (Judgment)**

Neutral citation: [2024] KEHC 14843 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT BUSIA
CONSTITUTIONAL PETITION E014 OF 2023
WM MUSYOKA, J
NOVEMBER 27, 2024**

BETWEEN

**JOSEPH NGUGI KAMAU 1ST PETITIONER
STEPHEN NJENGA KAMAU 2ND PETITIONER
GEOFFREY NJOROGE KAMAU 3RD PETITIONER
AUGUSTINE MURIITHI WANGUI 4TH PETITIONER
DAVID MUNGAI NJIBU 5TH PETITIONER
JOSEPH MWANGI WAIRIRE 6TH PETITIONER
JULIA NJERI NGUGI 7TH PETITIONER**

AND

**OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTION -
BUSIA RESPONDENT**

AND

**BUNGOMA LINE SAFARIS LTD INTERESTED PARTY
BUNGOMA LINE SACCO INTERESTED PARTY
BENSON OMONDI ONGAR INTERESTED PARTY
JAMES WAINAINA KAMAU INTERESTED PARTY
SIMON GIKONYO KAHENYA INTERESTED PARTY**



JUDGMENT

1. The petitioners have moved this court by a petition, dated 20th November 2023. They complain that several criminal cases have been brought against them, by the respondent, with respect to the same subject-matter and cause of action, and the said cases are all founded on the same facts, although charged as different offences. The cases in question are Busia CMCCRC Nos. E1228 of 2022, E362 of 2023 and E388 of 2023.
2. Some of these cases were prosecuted and concluded, and some are yet to start, and are at the plea-taking stage, and the petitioners are being sought after for arraignment. They raise issues around the constitutionality of their being arraigned in court, on charges, that are either the same or similar to previous charges for which they were prosecuted and discharged or acquitted. They express fear that their prosecution, on fresh charges, founded on the same facts as the previous charges, would infringe on or contravene their constitutional rights.
3. They seek a variety of declarations and a certiorari. They seek a declaration that their charging, as natural persons, with respect to a complaint lodged against the 1st and 2nd interested parties, as juristic persons, without first lifting the corporate veil, was illegal and unconstitutional. They also seek a declaration that the recommendation for them to be prosecuted for offences that are inchoate to offences for which they have already been acquitted amounted to re-litigating the matter, and the same was illegal, unlawful, abuse of prosecutorial powers and unconstitutional. The other declaration sought is that the recommendation for prosecution of the 4th to 7th petitioners, in their personal capacities, or as representatives of the 1st and 2nd interested parties, where the subject-matter of the offence and the period the offence was allegedly committed were the same as in Busia CMCCRC Nos. E1228 of 2022 and E362 of 2023, amounts to abuse of prosecutorial powers, was not in public interest and was an affront to Articles 47 and 50(2)(o) of the *Constitution*. The other declaration sought is that the proposed prosecution, in respect of the offences charged in Busia CMCCRC Nos. E362 and E388 of 2023, was unlawful, illegal, unconstitutional and violated Articles 47, 50(2)(o) and 157(11) of the *Constitution*. The certiorari is sought to quash the charges in Busia CMCCRC Nos. E362 and E388 of 2023.
4. The respondent reacted to the petition, vide an affidavit, sworn by one of its prosecuting counsel. It was conceded that a decision had been made, to prosecute 3 of the petitioners, in Busia CMCCRC No. E388 of 2023, despite their acquittal in Busia CMCCRC No. E1228 of 2022. It was argued that they were acquitted of an offence different, separate and distinct from the one charged in the new case. It was argued that the other petitioners were not party to Busia CMCCRC No. E1228 of 2022, and the charges against them would not raise the spectre of double jeopardy or abuse of process or power. It was submitted that the mere fact of acquittal for theft did not amount to an acquittal on all other charges emanating from the same incident, and it was urged that the trials ought to be allowed to proceed to their logical conclusion. It was also urged that the natural persons should not seek to hide behind the artificial persons, as proposed by some of the petitioners.
5. Directions, regarding disposal of the petition, were not formally given, for the parties proceeded, on their own motion, to file written submissions, on the petition.
6. The petitioners identified 4 issues, for determination, namely, whether the prosecutions in Busia CMCCRC Nos. E1228 of 2022, and E362 and E388 of 2023, were initiated to achieve a different result from the decision of the Cooperative Tribunal between the 2nd and 5th interested parties, and was



thus in abuse of court; whether the prosecutions in Busia CMCCRC E362 and E388 of 2023 served public good, in view of the acquittal in Busia CMCCRC Nos. E1228 of 2022; whether the petitioners, having been acquitted of the choate offences of theft and forgery, in Busia CMCCRC Nos. E1228 of 2022, could be charged thereafter with the inchoate offence of conspiracy, in Busia CMCCRC No. E388 of 2023; and whether the rights of the petitioners had been violated.

7. On the first issue, as to whether the new charges are meant to achieve a different result from that arrived at by the Cooperative Tribunal, it is submitted that the respondent was working together with the 5th interested party, to defeat the decision of the Cooperative Tribunal, using the criminal process, and it is asserted that that amounts to abuse of process.
8. On the second issue, regarding public good, with respect to fresh prosecution following the acquittal on the earlier charges, it is submitted that following that acquittal there was no appeal, preferred against it by the respondent, and, for that reason the respondent could not bring fresh charges, on offences inchoate to those the subject of the acquittal. On the third issue, on whether charges on inchoate offences could be brought subsequent to an acquittal on the charges on the choate offences, it is submitted that the petitioners are being vexed twice over the same facts, and that amounts to double jeopardy, which the law frowns upon.
9. On the fourth issue, on constitutional violations, it is submitted that the respondent violated Article 157 of the *Constitution*, and the provisions of the Office of Director of Public Prosecutions Act, Cap. 6B, Laws of Kenya, by mounting a prosecution that was set to achieve results different from the one obtained in the decision of the Cooperative Tribunal, which dealt with similar issues. It is submitted that the preferment of fresh charges, against the petitioners, after their acquittal on similar charges, was a violation of the right to a fair hearing, it amounted to double jeopardy, and it affronted Articles 47 and 50(2)(o) of the *Constitution*.
10. Reliance is placed on Republic vs. Director of Public Prosecutions & 3 others; CWW & another (ex parte) [2021] KEHC 372 (KLR)(Mshila, J), Republic vs. Director of Public Prosecutions & 2 others Ex Parte Pius Kiprop Chelimo & another [2017] eKLR (Odunga, J), Joshua Muindi Maingi vs. National Police Commission & 2 others [2015] eKLR (Ongaya, J) and Stanley Maina Mutuota & 11 others vs. Labour Commissioner & 3 others [2012] eKLR (Majanja, J).
11. The issues identified by the respondent can be summarised into 3: whether the constitutional rights of the petitioners were violated; whether the petition was an abuse of the court process; and whether they were entitled to the orders sought.
12. On the first issue, it is submitted that it was not unconstitutional to prefer charges against the petitioners, so long as there was enough evidence for their prosecution, and a reasonable and probable cause as to the criminal proceedings existed. It is submitted that the acquittal of the petitioners, with respect to the charges of stealing and forgery, did not absolve them of any other charges that may emanate from the same incident. On the second issue, abuse of the process, it is submitted that the filing of the constitutional petition was designed to delay the criminal proceedings and to defeat justice. It is urged that the petitioners have not demonstrated any prejudice likely to be suffered by them, should the criminal proceedings go on, as they would have a chance to defend themselves at the trial. On whether the orders sought are available, it is submitted that the petition ought not have been filed in the first place, as the procedure for addressing the main legal issue is provided for in the Criminal Procedure Code, Cap 75, Laws of Kenya.
13. The respondent relies on Republic vs. Attorney General & another Ex-Parte Kipng'eno Arap Ng'eny [2001] eKLR (K. Mulwa, J), Republic vs. Commissioner of Police and another ex parte Michael Monari & another [2012] eKLR (Warsame, J), Meme vs. Republic [2004] eKLR (Rawal, Njagi &



- Ojwang, JJ), Wambua vs. Hon. Attorney General & 2 others [2004] eKLR (Wendoh, J), Nicholas Mwaniki Waweru & another v Attorney General & 5 others [2017] eKLR (Mativo, J), Peter Anthony Costa vs. Attorney General & Another [2013] eKLR (Majanja, J), William Odhiambo Ramogi & 3 others vs. Attorney General & 4 others; Muslims for Human Rights & 2 others (Interested Parties) [2020] eKLR (Achode, J. Ngugi, Nyamweya, Ogola & Mrima, JJA), Jeremiah Memba Ocharo vs. Evangeline Njoka & 3 others [2022] eKLR (Mrima, J), The Owners of Moor Vessel “Lillian S” vs. Caltex Oil Kenya Limited [1989] KLR 1653 [1989] eKLR (Nyarangi, Masime & Kwach, JJA), Samuel Kamau Macharia & another vs. Kenya Commercial Bank Limited & others [2012] eKLR (Mutunga CJ, Tunoi, Ojwang, Wanjala & Ndung’u, SCJJ) and Jasbir Singh Rai & 3 others vs. Tarlochan Singh Rai & 4 others [2014] eKLR (Mutunga, CJ & P; Rawal, DCJ & V-P; Tunoi, Ibrahim, Ojwang, Wanjala, Ndungu, SCJJ).
14. The 1st and 2nd interested parties make submissions that align with the case by the petitioners. They argue that the respondent was aware of all the officials of the 2nd respondent, when it chose to prosecute some of them. It is submitted that the respondent had a chance to prosecute the matter, and it should not be allowed a second chance, to do the same, based on the same facts and evidence as against a different set of individuals. It is submitted that the respondent had indicated that it lost the first case as its key witnesses had been bribed, and it is argued that if that was the grievance, then the respondent ought to have filed an appeal. They submit that both the old and the new charges emanated from the same incident. It is submitted that it had become common for the respondent to charge individuals of conspiracy, whenever it was not sure or had no evidence on what exactly transpired. It is submitted that once there was an acquittal for the choate offences, there ought to be no subsequent prosecution for the inchoate underlying offences. It is submitted that the actions of the respondent were driven by personal vendetta, and were devoid of public interest. It is concluded that the respondent was trying to justify double jeopardy, by cleansing prosecutorial mistakes.
 15. Ngunjiri Maina vs. DPP & 2 Others [2017] eKLR (J. Ngugi J), Republic vs. Director of Public Prosecutions & 2 others Ex-parte Praxidis Namoni Saisi [2016] eKLR (Odunga, J), Bernard Kariuki Chege vs. Republic [2016] eKLR (Mativo, J), Ronald Leposo Musengi vs. Director of Public Prosecutions & 3 others [2015] eKLR (Odunga, J), Anyangu & Others vs. Republic [1968] EA 239, Bitange Ndemo vs. Director of Public Prosecutions & 4 Others [2016] eKLR (Aburili, J), Vincent Kibiego Saina vs. Attorney General Miscellaneous Application 839/99 (Kuloba, J) and Republic vs. Director of Public Prosecutions & 2 Others; Realtime Company Limited & another (Interested Parties): Davetronic Company Ltd & another (Ex parte) [2023] KEHC 228 (KLR)(Ndung’u, J), are cited by the 1st and 2nd interested parties.
 16. Having evaluated and analysed the pleadings and the written submissions, the issues that emerge, for determination, are 3, namely: whether double jeopardy applies with respect to the cases cited by the petitioners, whether the constitutional rights of the petitioners are violated, and whether an order for certiorari should issue against the charges complained of.
 17. The first issue arises from the acquittal of the petitioners of the offences of stealing a motor vehicle and forgery, and the subsequent charging with the offence of conspiracy to defraud. The case by the petitioners is that having been acquitted of the initial charges, the subsequent charges cannot stand, for they would expose them to double jeopardy. They would like me to declare so.
 18. The court, in Nicholas Kipsigei Ngetich & 6 others vs. Republic [2016] eKLR (Odero, J), discussed the rationale for and explained the principle of double jeopardy. It is intended to bring finality to criminal proceedings, it protects the individual from the prejudice of a second trial where the State has had the opportunity to interact with his defence, and protects citizens against undue oppression by the State. Nicholas Kipsigei Ngetich & 6 others vs. Republic [2016] eKLR (Odero, J) highlighted the parameters



within which the court decides on whether or not double jeopardy arises. It was underscored that it is quite feasible that multiple criminal offences may arise from the same transaction, and in such a scenario the court applies the tests of the same evidence and the same transaction.

19. The same evidence test is about a second prosecution being founded on or requiring the same evidence as would be required to convict on a first prosecution. In such scenario there would be a bar to the subsequent litigation or prosecution on account of the double jeopardy rule. It is about the second prosecution being founded on the same evidence, but disclosing an offence, different in character and genus, from the offence charged in the first prosecution. Where the same facts or evidence disclose a different or distinct offence from that charged in the first instance, the double jeopardy rule would not apply. Murder and manslaughter, for example, have the same character and belong to the same genus of offences. 2 separate prosecutions, of the same person, cannot be mounted with respect to the 2 offences, based on the same facts, for the double jeopardy rule would bar that. However, murder and robbery are different offences in character, and belong to distinct classes of offences, and 2 prosecutions can be mounted based on the same facts, without violating the double jeopardy rule. See *Connelly vs. DPP* [1964] All ER 401 (Lord Hodson) and *Julius Kilonzo Maweu vs. Republic* [2016] eKLR (Kimaru, J).
20. The same transaction test classifies as the same offence all acts which occur out of the same transaction, regardless of whether the different offences disclosed fall in the same class or genus. It is designed to limit piecemeal prosecution, by compelling the State to prosecute, in 1 trial, all the offences committed in that 1 transaction, which had a single goal. It is an approach common in the United States of America. In *Blockburger vs. United States* 284 US 299 (Sutherland, J), it was stated that where the same act or transaction constitutes a violation of 2 distinct statutory provisions, the test to be applied, to determine whether they are 2 offences, is whether each provision requires proof of a fact which the other does not. So that where the 2 offences would not be proven on the same facts, the double jeopardy rule would not apply. In *Bob Fred Ashe vs. Haroud R. Swenson Warden* 399, F-2D 40 (8th Cr. 1968)(Van Oosterhout, Chief Judge, Blackmun, Circuit Judge & Van Pelt, District Judge), it was stated that the rule against double jeopardy does not forbid the State from prosecuting different offences at consecutive trials, even though they come out of the same transaction, and the test would be whether such a course would lead to fundamental unfairness. See also *Paul Mwangi Gathongo vs. Republic* [2015] eKLR (Mativo, J), *Paul Nduve vs. Republic* [2019] eKLR (Odunga, J) and *JNO vs. Republic* [2021] eKLR (Odunga, J).
21. The charges, in Busia CMCCRC No. E1228 of 2022, were brought against the 1st, 2nd and 3rd petitioners, for stealing a motor vehicle, registration mark and number KAV 839A, and forgery of a loan application form, against the 1st and 3rd petitioners. The 3 were acquitted of the 2 charges. The 3 were then charged in Busia CMCCRC No. E388 of 2023, of conspiracy to defraud, with respect to the loan application, that was the subject of the loan application form charge in Busia CMCCRC No. E1228 of 2022. The complainant in the forgery charge, and the new charge of conspiracy, is common, Simon Gikonyo Kahenya, and the loan, in both cases, was to be secured from the same Sacco. The proposed new charge, in Busia CMCCRC No. E388 of 2023, would be different and distinct from that in Busia CMCCRC No. E1228 of 2022, with respect to stealing a motor vehicle, but it would be similar to the offence charged under forgery, to the extent that the complainant would be the same, it would relate to a loan to be obtained from the same Sacco, and, therefore, the evidence required to establish the 2 offences would be the same, and that would mean that the 1st and 3rd petitioners would be subjected to double jeopardy. Double jeopardy, with respect to Busia CMCCRC No. E388 of 2023, would only bar prosecution of the 1st and 3rd petitioners, but not the 2nd petitioner, as he was not charged with and acquitted of the forgery charge.
22. The 4th, 5th, 6th and 7th petitioners were not accused persons in Busia CMCCRC No. E1228 of 2022, and, therefore, the issue of double jeopardy, applying to their case, in Busia CMCCRC No. E362 of



- 2023, would not arise, and there would be no misuse of prosecutorial powers, should their prosecution go ahead.
23. The petitioners have argued that their constitutional rights, enshrined in Articles 47, 50(2)(o) and 157(11) of the *Constitution* have been or are likely to be violated. Article 47 is about fair administrative action. Article 50(2)(o) states the double jeopardy rule, the right against being tried for an offence for which one has previously been acquitted or convicted. Article 157(11) is about exercise of power by the respondent, that the same shall always be exercised having regard to public interest, the interests of administration of justice and the need to prevent and avoid abuse of the legal process.
 24. I reiterate what I have stated in paragraphs 21 and 22, foregoing, that double jeopardy would not arise, should there be a prosecution in Busia CMCCRC No. E362 of 2023, for the petitioners sought to be charged in that case were not accused persons in Busia CMCCRC No. E1228 of 2022, in respect of which there were acquittals. It would also not arise with respect to Busia CMCCRC No. E388 of 2023, so far as the 2nd petitioner is concerned. Violation of Article 50(2)(o) of the *Constitution* would not arise, with respect to Busia CMCCRC No. E362 of 2023 and the 2nd petitioner. It would be open to the respondent, going by *Nicholas Kipsigei Ngetich & 6 others vs. Republic* [2016] eKLR (Odero, J), and the other cases that I have discussed above, to prosecute the 2nd, 4th, 5th, 6th and 7th petitioners, at consecutive trials, for the offences, charged in Busia CMCCRC No. E362 and E388 of 2023. A decision to mount fresh proceedings, with different charges, emanating from the same incident, based on the same facts, would not amount to violation of fair administrative action.
 25. On Article 157(11) of the *Constitution*, I would cite *Mwangi vs. Director of Public Prosecutions & another*; JNM (Interested Party) [2024] KEHC 7282 (KLR)(Mwita, J), where it was underscored that the respondent has a constitutional mandate to make decisions on who and when to prosecute. The respondent is an independent constitutional body, and courts should, generally, be slow to interfere with its constitutional discretion to prosecute. Under Article 157(10), it is asserted that the respondent shall not require the consent of any person or authority for commencement of criminal prosecutions, and, for the purpose of the exercise of its powers or functions, the respondent shall not be under the control or direction of any person or authority. Article 157(11) provides the only caveat against that independence, and it would be incumbent upon any person, coming under that provision, to demonstrate that the decision by the respondent to prosecute them was not made in public interest or in the interest of administration of justice, and the decision was in abuse of court process.
 26. The petitioners argue that the prosecution would be mounted with an ulterior motive, not in tandem with the powers vested under Article 157. They submit that the prosecution would not serve public good, and was in abuse of prosecutorial powers. However, although it is insinuated that the actions by the respondent amounted to abuse of the process, the 2nd, 4th, 5th, 6th and 7th petitioners have not demonstrated violation of their constitutional rights, or wrongdoing on the part of the respondent. In view of the fact that the proposed prosecution would not get caught up in the double jeopardy rule, the respondent would not go wrong in mounting the prosecutions proposed against the 2nd, 4th, 5th, 6th and 7th petitioners.
 27. There was the argument around lifting the corporate veil before prosecuting some of the petitioners as directors of the 2nd interested party. I have seen correspondence, which identifies some of the petitioners as directors of the 2nd interested party. However, I note that the charges, relating to stealing, make no reference to the 1st and 2nd interested parties. I note that the charges relating to the conspiracy to defraud do mention the 1st and 2nd interested parties. However, conspiracy can only be committed by natural persons, and not corporate entities or artificial persons. It is about more than 1 person coming to some agreement to commit some offence, and common intention is critical. Artificial persons cannot



- possibly get into such agreements or form such common intentions. Where conspiracies touch on companies, then the persons to be charged should be the natural persons behind those companies, being either the directors or managers of such companies.
28. Moreover, reference to the 1st and 2nd interested parties is only with respect to the alleged loan being secured from them. It is not alleged that the alleged criminal activity was being committed on behalf of the said entities. I have very carefully considered the authorities placed on record, by the petitioners and the interested parties, who support their case, and noted that none of them touch on the necessity of the corporate veil of cooperative societies being lifted, before the directors of such societies are prosecuted, with respect to anything done in connection with the cooperative societies. The petitioners have not placed on record material demonstrating that prosecuting them, before the corporate veil is lifted, would be illegal and unconstitutional.
29. The other argument is that the prosecution is meant to achieve a result different from that at the Cooperative Tribunal. I have seen records relating to the proceedings that were before the Cooperative Tribunal. Those proceedings were civil in nature. Civil and criminal remedies can be pursued concurrently, and there would be nothing illegal or unconstitutional with the respondent prosecuting, where there are or had been civil proceedings against the suspects, based on the same facts and transaction, so long as the facts disclose an offence. See section 193A of the Criminal Procedure Code. The principle of double jeopardy relates only to 2 or more criminal proceedings, it does not take in to account any previous or pending civil proceedings. The Cooperative Tribunal has no criminal jurisdiction, and whatever it handles cannot be basis for pleading double jeopardy. Moreover, the principal pleadings in the Tribunal matter have not been exhibited, for all I see is a copy of an application by way of Motion. Secondly, the ruling of the Tribunal has not been exhibited, to place before me the reasons for or the circumstances under which the claim was dismissed. All I have is an order that was extracted from the proceedings of 9th September 2022, when the claim, at the Cooperative Tribunal, was dismissed. A formal order of dismissal explains nothing, for what would be critical would be the reasons for the dismissal.
30. The petitioners pray for an order of certiorari, to quash the charges in Busia CMCCRC Nos. E362 and E388 of 2023. Certiorari would issue where it is established that the tribunal or public entity made a decision in excess of its mandate or jurisdiction. See Kenya National Examinations Council vs. Republic Ex Parte Geoffrey Gathenji Njoroge & 9 others [1997] eKLR (Omolo, Tunoi & Shah, JJA). Article 157(6) of the Constitution mandates the respondent to institute and undertake criminal proceedings against any person before any court, other than a court martial, in respect of an offence allegedly committed. To obtain a certiorari, a petitioner would have to demonstrate that the respondent did not have the mandate to institute the proposed proceedings, or in instituting them, the respondent was acting in excess of its powers, or was exercising the same in a manner that violated the Constitution. See Kipoki Oreu Tasur vs. Inspector General of Police & 5 Others [2014] eKLR (M. Ngugi, J) and Lalchand Fulchand Shah & Investments & Mortgages Bank Limited & 5 others [2018] eKLR (Musinga, M’Inoti & Murgor, JJA).
31. The decision, to bring the charges, in Busia CMCCRC Nos. E362 and E388 of 2023, would be within the mandate of the respondent, with respect to the 2nd, 4th, 5th, 6th and 7th petitioners. I am not persuaded that the 2nd, 4th, 5th, 6th and 7th petitioners have demonstrated that the power, under Article 157, is being exercised in a manner that violates the Constitution, to warrant issuance of a certiorari order. However, I am persuaded, in view of what I have stated, at paragraph 21, hereabove, that the prosecution of the 1st and 3rd petitioners, in Busia CMCCRC No. E388 of 2023, would amount to a violation of rights, and a certiorari should be available to quash the decision to prosecute them.



32. In view of everything that I have stated above, I do not find material that supports grant of the orders sought in the petition herein, with respect to all the petitioners charged in Busia CMCCRC No. E362 of 2023, that is to say the 4th, 5th, 6th and 7th petitioners, and the 2nd petitioner, in respect of the charges in Busia CMCCRC No. E388 of 2023.
33. The final orders are as follows:
- a. That I hereby disallow the petition, and dismiss it, as it relates to the 2nd, 4th, 5th, 6th and 7th petitioners;
 - b. That I declare that it would amount to double jeopardy, to prosecute the 1st and 3rd petitioners, with respect to the fresh charges in Busia CMCCRC No. E388 of 2023;
 - c. That I hereby issue a certiorari order, to quash the decision by the respondent, to prosecute the 1st and 3rd petitioners in Busia CMCCRC No. E388 of 2023;
 - d. That I direct that the proceedings, in Busia CMCCRC Nos. E362 and E388 of 2023, do proceed to their logical conclusion, in relation to the 2nd, 4th, 5th, 6th and 7th petitioners;
 - e. That the conservatory orders that were granted herein shall abide the final orders made hereabove;
 - f. That the petition herein is disposed of in those terms, meaning that the file herein shall be closed; and
 - g. That the court files, in Busia CMCCRC Nos. E1228 of 2022, and E362 and E388 of 2023, shall be returned to the relevant registry.

Orders accordingly.

DELIVERED VIA EMAIL, AND DATED AND SIGNED IN CHAMBERS, AT BUSIA, ON THIS 27TH DAY OF NOVEMBER 2024.

W. MUSYOKA

JUDGE

Mr. Arthur Etyang, Court Assistant.

Ms. Eva Adhiambo, Legal Researcher.

Advocates

Mr. Anwar, instructed by Anwar & Company, Advocates for the petitioners.

Mr. Nyauma, instructed by the Attorney-General, for the respondent.

Mr. Malala and Ms. Mburu, instructed by Malalah & Company, Advocates for the 1st and 2nd interested parties.

