



REPUBLIC OF KENYA

THE HIGH COURT OF KENYA AT NAKURU

JUDICIAL REVIEW APPLICATION NO. 17 OF 2020

IN THE MATTER OF: THE LAW REFORM ACT READ WITH ORDER 53 CIVIL PROCEDURE RULES, 2010

AND IN THE MATTER OF: SECTION 11 OF THE COUNTY GOVERNMENT ACT NO. 17 OF 2012 AND THE NYANDARUA COUNTY ASSEMBLY STANDING ORDERS NO. 63 AND IN THE MATTER OF VIOLATION OF THE CONSTITUTION OF KENYA, 2010

AND IN THE MATTER OF: THE PURPORTED REMOVAL OF HON. JAMES NDEGWA WAHOME FROM OFFICE OF THE SPEAKER NYANDARUA COUNTY ASSEMBLY.

AND IN THE MATTER OF: AN APPLICATION FOR LEAVE TO APPLY FOR THE JUDICIAL REVIEW ORDERS OF CERTIORARI AND PROHIBITION

REPUBLIC *EX PARTE*

HON. JAMES WAHOME NDEGWA.....APPLICANT

AND

NYANDARUA COUNTY ASSEMBLY.....1ST INTERESTED PARTY

VERSUS

HON. ZACHARY MWANGI NJERU.....1ST RESPONDENT

HON. EDINALD WAMBUGU KINGORI.....2ND RESPONDENT

HON. GOVERNOR FRANCIS KIMEMIA.....3RD RESPONDENT

THE COUNTY GOVERNMENT OF NYANDARUA.....4TH RESPONDENT

THE GOVERNMENT PRINTER-GOVERNMENT PRESS...5TH RESPONDENT

THE HONOURABLE ATTORNEY GENERAL.....6TH RESPONDENT

CONSOLIDATED WITH

CONSTITUTIONAL PETITION NO. 5 OF 2020 (NYAHURURU HIGH COURT)

IN THE MATTER OF CONSTITUTION OF KENYA 2010

IN THE MATTER OF ARTICLES 2, 3, 10, 20, 21, 47, 50, 165, 174, 175, 196, 258 & 259 OF THE CONSTITUTION OF KENYA

AND

IN THE MATTER OF THE UNPROCEDURAL CLOSURE OF THE COUNTY ASSEMBLY OF NYANDARUA OFFICES BY HON. JAMES NDEGWA WAHOME THE SPEAKER IN A BID TO SCUTTLE HIS MOTION FOR REMOVAL FROM OFFICE VIA AN IMPEACHMENT PROCESS AS PER SECTIONS 11 OF THE COUNTY GOVERNMENTS ACT AND STANDING ORDER NO. 63 OF THE NYANDARUA COUNTY ASSEMBLY STANDING ORDERS

AND

IN THE MATTER OF THE PRINCIPLES OF NATURAL JUSTICE

BETWEEN

HON. ZACHARY MWANGI NJERU.....PETITIONER/APPLICANT

VERSUS

HON. JAMES NDEGWA WAHOME.....RESPONDENT

AND

THE COUNTY ASSEMBLY OF NYANDARUA.....1ST INTERESTED PARTY

THE COUNTY GOVERNMENT OF NYANDARUA.2ND INTERESTED PARTY

RULING

1. This short ruling respects two Consolidated Suits originally filed at Nyahururu High Court and subsequently transferred to this Court following the recusal of the Presiding Judge at Nyahururu High Court. It is also a follow up of the ruling dated 23/12/2020 in which I gave certain temporary reliefs pending *inter partes* hearing of interlocutory orders sought in the two suits. The temporary reliefs were necessitated by the nature of the Consolidated Suits – in particular that the suits respected contemplated motion for the impeachment of the Speaker of the County Assembly of Nyandarua and the fact that a special sitting to consider the motion had been convened on 24/12/2020. After granting the temporary reliefs, I gave directions on the *inter partes* hearing of the substantive interlocutory reliefs sought. The directions involved filing of submissions by the parties. Subsequently, the parties’ respective advocates appeared before me on 31/12/2020 and orally highlighted the submissions.

2. The factual background of the Consolidated Suits is given in the ruling dated 23/12/2020. In short, Zachary Mwangi Njeru (hereinafter referred to as the “Petitioner”) had approached the Nyahururu High Court in a Constitutional Petition intitled thereat as **No. 5 of 2020** (and hereinafter referred simply as “the Constitutional Petition”) seeking certain orders and declarations against James Ndegwa Wahome (hereinafter referred to as “*Ex Parte* Applicant” since he later on filed a Judicial Review Application which was, on 23/12/2020, consolidated with the Constitutional Petition). The Petitioner is the Deputy Speaker of Nyandarua County Assembly while the *Ex Parte* Applicant is the Speaker of the Assembly.

3. In his suit, the Petitioner seeks certain orders against the *Ex Parte* Applicant respecting the conduct of business at the Nyandarua County Assembly Offices. The orders sought are premised on the allegations that the *Ex Parte* Applicant had unlawfully and un-procedurally closed the County Assembly Offices in a bid to thwart an intended impeachment motion against him from being served and processed. The Petition seeks declarations that the actions by the *Ex Parte* Applicant to this effect are illegal. It also seeks an order barring the *Ex Parte* Applicant from interfering with the exercise of the authority of the Petitioner as Deputy Speaker and in particular to take certain actions related to the processing and conducting of the intended impeachment motion against the *Ex Parte* Applicant.

4. Contemporaneously with the Petition, the Petitioner filed a Notice of Motion under Certificate of Urgency seeking urgent reliefs *ex Parte*. The Petitioner’s Counsel appeared before the Judge in Nyahururu High Court on 17/12/2020 and obtained orders certifying the matter urgent and the following consequential order:

That pending the hearing and final determination of the Petition herein, this Honourable Court be and is hereby pleased to issue interim orders directing the Respondent to immediately reopen the County Assembly of Nyandarua Offices and cease and/or desist from interfering with the activities of the Applicant being the Deputy Speaker in performing his functions and roles to oversee the processing of the impeachment motion dated the 15th day of December, 2020 and tabled against the Respondent for his intended removal from the office of the Speaker of the Nyandarua County Assembly.

5. Following the grant of these prayers the Petitioner moved to cause gazettelement of a special sitting for the hearing of a motion to impeach the *Ex Parte* Applicant. He caused to be published in the Kenya Gazette notices numbers 10693, 10694 and 10695 in the Kenya Gazette Vol. CXXII- No. 225 of 17th December, 2020 giving notice to all staff members of the County Assembly of Nyandarua to be present at work on 24/12/2020; giving notice of removal proceedings of the *Ex Parte* Applicant; and giving notice of a special sitting of the County Assembly on 24/12/2020.

6. In response, the *Ex Parte* Applicant approached the Nyahururu High Court with a Chamber Summons Application dated 18/12/2020 seeking, in the main, for leave to bring substantive Judicial Review Application to quash the Gazette Notices as well as to prohibit the removal proceedings. The exact prayers in the Chamber Summons are as follows:

1) *That the Honourable Court be pleased to certify this matter as urgent and its service be dispensed with at the first instance.*

2) *That pending inter partes hearing and determination of this Application, the Honourable Court be pleased to grant the Applicant a conservatory order suspending the gazette notices Nos. 10693, No. 10694 and No. 10695 in the Kenya Gazette Vol. CXXII – No. 225 of 17th December, 2020*

3) That pending inter parties hearing and determination of this Application, a conservatory order do issue restraining the 1st, 2nd, 3rd and 4th Respondents either by themselves, their agents and/or anyone claiming under them from interfering with the Applicant's exercise of his duty, power, responsibility and/or his discharge of his duties and/or mandate as the Honourable Speaker, Nyandarua County Assembly.

4) the Honourable Court be pleased to grant the Applicant an order of CERTIORARI and PROHIBITION to remove into the High Court for the purpose of its being quashed the gazette notices No. 10693, No. 10694 and No. 10695 in the Kenya Gazette Vol. CXXII – No.225 of 17th December, 2020.

5) That the Honourable Court be pleased to grant leave to the Applicant to apply for an order of CERTIORARI and PROHIBITION to remove into the High Court for the purpose of its being quashed the decision to remove the Applicant from the office of the Speaker, Nyandarua County Assembly, the gazette notices No. 10693, No. 10694 and No. 10695 in the Kenya Gazette Vol. CXXII – No. 225 of 17th December, 2020, and prohibit the 1st, 2nd, and 3rd Respondents either by themselves, their agents and/or anyone claiming under them from interfering with the Applicant's entry and/or access to any part of the County Assembly, Nyandarua County, and/or his discharge of his duties and/or mandate as the Honourable Speaker, Nyandarua County Assembly respectively.

6) That the leave so granted does operate as a stay of execution and operation of the gazette notices No. 10693, No. 10694 and No. 10695 in the Kenya Gazette Vol. CXXII- No. 225 of 17th December pending the hearing and determination of this Application.

7) That the cost of this Application be provided for.

7. As alluded to above, given the urgency of the situation, I heard oral arguments by the parties' advocates and granted emergency temporary relief in an *ex tempore* ruling delivered on 23/12/2020. When the parties' advocates appeared before me on 31/12/2020 to orally highlight their submissions, the issues the Court had delineated for consideration were the following:

- a. Prayers 2, 3 and 5 in the Chamber Summons by the *Ex Parte* Applicant dated 17/12/2020.
- b. The Preliminary Objection dated 21/12/2020 by the 1st and 2nd Respondents.
- c. The Notice of Motion Application dated 21/12/2020 by the *Ex Parte* Applicant filed in the Constitutional Petition.
- d. Prayer 3 in the Notice of Motion Application by the Petitioner in the Constitutional Petition dated 17/12/2020.

8. It is logical to deal at the outset with the jurisdictional question raised in the Preliminary Objection. Counsel for the 1st and 2nd Respondents had filed a Notice of Preliminary Objection in the main raising the question of jurisdiction. Counsel also submitted at length in their written submissions on the question. The main contention was that the matter at hand is an employment matter over which the Employment and Labour Relations Court (ELRC) has exclusive jurisdiction. However, when the matter came up for oral highlights, Mr. Wanyama, Counsel leading all the advocates for the Respondents, informed the Court that the Respondents – including the 1st and 2nd Respondents – had abandoned the Preliminary Objection on jurisdiction and wished to acknowledge to the jurisdiction of the Court.

9. Mr. Wanyama informed the Court that the Respondents' decision to abandon their objection on jurisdiction had been informed by the recent decision by the Court of Appeal in ***Attorney General & 2 others v Okiya Omtata Okiiti & 14 others [2020] eKLR***. In that case, in the ELRC, some parties raised a preliminary objection, primarily on the grounds that the ELRC did not have jurisdiction in the matter because the appointment of the chairperson and members of the National Land Commission did not involve any employer-employee relationship and that in the circumstances, any alleged violation of the Constitution in the recruitment process was a matter for the High Court. In overruling the objection, the ELRC Judge had held that:

In relation to the National Land Commission commissioners, they have an obligation to work only for one employer, there are provisions on how they would work, how they may be removed and even how to be paid. Their positions fall squarely under a definition of a would-be employee and therefore their appointment is a matter for which this court is ceased (sic) with jurisdiction. I therefore return the verdict that this court had (sic) jurisdiction to entertain this petition.

10. In rejecting this reasoning, the Court of Appeal held that:

From the [above-cited] provisions of the Constitution and the Act, it is obvious that the jurisdiction of the ELRC is precise and limited rather than unlimited. The straight forward jurisdictional question in this appeal therefore is whether recruitment of members of the National Land Commission falls within the meaning of a dispute relating to employment and labour relations..... What all this suggests to us is that the appointment and removal from office of the commissioners of these independent commissions is not a labour and employment issue as the ELRC erroneously held, but a special constitutional innovation, a sui generis devise to address challenging governance needs and gaps. The appointment of the chairperson and members of the Commission did not involve any of the parties or raise any of the employment and labour relations issues contemplated by section 12 of the Act. With due respect, it was completely off the mark for the learned judge to hold that the recruitment of the chairperson and members of the commission raised employment and labour relations issues merely because they were to be remunerated from the Consolidated Fund. On the parity of that reasoning, the election or removal from office of the President of the Republic or appointment and removal of Judges of the Superior Courts would amount to employment and labour relations issues, merely because they are remunerated from the consolidated fund.

11. Mr. Wanyama was of the opinion that by parity of reasoning, the questions presented in the Consolidated Suits do not fall within the meaning of disputes related to employment and labour relations and that, therefore, the Consolidated Suits are appropriately before the High Court which has unlimited subject matter jurisdiction.

12. Counsel for the *Ex Parte* Applicant was also of the view that jurisdiction belongs to the High Court – but for slightly different reasons: the *Ex Parte* Applicant maintains that what is really at stake in the Consolidated Suits are what he calls the unlawful and illegal actions by the 1st Respondent/Petitioner which he wants quashed. As there is no employer-employee relationship between the *Ex Parte* Applicant and the 1st Respondent/Petitioner and the other Respondents, the *Ex Parte* Applicant argues that it would be absurd to hold that the dispute belongs to the ELRC.

13. I find both lines of reasoning persuasive. While most disputes relating to the impeachment of Speakers of County Assemblies have, in the past, been litigated in the ELRC, the specific issues presented in this case are not disputes contemplated under section 12 of the ELRC Act. The kernel of the dispute is whether the Deputy Speaker can exercise certain powers regarding the conduct of a motion to remove a substantive Speaker *vide* an impeachment motion; and what are the correct procedures to be followed in order to abide by the administrative fairness dictates of the Constitution, the County Government Act and the Fair Administrative Actions Act (FAAA). These are matters which, in following the binding decision in *Attorney General & 2 others v Okiya Omtata Okiiti & 14 others (supra)* are unrelated to an employment dispute as delineated in section 12 of the Employment and Labour Relations Act and which should, therefore, be litigated at the High Court.

14. Since all the parties concede on this question, I need not belabour it.

15. During the oral highlights, Mr. Wanyama also conceded that in view of the temporary relief granted to the *Ex Parte* Applicant on 23/12/2020 whose effect was to suspend the planned Special Sitting of the County Assembly to consider the impeachment motion, and in view of the exigencies of time, the Respondents were no longer planning to hold a Special Sitting of the County Assembly to consider the impeachment motion but that they would, instead, await the regular sittings of the County Assembly which begin on 12/01/2021 to consider the impeachment motion. If so, then, this obviated the need to contest some of the interlocutory orders sought by the *Ex Parte* Applicant to the extent that those orders merely sought to preserve for determination the question whether the Deputy Speaker has legal competence to convene a Special Sitting of the County Assembly *vide* a notice in the Kenya Gazette. Mr. Wanyama conceded that while this might remain an important jurisprudential question for determination to guide future conduct of similarly-placed actors in the devolved governments' governance arena, it was certainly no longer a question that required emergency if provisional determination for purposes of the Consolidated Suits.

16. However, Mr. Wanyama as well as Mr. Ngaruiya for the 3rd and 4th Respondents, were quite categorical that it would be improper for the Court to grant the *Ex Parte* Applicant the interlocutory reliefs in the scope and form in which he has framed them. Both Counsel forcefully argued that the Court must remain alive to valid separation of powers concerns and not issue any orders which might seem to curtail the County legislative arm from conducting its legitimate constitutional duty – which includes the duty to hold the Speaker politically accountable through an impeachment motion procedurally conducted. The two, instead, asked the Court to adopt the supervisory stance bequeathed to it by Article 165 of the Constitution: to legally guide the County Assembly in carrying out its lawful and constitutional mandate to peacefully and procedurally consider the impeachment motion against the *Ex Parte* Applicant.

17. Mr. Ngaruiya urged the Court to rise above the pyrrhic adversarial mode to which the parties has invited it and focus less on the legalistic dispute advanced by the parties and more on guiding the democratic and governance process in a way that resolves existing genuine disputes and anticipates new ones. At the end of the day, Mr. Ngaruiya urged the Court, the ultimate goal should be for the Court to enable the legitimate constitutional processes to take place. As Mr. Wanyama argued, the High Court has jurisdiction under Article 165 of the Constitution to give directions in supervising constitutional processes such as impeachment.

18. On his part, in both his written and oral submissions, Counsel for the *Ex Parte* Applicant urged the Court to grant the temporary reliefs sought by the *Ex Parte* Applicant because he has demonstrated that he has reached the threshold for conservatory order. Counsel cited *Freshco International Limited & Another v Kenya Plant Health Inspectorate & 2 Others [2018] eKLR* and urged that the *Ex Parte* Applicant had satisfied the three conditions stated therein.

19. Counsel argued that the *Ex Parte* Applicant had clearly shown that the Judicial Review Application is arguable and with overwhelming chances of success because, he argued, the *Ex Parte* Applicant had demonstrated that the Petitioner did not have the legal authority to issue the Impugned Gazette Notices and because, as the Court had already found in its ruling dated 23/12/2020, there were serious questions whether the procedures outlined in the County Governments Act for impeachment had been followed.

20. Counsel also argued that the *Ex Parte* Applicant stood to suffer serious and irredeemable harm and prejudice if the County Assembly proceeded with the impeachment motion based on the illegal actions of the Petitioner. Should the impeachment motion proceed, the *Ex Parte* Applicant told the Court, having the outcome quashed afterwards might not be adequate remedy because, among other things, the *Ex Parte* Applicant will lose his position as the Chair of the County Assemblies Forum. In any event, Counsel argued, compelling the *Ex Parte* Applicant to go through a palpably unlawful process is sufficient prejudice to warrant conservatory orders.

21. On the question of public interest, the *Ex Parte* Applicant argued that public interest is always on the side of abiding by the rule of law; and that there can be no public interest in having the County Assembly violate statutory provisions.

22. Fortunately, the Court's task at this point in time is eased by the fact that the parties do not seem to diverge too widely on what appropriate orders need to be issued to preserve the orderly performance of the legitimate and democratic impeachment process as allowed and contemplated by the law as well as any lingering legal questions for determination by the Court in these Consolidated Suits if any survive or outlive the political process. To the extent that the Respondents concede that they do not intend to utilize any supposed authority the Deputy Speaker might have to call for any Special Sitting of the County Assembly; and to the extent that the Impugned Gazette Notices have been overtaken by events, the question whether leave granted to bring the substantive Judicial Review Application should operate as stay appears moot or conceded: it should and it will.

23. What seems to concern the Respondents more is Prayer 3 in the Chamber Summons dated 18/12/2020. Mr. Wanyama urged the Court to refrain from giving any blanket order injuncting the County Assembly from conducting impeachment proceedings against the *Ex Parte*

Applicant; and to calibrate any orders it gives in a manner that promotes the objectives of the Constitution including devolution, the Rule of Law, good governance and accountability. The Court should not, the Respondents argue, protect the *Ex Parte* Applicant from the political consequences of holding a public office as long as the political process is being carried out in a lawful and procedural manner. Ultimately, Mr. Wanyama argued, the County Assembly wants to conduct an impeachment process which is in accord with the law; and the Court should facilitate that process not be a cog in the democratic process.

24. The Respondents' concerns are straightforwardly valid. Both the Constitution and the County Governments Act contemplate that a Speaker of a County Assembly can be removed by impeachment. Indeed, section 11 of the County Governments Act as well as the Standing Orders of the County Assembly provide for a procedure for such a motion. As stated in the Ruling of 23/12/2020, the curveball in the present situation in Nyandarua County was on what happens when a motion for impeachment of a Speaker is presented when the Assembly has formally adjourned and, hence, has to be convened through a special sitting. The question presented is whether the Deputy Speaker has the legal mandate to convene such a special sitting. As Counsel for the Respondents conceded, this point is now moot at least for purposes of determining appropriate interlocutory reliefs in the instant case. This is because the Respondents intend to take up the motion for impeachment during the regular sessions of the County Assembly which resume on 12/01/2021 and not through a Special Sitting. It is, therefore, no longer necessary to make provisional findings on the competence of the Deputy Speaker to convene such a Special Sitting at this interlocutory stage.

25. As the Supreme Court Counselled in *Justus Kariuki Mate & another v Martin Nyaga Wambora & another [2017] eKLR* "no governmental agency should encumber another to stall the constitutional motions of the other." This is to say while this Court will not hesitate to superintend over the County Assembly and other constitutional bodies when they sit in their quasi-judicial capacities, it is also true, as the Court stated in the ruling of 23/12/2020, that "the Court is ordinarily reluctant to scrutinize *ex ante* the internal operations of another arm of government where such an arm is acting with powers textually granted to it by the Constitution or written law except where it can be shown by clear and undisputed evidence that the organ is conducting itself illegally or beyond its powers." This Court will, therefore, not issue any orders which, in context, would curtail the lawful exercise of constitutional powers granted to the County Assembly.

26. The final substantive issue the Court must deal with is what to do with the *ex parte* orders granted in the Constitutional Petition; Prayer 3 in the Notice of Motion Application by the Petitioner in the Constitutional Petition dated 17/12/2020; and the Notice of Motion Application dated 21/12/2020 by the *Ex Parte* Applicant filed in the Constitutional Petition. The *ex parte* orders granted in the Constitutional Petition aimed at giving the Petitioner the authority to "re-open" the County Assembly Offices for purposes of conducting business related to the impeachment motion which was to be conducted on 24/12/2020. It was based on the allegation that the *Ex Parte* Applicant had unlawfully ordered the County Assembly offices closed in a bid to thwart the 2nd Respondent from serving the Clerk with the motion and County Assembly workers from processing it.

27. The *Ex Parte* Applicant has strongly refuted the narrative that he had ordered the County Assembly Offices closed. He has attached documentation to demonstrate that the County Assembly employees had traveled to Naivasha for a pre-planned retreat. In his Notice of Motion dated 21/12/2020 the *Ex Parte* Applicant wants the *ex parte* orders granted discharged, vacated or set aside largely because, he says, they were issued due to material non-disclosure and misrepresentation.

28. Counsel for the County Assembly was particularly concerned about these *ex parte* orders to the extent that they seemed to create two centers of power at the County Assembly. Counsel was also concerned that the orders seemed to be predicated on the provisions of section 11(6) of the County Governments Act (as amended) which provides that the speaker "shall not perform any of the functions of the office of the speaker pending the resolution of the County Assembly" of a Notice of Motion to remove the Speaker. This is because section 11(6) was suspended by the High Court sitting at Milimani in Constitution *Petition No. E242 of 2020*. A copy of that order was brought to the attention of the Court.

29. In their written and oral submissions, Counsel for the Petitioner (1st Respondent) as well as the other Respondents did not submit on this aspect of the case or seek to retain the *ex parte* orders given – at least not explicitly. This is in line with the overall position the Respondents have taken that it is in both their and the public's interest for a lawful and orderly impeachment process to proceed as soon as possible. Given this stance, I find it unnecessary to engage in pettifogging analysis of the issues presented in the Constitutional Petition at this interlocutory stage except to observe that the *ex parte* orders have been overtaken by events to the extent that there is no longer any intention to rely on the Impugned Kenya Gazette Notices to conduct the impeachment motion and to the extent that the County Assembly has resumed ordinary sittings. There is, also, no good reason to retain them or revive them given the procedural posture in the Judicial Review Application and the interim orders conceded to therein.

30. Given the analysis and findings above, the orders that the Court shall grant at this stage will be the following:

a. Leave granted to bring Judicial Review Application will operate as stay – only to the extent of stopping the specific actions contemplated in the Impugned Kenya Gazette Notices – including the Special Sitting of the County Assembly of Nyandarua to consider a motion to impeach the Speaker.

b. For the avoidance of doubt and clarity, the stay granted in (a) above does not in any way affect or restrain the power and authority of the County Assembly of Nyandarua from procedurally considering a motion to remove the Speaker provided that the steps and procedures outlined in section 11 of the County Governments Act and the applicable Standing Orders are strictly followed; and provided that the motion is not considered in a Special Sitting designated in the Impugned Kenya Gazette Notices stayed in (a) above.

c. Orders granted *ex parte* in the Constitutional Petition (No. 5 of 2020 at Nyahururu High Court) on 18/12/2020 are hereby vacated.

d. For purposes of section 11(5) of the County Governments Act (as amended), given that this matter has been in litigation and given that it was conceded in Court that the Speaker had already been served with the Notice of Motion for his removal

dated 15/12/2020 (which is annexed and exhibited in the *Ex Parte* Applicant's Statement of Facts Accompanying his Application for leave dated 18/12/2020) as contemplated in section 11(4) of the County Governments Act, the seven days within which the Speaker is expected to give his response in writing as provided for in section 11(5)(c) shall begin running from today – 08/01/2021.

e. For purposes of section 11(8) of the County Governments Act, the 14 days within which the County Assembly is required to consider the motion for the removal of the Speaker dated 15/12/2020 by Hon. Edinald Wambugu Kingori shall also run from today – 08/01/2021.

f. Other than the orders explicitly given above, the Chamber Summons dated 18/12/2020 (filed in the Judicial Review matter by the *Ex Parte* Applicant); the Notice of Motion dated 17/12/2020 (filed in the Constitutional Petition by the Petitioner); the Notice of Motion dated 21/12/2020 (filed in the Constitution Petition by the *Ex Parte* Applicant); and the Preliminary Objection dated 21/12/2020 (filed in the Judicial Review Matter by the 1st and 2nd Respondents) shall be deemed to be spent, determined or otherwise compromised by this Ruling. All prayers not explicitly granted in any of the mentioned Applications will be considered declined.

31. Orders accordingly.

Dated at Nairobi this 8th day of January, 2021

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JOEL NGUGI

JUDGE

NOTE: This judgment was delivered by video-conference pursuant to various Practice Directives by the Honourable Chief Justice authorizing the appropriate use of technology to conduct proceedings and deliver judgments in response to the COVID-19 Pandemic.