



**Mwangi v Inspector General of Police & 3 others (Petition 509 of 2019)
[2023] KEHC 22823 (KLR) (Constitutional and Human Rights) (29 September 2023) (Judgment)**

Neutral citation: [2023] KEHC 22823 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
CONSTITUTIONAL AND HUMAN RIGHTS**

PETITION 509 OF 2019

LN MUGAMBI, J

SEPTEMBER 29, 2023

BETWEEN

JAMES MARINGA MWANGI PETITIONER

AND

INSPECTOR GENERAL OF POLICE 1ST RESPONDENT

DIRECTOR OF CRIMINAL INVESTIGATIONS 2ND RESPONDENT

DIRECTOR OF PUBLIC PROSECUTIONS 3RD RESPONDENT

HONOURABLE ATTORNEY GENERAL 4TH RESPONDENT

JUDGMENT

Introduction

1. This petition was filed on 19th December, 2019. The petitioner is James Maringa Mwangi. He was an auditor (and possibly still is) at the Kenya Medical Research Institute, (KEMRI).
2. In the petition, he seeks the following reliefs against the respondents: -
 - a. A declaration that the 1st and 2nd respondent failure to conclusively investigate the criminal complaint reported in the year 2017 constitutes inordinate delay;
 - (b) A declaration that the 1st and 2nd Respondents have breached the petitioners rights under Article 35 with regard to access to information:
 - b. A declaration that the petitioners right to dignity as enshrined under Article 28 has been violated on account of the manner the investigations have been conducted.



- c. A declaration that the 1st, 2nd and 4th respondent's handling of the complaint the subject of this petition will amount to a breach to the right to fair hearing in the event the complaint is prosecuted after the delay.
- d. General damages.
- e. Any other relief this court may deem fit.

Petitioner's Case

3. The petitioner averred that in October, 2016 when one Elizabeth Nyakeru Irumbi was offered a six-month internship opportunity at KEMRI and placed in the Internal Audit Department on 17th October, 2016. The Petitioner was the one in-charge of the said Department.
4. Towards the end of March, 2017, the said intern approached the petitioner to inquire her internship contract could be extended. The petitioner informed her that that programme was non-extendable.
5. Despite the verbal clarification given by the Petitioner, the intern wrote a letter on 10th April, 2017 to formally ask for the renewal of the internship programme as it was set to end on 17th April, 2017. The request was however rejected on 12th April, 2017 by the Human Resource Department. Subsequently, the Petitioner wrote to her instructing her to hand over KEMRI's property.
6. In July, 2017, received a call from Kilimani Police Station informing him there was a sexual assault/harassment complaint filed against him by Elizabeth Nyakeru Irumbi vide OB No. 45/14/4/2017 and was thus required to go and record a statement. On 30th August, 2017, the petitioner received another call from Kilimani Police Station asking him to go and record another statement. On 28th March, 2018; the respondent asked KEMRI to provide its Human Resource report on the matter; and a committee was quickly set up to deal with the issue, a move that the petitioner protested as outsourcing investigations from civilians and challenged the process undertaken by his employer pursuant to the respondents request at the Employment and Labour Relations Court vide petition No. 99 of 2019. This caused KEMRI to abandon the said disciplinary hearing that the respondents had prompted.
7. The petitioner pleaded that as a result of the said allegations and pending investigations into the matter, libelous articles have been published against him in the newspapers and cited the People Daily of 25th January, 2019 and the weekly citizen of 28th February, 2019 whose reporting is attributed to said reports as an indication that failure to conclude the investigations by the police continues to hurt him.
8. The petitioner averred that he has unsuccessfully made several attempts urging the police to conclude this investigation. He enumerated eight documented instances through the letters he had sent to the Directorate of Criminal Investigations requesting that the matter be finalized.
9. The petitioner stated that the complaint against him by the Elizabeth Nyakeru Irumbi was without factual basis as it was raised two (2) days after her application for renewal of the internship contract was rejected.
10. The petitioner alleged that his troubles arise from his work as an auditor. He cited two reports as the underlying reason for being targeted in order to slow him down, the reports being: the food handlers final audit report dated 27th July, 2016 where the audit uncovered a number of malpractices in which the Director of KEMRI was required to account for Kshs.5,442,000/-, and the Audit Report on imprest transactions worth Kshs.12,030,000/- dated 29th May, 2017 where the management was required to start recovery process of which one of those affected was the Assistant Director of Finance, Mr. Antony Wachira.



11. The petitioner believes agents of the 2nd respondent were being used as to abuse the Criminal Justice Process and cripple him hence the reason why the investigation has taken a long time to finalize.
12. The petitioner averred that he has even called on the office of the Director of Public Prosecutions to review the file but it instead referred him back to the Directorate of Criminal Investigations. The petitioner averred that the fact that of investigations being on going has made him get condemned in the court of public opinion which views him as guilty. He claimed the delay in completing the investigations is unjustified, and has caused him great anguish and psychological torture with no forum to clear his name.
13. The petitioner alleged that as a result, his constitutional right have been violated as follows: -
 - a. To the extent that the Petitioner has been denied information held by the respondents touching on the sexual assault complaint against him then Article 35(1) has been breached;
 - b. To the extent that the respondent has failed to resolve and determine the issue instituted in the year 2017 then Article 47 on fair administrative action has been breached;
 - c. To the extent that the respondent continues to allow the issue to unjustifiably hover over the petitioners' head then Article 28 on the right to dignity has been violated:
14. He pleaded for the reliefs outlined at the commencement of this judgment.
15. The petition was supported by the Petitioner's affidavit sworn on 17th December, 2019 inclusive of all the annexures thereto. It reiterated the contents of the petition. The petitioner deposed that the sexual harassment complaint is a fabrication and is aimed at blackmailing him to slowing him down in his work as an auditor at KEMRI.

Respondents Case

16. The 1st, 2nd and 3rd Respondents filed grounds of opposition enumerating 11 grounds as follows: -
 1. That to the extent that paragraphs 21, 22, 23, 24, 25, 26, 27, 32, 33, 34, 36 and 52 refer to Ms. Elizabeth Nyakaru Irumbi, various newspaper publications and third parties, who are not party to these proceedings and who cannot therefore substantively respond to the issues raised against them, the Petition's factual basis is without tested evidence and consequently it is incompetent.
 2. That to the extent that the Petitioner did not seek any information pursuant to Article 35 of *the Constitution* and that these are not full-blown proceedings under Article 35 of *the Constitution*, then this Petition as filed contradicts the interpretation given by this court on the application of the said Article in National Association For The Financial Inclusion of the Informal Sector Vs Minister of Finance & Another [2012] eKLR, Kenya Society for the Mentally Handicapped (KSMH) Vs Attorney General and Others Nairobi Petition No. 155A of 2011 (Unreported) and in John Harun Mwau v Linus Gitahi & 13 others [2016] eKLR, citing Federation of Women Lawyers-Kenya & 28 Others Vs Attorney General & 8 Others [2015] eKLR, consequently prayer (b) cannot issue.
 3. That to the extent the petitioner has not demonstrated the connection between the particular constitutional clauses allegedly violated and cited, and the facts pleaded, the petition is incompetent for lack of precision and/ or for being omnibus. Specifically, prayer (c) cannot issue.



4. That to the extent that paragraphs 37, 40, 41, 42, 43, 44, 45, 46, 47, 48, 50 and 52 allege that the germane investigations are being undertaken because of his work as an auditor at KEMRI and further, because of his relationship with the KEMRI Director General, the same are unsubstantiated and speculative. They ought to be struck out and/or expunged from the record for being scandalous, frivolous and vexatious; and further they cannot form the basis for granting the Order / Declarations sought.
5. That in his own admission, at paragraph 49 and 51 of the petition, the Petitioner avers that the 3rd Respondent having received his complaint referred the matter to the 1st and 2nd Respondents. This is within the 3rd Respondent's constitutional mandate under Article 157 of *the Constitution*, as read with Section 35(h) of the *National Police Service Act*, Cap. 84.
6. Further that granting prayers (a) and (d) of the petition will be akin to this court directing the Respondents, including the 3rd Respondent which is an independent office, on how to execute their statutory and a constitutional mandate when there has be no reasonable cause to warrant the issuance of such directives.
7. That the petitioner is engaging in forum shopping. He has lodged a complaint at the Commission for Administrative Justice 'Ombudsman', he has been writing letters to the Director of Public Prosecutions, the Directorate of Criminal Investigations and now this court; in all occasions complaining about the way the police are conducting investigations into his alleged indecent assault.
8. That to the extent that several paragraphs of the affidavit in support of the petition irregularly introduces inadmissible documents as evidence and proof of the alleged violations, the same paragraphs ought to be struck out of the record at the first instance, together with the Exhibits, the same being Exhibit JMM-9', 'JMM-10', 'JMM-11', 'JMM 14', 'JMM-15', JMM-24', 'JMM - 25' and 'JMM - 26. These exhibits are inadmissible for being letters to which the petitioner is not the addressee / author or for being newspaper excerpts / cutting. For the various letters done by KEMRI, the same are inadmissible under Sections 79 and 82 of the *Evidence Act*, Cap. 80 Laws of Kenya. The exhibits being the basis for some alleged factual depositions, the petition fails on account of lack of evidence.
9. Further that the adduction of documents authored by KEMRI is in violation of trust and confidentiality of public documents. Their production borders misconduct and is proscribed by the Public Officers Ethics Act, 2003. Specifically, Section 11(2)(c) which provides that "a public officer shall not for personal benefit of himself or another use or allow the use of information that is acquired in connection with the public officer's duties..."
10. That in the petition raises no constitutional issue for determination by this court. The amorphous complaints raised herein are workplace related and a pending criminal investigation - which has no timelines. That it is obvious from the petition that the investigations have been saddled by a myriad of letters to several offices and officers raising allegations of violations.
11. That the petition is otherwise an abuse to this court's process and the same should be dismissed with costs.
12. The 2nd respondent did not file any response but put in its written submissions.



Petitioners Submissions

17. On the issue of ‘inordinate delay’ to conclude investigations, the petitioners counsel started off by pointing out that ‘unreasonable delay’ affects the right of fair hearing and referred to Article 50 of *the Constitution* which states:
 50. Fair hearing
 - (1) Every person has the right to have any dispute that can be resolved by the application of law decided in a fair and public hearing before a court or, if appropriate, another independent and impartial tribunal or body.
 - (2) Every accused person has the right to a fair trial, which includes the right—
 - (a) to be presumed innocent until the contrary is proved;
 - (b) to be informed of the charge, with sufficient detail to answer it;
 - (c) to have adequate time and facilities to prepare a defence;
 - (d) to a public trial before a court established under this Constitution;
 - (e) to have the trial begin and conclude without unreasonable delay;
18. Citing the case of *Rose Owira & 23 others v Attorney-General & another; Kenya National Commission on Human Rights & 4 others (Interested Parties) [2020] eKLR* the petitioner submitted that the court in that case had observed that the people of Kenya through the constitutional expect the criminal justice system to bring suspects to trial expeditiously because delays in trial have far-reaching ramification to the accused person, victims, the families, witnesses and even the general public.
19. The petitioner contended that there has been inordinate delay in investigating and concluding this matter without any explanation being provided yet evidence has been collected that exonerates the petitioner.
20. The petitioner argued as a result, he has suffered prejudice as exhibited in paragraph 46 of his supporting affidavit where newspapers continue to rely on the pending complaint to publish articles about him in connection with the said allegations.
21. Submitting on the prayer of denial of access to information, the petitioner argued that he had provided an army of correspondence which is outlined in paragraph 27 of the affidavit to demonstrate the various requests he has made seeking the information without success. He in particular, referred to his letter dated 18th August, 2019 where he sought for copies of medical reports emanating from Imani Clinic and an indication of which medical reports from Imani Medical Clinic were used to fill the P3 form as well as the status of investigation, all which were ignored.
22. He relied on the case of *Katiba Institute Vs President Delivery Unit & 3 Others (2017) eKLR* which affirmed the position that information held by the state is accessible by citizens and that the information is available on request without delay.
23. Counsel argued that in absence of any explanation as to why the information was not granted, the court should find that the refusal amounted to violation of petitioner’s right under Article 35 of *the constitution*.
24. On violation of petitioner’s right to dignity, the petitioner took issue with the respondent’s contention that references to Miss Irumbi be expunged plus the newspaper cuttings. He submitted the



information being peddled about him in connection with the allegations was fodder for tabloid gossip and it is the respondents who had given it legitimacy and life by refusing to finalize investigations into the complaint hence the blame for the injurious reports squarely fell on the respondents door-step.

25. In regard to the prayer for the declaration that the petition will amount to a breach of right to fair hearing should the petitioner be ultimately prosecuted notwithstanding the delay; the petitioner wondered why the resident should take more than (2) years to investigate an alleged crime. He invited the court to find that delay will occasion an unfair hearing in the event it happens.
26. On award of general damages, the petitioner acknowledged that they are given at the discretion of the court and cited the case of Edward Akong'o Oyugi & 2 others Vs Attorney General (2019) eKLR where it was held that monetary compensation for violation of fundamental rights is now an appropriate remedy for enforcement and protection of fundamental rights, though different from a remedy in private law for damages for tort.
27. The petitioner through counsel thus proposed an award of Ksh.4,000,000/- as sufficient recompense in this matter.
28. The petitioner's counsel further rebutted a suggestion to the effect the petition had not been drawn with reasonable precision. He submitted that facts were properly linked to the violations and thus the petition consistent with the principles set out in Trusted Society of Human Rights Alliance Vs Attorney General & 2 Others (2012) eKLR where the decisions on precision in constitutional petitions was upheld in Mumo Matemo Vs Trusted Society & Human Rights Alliance & 5 others (2013) eKLR; with the court holding that the test is a substantive, where the court inquiries whether the complaints against the respondents in a constitutional petition are fashioned in a way that gives proper notice to the respondents about the nature of the claims being made so that they can adequately prepare for the case.

1st, 2nd and 4th Respondents Submissions

29. The 1st, 2nd and 4th respondents filed written submissions dated 16th April, 2023 through State Counsel, M/s Beth Wamuyu.
30. She submitted that paragraphs 21, 23, 23, 24, 25, 26, 27, 32, 33, 34, 36 and 52 of the petitions referred to third parties who were not before the court and who therefore had no opportunity to respond to the allegations levelled against them thereby denying them an opportunity of being heard. These third parties were Elizabeth Irumba Nyakeru , KEMRI, Director Kemri and Assistant Director of Finance KEMRI- Mr. Antony Wachira.
31. Counsel further submitted that the allegation that investigations were instigated due to the petitioner's work as an auditor at KEMRI is unsubstantiated and speculative. Citing the case of Christian Juma Wabwire Vs Attorney General (2019) eKLR. She argued that unsubstantiated allegations cannot support a fact and relied on the following paragraph where the court observed:

“the court is dead to speculation and imaginations and must be guided by evidence of probative value. When the court is faced by a scenario where one side alleges and the rival side disputes and denies, the one alleging assumes the burden to prove the allegations...”
32. M/s Wamuyu submitted that the only time the court may interfere with constitutional mandate of 1st, 2nd and 3rd Respondent is if the Petitioner is able to demonstrate the exercise of power was done arbitrarily. M/s contended that granting the prayers sought would amount to directing the respondents on how to execute their constitutional mandates.



33. She contended that the petition had failed to demonstrate that the police officers acting outside their mandate in investigating the complaint or that they had commenced the said investigation without reasonable and probable cause.
34. M/s Wamuyu argued that exhibits JMM -9, JMM-10, JMM-11, JMM- 14, JMM-15, JMM-24, JMM-25 and JMM-26 were admissible for contravening Section 79 and 82 of the Evidence Act Cap 80 because they are documents authored by KEMRI yet the petitioner was the one producing for his own benefit without demonstrating that he had obtained them procedurally which was in fact against Section 11(2) (c) of the Public Officers & Ethics Act, 2003 that provides: -

“A public Officer shall not for personal benefit of himself or another use or allow use of information that is acquired in connection with the public officer’s duties.”

3rd Respondent’s Submissions

35. The 3rd respondent (Director of Public Prosecution) submitted that this petition does not raise a reasonable cause of action against it as it does not show with precision the manner how the 3rd respondent infringed upon the petitioner’s rights. The 3rd respondent relied on the case of Annarita Karimi Njeru Vs Republic (1979) KLR 154 where it was held that where a petition alleges breach of fundamental freedoms and rights, it should set out with reasonable degree of precision, the provisions said to be impugned and the manner in which they are alleged to be impugned.
36. Furthermore, the 3rd respondent submitted that the claim against it is not supported by any evidence showing how the 3rd respondent failed in discharging its constitutional mandate as infringed on the petitioner’s rights. The 3rd Respondent relied on the case of Kenya Transport Association Vs Municipal Council of Mombasa & Another [2011] eKLR where it was held that claims that are not supported by evidence, have no significance in legal terms in regard to claims of violations of fundamental rights and guarantees of the constitution.
37. Moreover, Counsel for the 3rd Respondent argued that the Petitioner failed to demonstrate that the 3rd respondent has ever been seized of the matter (which is the subject of the petitioner’s complaint) so as to be held accountable. It argued no investigation report emanating from the said investigation has never been forwarded to DPP for consideration.
38. In any case, the 3rd respondent contended prayer (d) of the petition was illusory and hypothetical insisting that the decision to charge is vested on the 3rd respondent under Article 157 (6) of the constitution and only limited in the manner provided for in Article 157 (10) and (11) and granting prayer (d) be an interference of the 3rd Respondent’s constitutional mandate in deciding whether to charge or not based on evidence and public interest.

Analysis and Determination

39. After considering the pleadings, affidavits and the rival submissions of the parties herein, I identified the following to be the issues for determination:
- a. Are there allegations that the Petition contains that are made against persons who are not part of this Petition? If so, what is the effect thereof.
 - b. Whether this court can validly block an investigation into a criminal complaint on the basis of inordinate delay in concluding an investigation into the crime and consequently bar the DPP from considering the outcome of the said investigation in making the decision to charge.



- c. Whether Petitioner's right of access to information under Article 35 of *the Constitution* was infringed by the failure on the part of respondents to provide the documents sought by the Petitioner from the Directorate of Criminal Investigations.
40. The first issue touches on what was pointed out by the 1st, 2nd and 3rd Respondents. In their grounds of opposition, they stated that the Petition makes grave allegations against third parties that are incapable of defending themselves to advance its case. The Petitioner for instance alleges that the person who filed the complaint with the Police against him, an intern by the name Elizabeth Irumbi Nyakeru fabricated the same. He also proceeds to say that the complaint is a disguise to slow him down in his work as an auditor and cites two reports he had authored which allegedly implicated the Director KEMRI and Assistant Director of Finance with financial malpractices for which they were being called into account as a pointer that the allegations were instigated by his work as an auditor.
41. Nevertheless, it is a wonder that despite this stand that the Petitioner took, he did not bother either to bring these people on board as interested parties so that their side of the story could be heard too in determining if indeed this complaint was a mere cover up.
42. The Petitioner wants the Court to rely only on his own version and enter the finding that the complaint filed by the intern for sexual harassment/assault had no basis without granting a chance to the said Elizabeth Irumbi Nyakeru to tell her side of story too. As was held in the celebrated English case of *Ridge Vs. Baldwin* (1963) 2 ALL ER 66, 'an essential requirement for the performance of any judicial or quasi-judicial function is that the decision makers observe the principles of natural justice...a decision is unfair if the decision maker deprives himself the views of the person who will be affected by the decision.'
43. In the present case, the Petitioner wants the Court to determine that the complaint filed by Elizabeth Nyakeru Irumba is a fabrication without offering a chance to the said complainant to give her side of the story against his accusations. Further, he accuses his fellow workmates of malice by instigating the complaint without them being offered the opportunity to respond to his accusations too. This is unacceptable. As was held in *Mbaki Macharia & Others Vs. Macharia & Another* (2005) 2EA 206 '... It is an indispensable requirement of justice that the party who has to make a decision shall hear both sides, giving each an opportunity of hearing what is urged against them...'
44. As already observed, the complainant who lodged the complaint that has necessitated this petition has an identifiable stake in a proceeding that seeks to stop an investigation which among others alleges that the said complaint was itself a fabrication and thus had no truth in it. Failing to make her part of the petition amidst such claims makes the petition legally inept in so far as that ground is concerned. It amounts to condemning a person unheard hence the disposition by the petitioner that paint the complaint levelled against him is a fabrication is not persuasive and is therefore rejected in the circumstances.
45. The next which I find germane to address is on whether this court can validly block/stop an investigation of an alleged crime on the basis of inordinate delay in concluding the investigation and consequently bar the Director of Public Prosecution from considering the report of such an investigation in deciding whether to charge or not.
46. The first question to ask, was there a reasonable and probable cause to lodge for lodging the investigation in question. The answer to this is obvious in view of the above finding that the Petitioner has not demonstrated otherwise.
47. If therefore the reasons for commencing the investigation are merited, would inordinate delay in concluding the investigation be termed a violation of the Petitioner's constitutional rights?



48. To start with, the common law doctrine of *nullum tempus occurit regi* (no time runs against the King) is generally applicable in the criminal law of this Country.
49. As it were, there is no constitutional or statutory limitation on investigation of criminal complaints in Kenya.
50. A closer look at Article 50 which the Petitioner invoked as the basis of seeking relief to stop investigation into complaints leveled against him on account of unreasonable/inordinate delay reveals that it would only crystalize once the formal charge has been introduced. That is when the Court assesses the relevant facts and decides whether or not a fair trial can be achieved in the circumstances. What the Petitioner is calling upon this court to do at an investigation stage is thus premature.
51. A plausible approach which courts in this country have adopted is as illustrated by the case of *Stanley Munga Githunguri Vs Republic (1986) eKLR*. The issues become ripe at the point the formal charge is introduced. Curtailing an investigation on the basis of possible outcomes amounts to inviting the court to gamble. Decisions of the Court are based on sound reasoning that is supported by evidence, not assumptions.
52. Further, that will be tantamount to usurping the independence of Director of Public of Public Prosecutions who should exercise his constitutional mandate in deciding whether to charge or not upon receipt of the outcome of an investigation and after exercising his mind on all the relevant factors including the evidence, law and public interest which (presumably includes even such delays).
53. On violation of his right to information, the Petitioner relied on Article 35 of *the Constitution* which provides:
- Access to Information:
- 35
- (1) Every citizen has the right to of access to-
- a. Information held by the State; and
- b. Information held by another person and required for exercise or protection of any right or fundamental freedom
54. He also relied on *Access to Information Act* section 4 which amplifies the above Constitution provision by among other providing that a citizen's right to access information is not limited by any reason the person gives for seeking information or the public entity's belief as to what are the persons reasons for seeking access. Of interest were the documents that the Petitioner had sought from the 2nd Respondent vide his letter of 18th August 2019; which named the documents he was seeking as follows:
- a. Copies of medical reports emanating from Imani medical clinic
- b. An indication of which medical reports from Imani Medical Clinic was used to fill the P3 form
- c. Status reports on the investigation
55. A cursory look at the documents demanded by the Petitioner (who in this case was the suspect under investigation) shows that the documents in question are central to the said investigation which was ongoing and did not even belong to him.



56. It needs to be underscored that Article 35 of *the Constitution* is not absolute and may, by virtue of Article 24 be limited by law as long as the limitation is reasonable and justifiable in open and democratic society based on human dignity, equality and freedom taking into account importance of the purpose of limitation, the nature and extent of limitation among other considerations.
57. Under Section 133 of the *Evidence Act*, Cap 80 privilege relating to information of commission of offences is secured in the following terms:
- 133.
- (1) No Judge, magistrate or police officer shall be compelled to say whence he got any information as to the commission of any offence, and no revenue officer shall be compelled to say whence he got information as to the commission of any offence against the law relating to the public revenue or to income tax, customs or excise... ‘
58. It should be underscored there is overriding public interest in maintaining confidentiality of investigative processes concerning crimes as it eliminates opportunities for suspects and potential law breakers from short-circuiting the process before it is completed. Providing such information prior or before investigation process is completed could put the lives of witnesses, informers or the information itself at great risk. It could also create a fertile ground for schemes to interfere with the witnesses and kill the cases long before they are presented in courts. In my view, there is greater public interest in protecting the integrity of the investigation which far outweighs a suspect’s desire to lay hands on the information.
59. Indeed, I believe it is for the same reasons that *the Constitution* has recognized the need for such information being provided once the formal charges have been preferred by dint of Article 50 (2)(f) of *the Constitution*.
60. I thus find that failure to provide the information that was at the core of the investigation of the complaint laid with the second respondent during the course of investigation into the crime does not amount to violation of the Petitioners right of access to information under Article 35 of *the Constitution*.
61. The upshot of the foregoing is the finding by this Court that this petition is amorphous, misconceived, and lacks substance. It is dismissed in its entirety with costs to the respondents.

DATED, SIGNED AND DELIVERED AT NAIROBI THIS 29TH DAY OF SEPTEMBER, 2023.

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L N MUGAMBI

JUDGE

