



REPUBLIC OF KENYA



**Metpax Consultium Limited v County Government of Kisumu & another (Civil Case 18 of 2019) [2023] KEHC 1746 (KLR) (22 February 2023) (Judgment)**

Neutral citation: [2023] KEHC 1746 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KISUMU  
CIVIL CASE 18 OF 2019  
JN KAMAU, J  
FEBRUARY 22, 2023**

**BETWEEN**

**METPAX CONSULTIUM LIMITED ..... PLAINTIFF**

**AND**

**COUNTY GOVERNMENT OF KISUMU ..... 1<sup>ST</sup> DEFENDANT**

**BOARD OF KISUMU CITY ..... 2<sup>ND</sup> DEFENDANT**

**JUDGMENT**

**Introduction**

1. By a plaint dated October 4, 2019 and filed on October 8, 2019, the Plaintiff sought the following reliefs against the Defendants jointly and severally :-
  1. Kshs 75,580,127.33
  2. Costs
  3. Interest
2. The Plaintiff filed its List of Witnesses and a List and Bundle of Documents on October 8, 2019. The Defendants' Memorandum of Appearance and Statement of Defence were both dated and filed on October 18, 2019.
3. On January 23, 2020, the parties were referred to Court Annexed Mediation with a view to resolving this matter out of court. However, Patrick Lumumba Otieno, who was the assigned Mediator in Mediation No 5 of 2020 filed his Report on July 28, 2020 indicating that the parties had not reached a settlement. The matter was therefore referred back to this court for hearing and determination.
4. The Plaintiff filed a Supplementary List of Documents dated 18<sup>th</sup> February 2021 on 19<sup>th</sup> February 2021.



5. On 8<sup>th</sup> June 2021, this court directed the parties to file fresh Witness Statements which were cross-referenced to their respective indexed and paginated Bundle of Documents together with a joint Statement of Agreed Issues. The court further directed that in the event they were unable to agree on a joint Statement of Agreed Issues, each party was to file its separate Statement of Agreed Issues.
6. In compliance with the said directions, the Plaintiff filed a fresh Witness Statement cross-referenced to its indexed and paginated Bundle of Documents on 8<sup>th</sup> July 2021. Both documents were dated 7<sup>th</sup> July 2021. The Witness Statement was by Victor Onyango Oguta (hereinafter referred to as “PW 1”). He adopted the same as his examination-in-chief. The said List and Bundle of Documents were marked as Plaintiff’s Exhibit 1 pp 1-68.
7. On 9<sup>th</sup> July 2021, the Plaintiff filed a Further Witness Statement cross-referenced to a Further List and Bundle of Documents both dated 8<sup>th</sup> July 2021. This Further List and Bundle of Documents was marked as Plaintiff’s Exhibit 2 pp 1-9.
8. The Plaintiff also filed a Statement of Agreed Issues dated 5<sup>th</sup> October 2021 on 13<sup>th</sup> October 2021. The same was not executed by the counsel for the Defendants herein.
9. On 3<sup>rd</sup> March 2022, Wilson Abiero, the Chief Executive Commissioner (CEC) (hereinafter referred to as “DW 1”) filed a Witness Statement on behalf of the Defendants herein. The same was of even date. He also adopted the said Witness Statement as his examination-in-chief. The Defendants did not rely on nay documents in support of their case.
10. The Plaintiff’s Written Submissions were dated 14<sup>th</sup> July 2022 and filed on 15<sup>th</sup> July 2022 while those of the Defendants which had annexed authorities were dated 4<sup>th</sup> October 2022 and filed on 5<sup>th</sup> October 2022. The Judgment herein is based on the said Written Submissions, which both parties relied upon in their entirety.

### **The Plaintiff’s Case**

11. The Plaintiff’s case was that on 20<sup>th</sup> August 2007, it was appointed by the defunct Municipal Council of Kisumu (hereinafter referred to as “the defunct Municipal Council”) to undertake consultancy services on its behalf, which appointment was renewed. It performed various tasks which included handling PAYE Annual Returns as demanded by Kenya revenue Authority (KRA), conducting audits, ensuring the Council paid minimum tax amongst others.
12. It continued to offer the defunct Municipal Council services until 2013 and when it was just about to close its assignment, the 1<sup>st</sup> Defendant came into operation and took over all the defunct Municipal Council’s debts. The 1<sup>st</sup> Defendant then paid it a sum of Kshs 4,812,722/= leaving a balance of Kshs 75,580,127.33 which it refused to pay leading to the institution of the present proceedings.

### **The Defendant’s Case**

13. The Defendants’ case was that the 1<sup>st</sup> Defendant did not automatically acquire the debts of the defunct Municipal Council and that there were laid down procedures when dealing with debts by defunct councils during the transition to devolved governments. They contended that the Transition Authority(TA) found the Plaintiff’s claim to have been ineligible and that in any event, they were informed that all the debts by the defunct Municipal Council were paid by the TA. They were emphatic that the Plaintiff’s claim did not conform to the standard procedure pursuant to the *Public Procurement and Asset Disposal Act* and hence the same ought to be dismissed with costs to it.



## Legal Analysis

14. Having perused the Plaintiff's issues and those of the Defendants which were listed in their Written Submissions, it did appear to this court that the issues that had been placed before it for determination were as follows:-
  1. Whether or not the Plaintiff was appointed as a tax consultant for the defunct Municipal Council;
  2. Whether or not the Plaintiff rendered services to the defunct Municipal Council amounting to Kshs 75,580,127.33;
  3. Whether or not the said debt was eligible for payment by the 1<sup>st</sup> Defendant;
  4. If so, whether or not the 1<sup>st</sup> Defendant acquired the said debt from the defunct Municipal Council; and
15. The court deemed it prudent to address the said issues under the following heads.

### I. The plaintiff's appointment by the defunct council

16. The Defendants did not submit on the issue regarding the Plaintiff's appointment by the defunct Municipal Council. However, DW I testified that the Plaintiff's claim did not conform to the provisions of the *Public Procurement and Asset Disposal Act*.
17. On its part, the Plaintiff submitted on this issue in great detail and adduced in evidence several letters to confirm that it had indeed been appointment as a tax consultant on behalf of the defunct Municipal Council.
18. A perusal of the letter dated May 9, 2011 (Plaintiff's Exhibit 1 pg 12) from the defunct Municipal Council to the Plaintiff herein read as follows:-

“This is to notify you that during the tender Committee Meeting held on 5<sup>th</sup> May 2011 vide Minute No 45/TCM/05/2010/2011, I am pleased to inform you that you were pre-qualified.

You are therefore required to acknowledge your acceptance within fourteen (14) days from the date of this letter.”

19. In its letter of May 23, 2011 (Plaintiff's Exhibit 1 pg 13), the Plaintiff confirmed acceptance of the said appointment for tax consultancy.
20. In its letter of July 28, 2011 marked as Plaintiff's Exhibit 1 pg 65, the defunct Municipal Council instructed the Plaintiff to obtain the LATF Clearance for the FY 2011/2012. nit
21. In another letter dated 29<sup>th</sup> August 2011 (Plaintiff's Exhibit 1 pg 15), the defunct Municipal Council wrote to the Plaintiff herein in the following terms:-

“I am pleased to inform you that the tender committee vide Min 1/34/3/2011 awarded you/ appointed you as its negotiator on tax service matters...

You were appointed to negotiate NSSF and NHIF statutory deductions waiver of interest totaling Kshs 427,000,000/=...



You will be paid on the rate of your quoted 8% on the actual amount waived...”

22. In a letter dated July 17, 2012 (Plaintiff’s Exhibit 1 pg 17), the defunct Municipal Council wrote to the Plaintiff that:-

“This is to request you to assist the Council get clearance letters from the following statutory creditors to enable us access LATF disbursements for the FY 2012/2013...”

23. In the letter of February 19, 2013 (Plaintiff’s Exhibit 1 pg 18), the defunct Municipal Council requested the Plaintiff to avail itself to a closure meeting because it had settled at its obligations to all statutory bodies.
24. This court thus came to the firm conclusion that there was overwhelming evidence showing that there was a contractual relationship between the defunct Municipal Council and that the Plaintiff which was appointed as a tax consultant by the defunct Municipal Council, a fact that was acknowledged by KRA which referred to the Plaintiff as the tax agents of defunct Municipal Council in its letter dated October 7, 2009 to the said defunct Municipal Council (Plaintiff’s Exhibit 1 pg 8).
25. However, this court was not able to ascertain the veracity or otherwise of the Defendants’ assertions that the Plaintiff’s appointment did not adhere to the provisions of the *Public Procurement and Asset Disposal Act* because the Plaintiff’s Exhibits 12 and 15 showed that the Plaintiff had been pre-qualified by a Tender Committee and the same was minuted. In addition, the Defendants did not advance their argument further to explain how the Plaintiff’s appointment had not adhered to the *Public Procurement and Asset Disposal Act*. This court could not therefore pronounce itself of the said contention and said no more on it.

## II. Rendering of services by the plaintiff

26. The Plaintiff adduced in evidence several letters it wrote to the defunct Municipal Council of the work that it had done. In its letter of 5<sup>th</sup> September 2010 (Plaintiff’s Exhibit 1 pg 9), KRA confirmed to the defunct Municipal Council that pursuant to the latter’s letter dated 18<sup>th</sup> February 2010, on 14<sup>th</sup> July 2010, the Deputy Prime Minister and Minister for Finance approved a waiver and penalties it owed it on a hundred (100%) per cent basis on 14<sup>th</sup> July 2010.
27. The Plaintiff also tendered in evidence several invoices it had forwarded to the defunct Municipal Council for settlement. The said invoices were marked as the Plaintiff’s Exhibit 1 pp10, 11 and 16. The total balance of Kshs 75,580,127.33 was contained in an invoice found in the Plaintiff’s Exhibit 1 pg 19. It also produced an official receipt acknowledging payment of a sum of Kshs 4,812,722/= it had received from the 1<sup>st</sup> Defendant herein (Plaintiff’s Exhibit 1 pg 20).
28. A perusal of the Handing and Taking Over Assets and Liabilities for the City of Kisumu as at 28<sup>th</sup> March 2013 marked as the Plaintiff’s Exhibit 1 pg 33 showed that the Plaintiff’s claim was listed therein. On 10<sup>th</sup> July 2017 (Plaintiff’s Exhibit 1 pg 37), the 1<sup>st</sup> Defendant asked the Plaintiff to confirm that the balance of the monies due to it was Kshs 75,580,127.33, a fact the Plaintiff confirmed in its letter of even date (Plaintiff’s Exhibit 1 pg 38). In his Memo dated 19<sup>th</sup> March 2019 (Plaintiff’s Exhibit 1 pg 43), Godfrey O. Dienya, the 1<sup>st</sup> Defendant’s Head of Internal Audit and Secretary to the Chief Finance Officer (AG), he confirmed the said amount as having been due and owing to the Plaintiff herein.



29. Without belabouring the point, this court was satisfied that the Plaintiff had demonstrated that it rendered services to the defunct Municipal Council in the sum of Kshs 75,580,127.33, a fact that the Defendants herein did not adduce evidence to revert the same.

### III. Eligibility or otherwise of the plaintiff's claim

30. The Plaintiff testified that the reason its claim was found to have been ineligible was because it was inherited from the defunct Municipal Council. It submitted that the TA supervised the transfer of the debt from the defunct Municipal Council to the 1<sup>st</sup> Defendant herein as was evidenced in the Handing and Taking Over Assets and Liabilities for the City of Kisumu as at March 28, 2013 (Plaintiff's Exhibit 1 pp 21-33).
31. It was emphatic that since there was no other statutory body that could scrutinise, prepare and validate debts and liabilities of government or defunct local authorities as was provided in section 7 (2) (e), (g) and (h) of the Transition to Devolved Government Act, 2012, its claim was regularly cleared and transferred to the 1<sup>st</sup> Defendant herein.
32. It submitted that there was nowhere that the claim was found to have been ineligible for want of proof of services or failure to follow the procurement process but that those were issues that had been belatedly introduced by DW 1.
33. It submitted that the Defendants were estopped from challenging the legibility of the debt due to their conduct which included making part payment in the sum of Kshs 4,812,726/=, confirmation in the letters of 10<sup>th</sup> July 2017 (Plaintiff's Exhibit 1 pg 37) and 19<sup>th</sup> March 2019 (Plaintiff's Exhibit 1 pg 43) and confirmation of the supporting documents by the said Godfrey O. Dienya dated 17<sup>th</sup> September 2020 (Plaintiff's Exhibit 1 pg 62).
34. On his part, DW 1 testified that if the Plaintiff was paid any money, then the same amounted to an illegal payment as there was no proof of procurement of the services it purportedly rendered the defunct Municipal Council. He was emphatic that the fact that the Plaintiff was paid did not legitimise the payment.
35. The Defendants referred this court to section 35 of the Transition to Devolved Government Act to the effect that a State Organ, public office, public entity or local authority was not to transfer assets and liabilities during the transition period and that such transfer was to be done in phases.
36. They placed reliance on the case of Gateway Insurance Company Limited vs Jimmy Kiamba, Treasurer Nairobi County Government & 2 Others [2015] eKLR which cited the case of Wachira Nderitu & Co Advocates vs The Town Clerk, City Council of Nairobi Miscellaneous Applications No 354 of 2012 where the court observed that the respondent therein ought to have been given some breathing space to arrange its finances and settle the sum due.
37. They also relied on the case of Interim County Secretary, County Government of Kakamega vs republic Ex Parte Ali Adam & Another [2017] eKLR where the court held that county governments were not automatic successors of the defunct local authorities. They added that the Constitution and the County Governments Act did not have a provision in express terms that county governments were the successor to local authorities,
38. They also referred this court to the case of Njagi Wanjeru & Co Advocates [2014] eKLR which cited the case of Speaker of National Assembly vs Karuma (sic) [2008]1 KLR EP 425 where it was held that where there was a clear procedure for redress of a particular grievance prescribed by the Constitution or an Act of Parliament, that procedure had to be followed.



39. They further relied on the case of *Republic vs County Secretary Murangá County Government Ex Parte Stephen Thiga Thuita* [2014] eKLR where the court therein held that all proceedings against the defunct local authorities did not naturally continue against the County Government of Murangá because there was a statutory authority, the TA, that had the constitutional mandate to carry out the function of identifying who should assume responsibility.
40. The TA was established pursuant to section 4(1) of the *Transition and Devolved Government Act* No 1 of 2012. Section 4(2) of the said *Transition and Devolved Government Act* stipulates that the TA was a body corporate with perpetual succession and a common seal and shall, in its corporate name, be capable of suing and being sued.
41. Section 7(2) (e), (g) and (h)(i) and (ii) of the *Transition and Devolved Government Act* provides that the TA shall prepare and validate an inventory of all the existing assets and liabilities (emphasis court) of government, other public entities and local authorities, provide mechanisms for the transfer of assets which may include vetting the transfer of assets during the transitional period and also develop the criteria as may be necessary to determine the transfer of functions from the national to county governments including such criteria as may be necessary to guide the transfer of functions to county governments and the criteria to determine the transfer of previously shared assets, liabilities and staff of the government and local authorities.
42. It was therefore correct as the Defendants submitted that county governments did not automatically acquire the debts of the defunct Municipal Council unless the said debt had been verified by the TA, a position that was aptly set out in the case of *Republic vs County Secretary Murangá County Government Ex Parte Stephen Thiga Thuita* (Supra) and aptly confirmed by the Court of Appeal in the case of *Interim County Secretary, County Government of Kakamega vs republic Ex Parte Ali Adam & Another* (Supra).
43. Regulation 5 of the *Transition and Devolved Government (Transfer of Assets and Liabilities) Regulations*, 2013 (hereinafter referred to as “the Regulations”) also emphasises the role of the Technical Committee of the Authority in preparing, validating and submitting an inventory of public assets and liabilities to the TA.
44. Regulation 8 of the said Regulations further stipulates that a public entity shall make an application to transfer a public asset or liability, to the Authority in the Form set out in the Schedule to these Regulations.
45. Further, regulation 9(1)(a) of the said Regulations provides that subject to section (8), the Authority may approve the transfer of an asset or liability, where the Court has made an order for the transfer of the asset or liability. regulation 9(2) of the said Regulations is clear that TA shall not approve an application to transfer a public asset or liability where the obligation arose during the transition period.
46. As seen hereinabove, the Handing and Taking Over Assets and Liabilities for the City of Kisumu as at March 28, 2013 marked as the Plaintiff’s Exhibit 1 pg 33, showed that the Plaintiff’s claim was listed therein. The Special Report of the Auditor General on Pending Bills of the County Government as at 30<sup>th</sup> June 2018 (Plaintiff’s Exhibit 1 pp45-46) was evidence that the 1<sup>st</sup> Defendant lodged its claim as provided in Regulation 8 of the said Regulations and that the Technical Committee verified the Plaintiff’s claim against the defunct Municipal Council as provided in Regulation 5(b) of the said Regulations.
47. Appendix C : Ineligible Pending Pills on the Plaintiff’s Exhibit 1 pg 46 showed the Plaintiff’s claim in the sum of Kshs 75,580,127.32 as one of the ineligible pending bills. The reason given was that it was “Inherited from defunct local authority”.



48. Inheritance of a claim from a defunct local authority could not be said to have been a reason to find a liability against a defunct municipal council as ineligible more so where the defunct municipal council and the incoming county government had acknowledged the debt. While it was correct as DW 1 stated that the fact that it effected payment of Kshs 4,812,722/= did not legitimise the payment because there was a flouting of the provisions of the *Public Procurement and Asset Disposal Act*, the Defendant failed to elucidate and demonstrate how the same rendered the Plaintiff's claim ineligible.
49. The Defendants did not present any evidence to demonstrate that the 1<sup>st</sup> Defendant complied with the provisions of article 229 (8) of *the Constitution* of Kenya. The same provided as follows:-
- “Within three months after receiving an audit report, Parliament or the county assembly shall debate and consider the report and take appropriate action.”
50. The letter dated 26<sup>th</sup> July 2019 ( Plaintiff's Exhibit 1 pg 56 )from Omondi Victor, the 1<sup>st</sup> Defendant's Attorney to the Plaintiff requesting the Plaintiff to obtain further information from the Department of Finance was not proof that the 1<sup>st</sup> Defendant had complied with the provisions of Article 229(8) of *the Constitution* of Kenya regarding the discussion of the findings in the Special Report of the Auditor General on Pending Bills of the County Government as at 30<sup>th</sup> June 2018 (Plaintiff's Exhibit 45-46). The Defendants ought to have tendered evidence of such deliberations by the County Assembly of Kisumu showing how the conclusion of ineligibility of the Plaintiff's claim could not be remedied.
51. Notably, the Plaintiff tendered in evidence a letter dated 27<sup>th</sup> September 2019 (Plaintiff's Exhibit 2 pp 7-8), in which Alex Nthiga Rugera, Deputy Auditor General in Charge of County Governments Pending Bills Audit had written to Stephen Masha Comptroller of Budget and the Hon (Amb) Ukur Yattani Cabinet Secretary The National Treasury and Ministry of Planning and copied to H.E. Governor Wycliffe A. Oparanya Chairman Council of Governors and Dr Patrick Omutia, Special Secretary Intergovernmental Budget and Economic Council (IBEC) indicating that although it had been resolved that every county form an ineligible pending bills resolution committees which were to be chaired by an external expert and were to be gazetted, reports had indicated that these committees were yet to be formed or suppliers not informed of their existence. He had also indicated that the county governments were to be supervised to comply with the said observations and final reports of these committees were to be enforced by both the National Treasury and the Comptroller of Budgets.
52. In the Plaintiff's Exhibit 2 page 6, the Plaintiff attached a Notice to Suppliers dated 7<sup>th</sup> October 2019 in which Nelson Otieno Aloys Chairman Pending Bills Committee who was appointed vide Gazette Notice No 6412 indicating that the Office of the Auditor General had identified some suppliers/contractors ineligible due to lack of mandatory documents.
53. It was evident that claims were ineligible due to lack of support of mandatory documents. The nature of these mandatory documents was not set out in the said Notice. Suffice it to state that Godfrey O. Dienya the 1<sup>st</sup> Defendant's Head of Internal Audit wrote memo dated 17<sup>th</sup> September 2020 (Plaintiff's Exhibit 1 pg 62) to the 1<sup>st</sup> Defendant's County Attorney forwarding the documents the Plaintiff herein submitted during the assets and verification exercise to support to the sum of Kshs 75,580,127.32.
54. The aforesaid Memo was dated 17<sup>th</sup> September 2020(Plaintiff's Exhibit 1 pg 62). This was way after the Notice and Suppliers to attach mandatory documents (Plaintiff's Exhibit 2 pg 6). The said Head of Audit also reminded the County Attorney that the 1<sup>st</sup> Defendant had since paid the Plaintiff herein a sum of Kshs 4,812,722.00 vide cheque No 7924.
55. In his Memo to the Chief Finance Officer dated 19<sup>th</sup> March 2019 (Plaintiff's Exhibit 1 pg 43), the said Head of Internal Unit had also stated that the claim was captured by the County Assets and



Liability Team during the Transition Authority and Intergovernmental Technical Committee Assets and Verification exercise and transferred to the 1<sup>st</sup> Defendant during the transition period. Team the said Head of Internal Audit and Secretary to CALC.

56. It was evident that the aforesaid debt against the defunct Municipal Council arose outside the transition period. The Plaintiff's claim was verified by the Technical Committee. The Plaintiff submitted documents in support of its claim after it's claim was declared ineligible. These were acknowledged by the Head of Internal Unit who verified the same. The 1<sup>st</sup> Defendant made part payment of the sums which were due from the defunct Municipal Council to the paid the Plaintiff. It did not tender evidence of the recommendations of the County Assembly, if at all the same were made, confirming ineligibility of the said claim.
57. This court found that the circumstances of this case to have been different from those in the cases of *Republic vs County Secretary Murangá County Government Ex Parte Stephen Thiga Thuita* (Supra) and addressed by the Court of Appeal in the case of *Interim County Secretary, County Government of Kakamega vs republic Ex Parte Ali Adam & Another* (Supra).
58. The question herein boiled down to a question of equity, the question here being whether or not the 1<sup>st</sup> Defendant could evade paying the Plaintiff's claim merely because of an omission that could be remedied and which this court found to have been remedied. The answer to this question was in the negative.
59. The 1<sup>st</sup> Defendant could not appropriate and reprobate at the same time. It was estopped from denying the Plaintiff's claim having acknowledged it and documentation that it had sought from the Plaintiff, having been submitted. Indeed, the Defendants never wrote back to the Plaintiff informing it that the documents it had submitted were not sufficient. In the absence of any evidence to the contrary, this court came to the firm conclusion that the Plaintiff had demonstrated that its claim was eligible for payment.

#### **IV. Payment of the plaintiff's claim**

60. The 1<sup>st</sup> Defendant was enjoying the work that had been done by the Plaintiff to clear all statutory dues that were due during the tenure of the defunct Municipal Council, a task the Plaintiff completed satisfactorily as evidenced in the 1<sup>st</sup> Defendant's letter dated 19<sup>th</sup> February 2013 (Plaintiff's Exhibit 1 of 18) to the Plaintiff herein.
61. It was for this reason that this court found and held that the Plaintiff's claim against the 1<sup>st</sup> Defendant was payable and that the 1<sup>st</sup> Defendant had acquired the said claim by virtue of acknowledging the same, making part payment of the same and failing to adhere to all its constitutional mandate thus prejudicing the Plaintiff herein.
62. The Plaintiff's remedy lay in this court coming to its rescue. Notably, as can be seen herein, regulation 9(1)(a) of the Regulations stipulates that:-

“ Subject to section (8), the Authority may approve the transfer of an asset or liability, where the Court has made an order for the transfer of the asset or liability.”
63. This court came to the aforesaid conclusion as it was bound by the national values of good governance, integrity, transparency and accountability enshrined in article 10(2) (c) of *the Constitution* of Kenya. This court noted that the *Transition of Devolved Government Act* and the Regulations did not provide a procedure for an aggrieved party to challenge the finding of the TA or the Technical Committee.



It was, however, alive to the fact that section 3A of the [Civil Procedure Act](#) Cap 21 (Laws of Kenya) provides that:-

“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.”

### **Disposition**

64. For the foregoing reasons, the upshot of this court’s decision was that the Plaintiff’s suit that was filed on February 7, 2012 was merited and accordingly, judgment be and is hereby entered in favour of the Plaintiff herein against the Defendants jointly and severally for the sum of Kshs 75,580,127.33 together interest thereon at court rates from the date of filing suit until payment in full and costs.

65. It is so ordered.

**DATED AND DELIVERED AT KISUMU THIS 22<sup>ND</sup> DAY OF FEBRUARY 2023**

**J. KAMAU**

**JUDGE**

