



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT HOMA BAY**

**PETITION NO. 11 OF 2020**

**RAMS GEORGE OPEE..... PETITIONER**

**VERSUS**

**THE INSPECTOR GENERAL OF THE POLICE.....1<sup>ST</sup> RESPONDENT**

**THE DIRECTOR OF CRIMINAL INVESTIGATIONS.....2<sup>ND</sup> RESPONDENT**

**THE OFFICER IN CHARGE OYUGIS POLICE STATION.....3<sup>RD</sup> RESPONDENT**

**THE DIRECTOR OF PUBLIC PROSECUTIONS ..... 4<sup>TH</sup> RESPONDENT**

**INDEPENDENT POLICING OVERSIGHT AUTHORITY ..... 5<sup>TH</sup> RESPONDENT**

**THE HON. ATTORNEY GENERAL ..... 6<sup>TH</sup> RESPONDENT**

**RULING**

1. The fifth respondent herein moved the court by way of Notice of Motion dated 10<sup>th</sup> December, 2020 and is seeking the following orders:
  - a) That this honourable court be pleased to strike out the name of the fifth respondent from the petition as the fifth respondent is improperly joined as a party to the petition.
  - b) That the petitioner do pay costs of the application and of the suit to the fifth respondent.
2. The application was premised on the following grounds:
  - a) That the fifth respondent has been wrongfully enjoined in the petition.
  - b) That the petitioner has not demonstrated the violation or threatened violation of his fundamental rights and the manner in which his rights have been violated by the fifth respondent.
  - c) That the petition does not disclose any reasonable cause of action against the fifth respondent as no orders are sought against the fifth respondent and as such, the petition is mischievous, misconceived and an abuse of the due process of the court.
  - d) That the name of the fifth respondent should be struck out with costs.
3. The application was opposed on grounds that the fifth respondent has a duty to investigate the complaints by the petitioner.
4. The fifth respondent is created under section 3 (1) of the Independent Policing Oversight Authority Act, 2011 which states:
  - 1) **There is hereby established an Authority to be known as the Independent Policing Oversight Authority.**
5. One of the objectives of the fifth respondent is provided under section 5 (a) in the following terms:

**The objectives of the Authority shall be to:**

**a) hold the Police accountable to the public in the performance of their functions;**

Accountability to the public is very key objective for the creation of the fifth respondent. In as much no breach of the rights of the applicant have not been attributed to the authority, in the event that the petition is allowed, the 5<sup>th</sup> respondent may be asked to ensure that the actions of the police are investigated and the culprits made to account. I therefore find that the fifth respondent was properly enjoined,

6. The application by the fifth respondent is hereby dismissed. Each party to meet own costs.

**DELIVERED AND SIGNED AT HOMA BAY THIS 28TH DAY OF FEBRUARY, 2022**

**KIARIE WAWERU KIARIE**

**JUDGE**