# Igwe General Stores Ltd & 2 others v Board of Trustees, National Social Security Fund & 3 others (Environment & Land Petition E008 of 2020) [2023] KEELC 18243 (KLR) (16 June 2023) (Ruling)

Neutral citation: [2023] KEELC 18243 (KLR)

**REPUBLIC OF KENYA**

**IN THE ENVIRONMENT AND LAND COURT AT NAIROBI**

**ENVIRONMENT & LAND PETITION E008 OF 2020**

**JO MBOYA, J**

**JUNE 16, 2023**

**BETWEEN**

**IGWE GENERAL STORES LTD ..................................................... 1ST PETITIONER**

**JOHN MUTUNGA MWANGI ........................................................ 2ND PETITIONER**

**MARGARET WAIYEGO MUTUNGA ......................................... 3RD PETITIONER**

**AND**

**THE BOARD OF TRUSTEES, NATIONAL SOCIAL SECURITY FUND ........................................................................................ 1ST RESPONDENT**

**THE NATIONAL LAND COMMISSION .................................. 2ND RESPONDENT**

**THE CHIEF LAND REGISTRAR ............................................... 3RD RESPONDENT**

**THE HON. ATTORNEY GENERAL ......................................... 4TH RESPONDENT**

**RULING**

## Introduction and Background

1. Vide Notice of Motion Application dated the 28th February 2023, the 1st Respondent/Applicant herein has approached this Honorable court seeking for the following reliefs;

    i. (Spent)

    ii. Pending the Inter-partes hearing and determination of this Application, the Honourable court be pleased to stay the execution of the orders and resultant decree of the judgment of 28th July 2022.

iii. That the Honourable court be pleased to Review, vary and/or set aside the judgment of 28th July 2022 and grant the 1st Respondent leave to file its submissions in opposition to the Petition.

iv. That alternative to prayer 3 above, the Honourable court be pleased to grant the 1st Respondent/Applicant leave to file an appeal against the judgment of 28th July 2022 out of time.

v. Pending the review or appeal requested above, the Honorable court be pleased to stay execution of the orders or decree resulting from the Judgment of 28th July 2022.

vi. That costs of this Application be provided for.

2. The instant Application is anchored and premised on numerous grounds, running from (a) to (aa), which have been enumerated at the foot of the Application. Furthermore, the Application is supported by the affidavit of one Caroline Rakama Odera, sworn on the 28th February 2023; and in respect of which the Deponent has averred, inter-alia, that the 1st Respondent was denied and/or deprived of the requisite opportunity to file written submissions in respect to the subject Petition.

3. Upon being served with the instant Application, the Petitioners/Respondents filed an elaborate Replying affidavit sworn on the 28th March 2023. Further and in addition, the Petitioners also filed Grounds of opposition dated the 20th March 2023.

4. Be that as it may, the instant Application was fixed for hearing on the 10th of May 2023; whereupon the advocates for the Parties agreed to canvass and dispose of the Application by way of written submissions to be filed and exchanged within circumscribed timeline.

5. For good measure, the Parties thereafter proceeded to and indeed filed their respective submissions. Instructively, the 1st Respondent filed written submissions dated the 16th May 2023 whereas the Petitioners/ Respondents filed their written submissions on the 23rd May 2023.

**Submissions by the Parties:**

**a. Applicant's Submissions:**

6. Learned counsel for the Applicant has filed written submission dated the 16th May 2023 and in respect of which Learned counsel has raised, highlighted and canvassed three issues for consideration by the Honourable court.

7. First and foremost, Learned counsel for the Applicant has submitted that this Honorable court is seized and bestowed with the requisite Jurisdiction to set aside and/or vary own Judgment, if sufficient cause, Basis and circumstances are shown to warrant the setting aside of such Judgment.

8. Furthermore, Learned counsel has submitted that in respect of the instant matter, the Applicant has shown and established that the failure to file written submissions prior to and before the delivery of the Judgment arose and emanated from a mistake by counsel for the Applicant.

9. Additionally, Learned counsel has also submitted that the Applicant herein has placed before the Honorable court cogent and plausible reasons, inter-alia, inadvertence, error and mistake, which were occasioned by factors beyond her control.

10. Premised on the foregoing, Learned counsel has thus posited that it is appropriate, just and expedient to set aside and/or vary the Judgment of the court which was rendered on the 28th July 2022; and thereafter allow the Applicant to file written submissions in opposition to the Petition beforehand.

11. In support of the foregoing submissions, Learned counsel for the Applicant has cited and relied on inter-alia, Shah versus Mbogo (1969) EA 116, Jese Kimani versus Macconel (1966)EA 547, Elizabeth Kavere & Another versus Lilian Atho & Another (2020)eKLR, James Kanyita Nderitu & Another versus Marios Philotas Gikas & Another (2016)eKLR, Owino Ger v Marmanet Forest Cooperative Credit Society (1987)eKLR and CFC Stanbic Ltd versus John Maina Githaiga & Another (2013)eKLR, respectively.

12. Secondly, Learned counsel for the Applicant has submitted that the amount at the foot of the decree is substantial and hence; if the Judgment is not set aside and/or varied, then the Applicant herein shall suffer grave prejudice and injustice insofar as her operations and ability to deliver to the public shall be crippled, nay defeated.

13. Consequently and in this respect, Learned counsel for the Applicant has invited the Honorable court to take into account the magnitude of the Judgment and the necessary impact that may arise and/or ensue from the execution thereof.

14. Learned counsel for the Applicant has submitted that in the unlikely event that the Honorable court is not persuaded to grant an order of review, then the Honorable court should proceed and grant Leave to Appeal to the Honorable Court of Appeal. In this regard, counsel has contended that the failure to commence and institute the Appeal process was informed by the fact that same was neither knowledgeable nor aware of the delivery of the Judgment, which is the subject of the intended appeal.

15. Furthermore, Learned counsel has submitted that the failure to file and/or lodge an appeal was similarly informed by an inadvertent mistake and/or error on the part of Learned Counsel. In any event, counsel has added that the mistake of an advocate ought not to be visited on the client.

16. In view of the foregoing, Learned counsel has thus submitted that it is appropriate and in the interests of Justice that the instant Application be granted so as to enable the Applicant to exhaust her right of Appeal, before being subjected to a punitive order of paying the decretal sum at the foot of the impugned Judgment.

**b. Respondent's Submissions**

17. Learned counsel for the Petitioners/Respondents has filed written submissions dated the 23rd May 2023 and in respect of which same has identified, highlighted and canvassed four salient issues for consideration before the Honourable court.

18. Firstly, Learned counsel for the Respondents has submitted that the contention by and at the instance of the Applicant that same was denied and deprived of the Right to Fair Hearing, is not only misconceived but equally mischievous.

19. Additionally, Learned counsel for the Respondents has submitted that the Applicant herein attended court on the various dates, including on the 26th January 2022; when directions were taken pertaining to and concerning the manner of disposal of the Petition beforehand. In this regard, Learned counsel has added that the Applicant herein voluntarily undertook to file and serve written submissions within the circumscribed timelines.

20. Furthermore, Learned counsel for the Respondents has submitted that subsequently the Applicant herein was knowledgeable and privy to all the events that transpired before the Honourable court

including being served with the Petitioners written submissions; as well as the submissions by the rest of the Respondents in the substantive Petition.

21. Premised on the foregoing, Learned counsel for the Respondents has therefore contended that the Applicant was afforded the requisite opportunity and latitude to file her written submissions, but same failed, neglected and/or otherwise refuse to comply with and/or abide by the orders of the Honorable court. In this regard, the correct position has been stated to be the one where opportunity was granted but spurned by the Applicant.

22. Secondly, Learned counsel for the Petitioners/Respondents has submitted that even though the Applicant has invoked the provision of Order 45 Rule 1 of The Civil Procedure Rules and therefore seeks review of the Judgment/Decree, same has however neither established nor demonstrated any of the grounds upon which review can be granted.

23. Furthermore, Learned counsel for the Respondents has submitted that an order of Review can be procured and obtained subject to proof of either of the grounds statutorily enunciated under the provisions of Order 45 Rule 1 of The Civil Procedure Rules and not otherwise.

24. In support of the submissions that the Applicant has neither established nor demonstrated any of the grounds to warrant Review, Learned counsel for the Respondent has cited, inter-alia, the case of Otieno Ragot & Company Advocates versus National Bank of Kenya Ltd (2020)eKLR, Francis Njoroge versus Stephen Maina Kamore (2018)eKLR and Daniel Toroitich Arap Moi versus Mwangi Stephen Muriithi & Another (2014)eKLR.

25. Thirdly, Learned counsel for the Respondents has submitted that despite the fact that the Applicant herein did not file written submissions, the Honorable court still proceeded to and considered the Applicant's case as contained in the Replying affidavit which was filed in opposition to the Petition; as well as the plethora of documents that were attached thereto.

26. In addition, Learned counsel has submitted that none filing of written submissions by the Applicant per se or itself cannot vitiate and/or defeat a considered Judgment which has taken into account and analyzed the issues raised by all the Parties to the suit.

27. Finally, Learned counsel for the Respondents has submitted that the Applicant herein cannot seek to review the Judgment and decree; and at the same time also impress upon the Honourable court to grant same Leave to Appeal against the same decision.

28. Instructively, Learned counsel for the Respondents has submitted that having primarily sought for review; the Applicant herein cannot now be heard to also seek Leave to appeal, contemporaneously and in the same vein.

29. In support of the foregoing submissions, Learned counsel for the Respondents has cited and relied on the case of Mary Wamboi Njuguna versus William Olei Nabala & 9 Others (2018)eKLR, wherein the Honorable court underlined that a person who is seeking review cannot at the same time pursue an appeal in respect of the same decision.

30. In view of the foregoing submissions, Learned counsel has thereafter implored the Honourable court to find and hold that the instant Application is not only devoid and bereft of merits; but same constitutes and amount to abuse of the Due process of the court.

**Issues for Determination**

31. Having reviewed and evaluated the Application beforehand and having taken into account the Response thereto; and upon consideration of the written submissions filed by and on behalf of the named Parties, the following issues do arise and are thus germane for determination;

    i. Whether the Applicant herein has established and/or met the threshold to warrant review of the Judgment of the Court.

    ii. Whether a person pursuing Review can simultaneously seek for Leave to Appeal against the same decision sought to be impugned vide review.

    iii. Whether the instant Application has been made with inordinate and unreasonable delay and if so; whether the Application is affected by the doctrine of Latches.

**Analysis And Determination**

**Issue Number 1**

**Whether the Applicant herein has established and/or met the threshold to warrant review of the Judgment of the court.**

32. It is common ground that the instant Application has been premised and/or anchored on the provisions of Order 45 Rule 1 of The Civil Procedure Rules, 2010, which essentially anchor and grounds an applications for review.

33. Additionally, the Applicant herein contends that unless the orders sought are granted, the Applicant, which is a public body shall be unduly prejudice, taking into account the magnitude of the Judgment sought to be enforced as against the Applicant.

34. Nevertheless, even though the Applicant has sought for review, it is imperative to state and underscore that the Applicant herein has neither alluded to nor demonstrated either of the three known grounds upon which the orders of review can issue and/or be granted.

35. Instructively, there is no gainsaying that any person who is aggrieved by a Judgment/decree of a court, can file and/or mount an application for review, subject to proof of either the discovery of new and important evidence; error or mistake on the face of record; or any other sufficient cause/reason.

36. Furthermore, it is worth stating that it is incumbent upon the Applicant, who is seeking review to clearly identify and highlight in the body of the Application or in the supporting affidavit, the Grounds upon which review is being sought.

37. Additionally, such an Applicant, who has identified and highlighted a specific ground for review; is thereafter called upon to make suitable submissions and to demonstrate to the Honourable court that indeed the Ground which has been invoked, has been duly established and proved.

38. Suffice it to point out that one cannot invite the Honorable court to entertain and engage with an Application for review, albeit without highlighting or canvassing either of the grounds which are statutorily provided and/or circumscribed for under the law.

39. Be that as it may, it is not lost on this Honourable court that even though the Applicant before the court is seeking review, same has however failed to identify, isolate and highlight the ground upon which review is being sought.

40. Worse still, in the body of her submissions, the Applicant herein has abandoned the application for Review; and instead same has chosen to ventilate an Application for setting aside of the Judgment as if the impugned Judgment was a default/ex-parte Judgment, which is not the case.

41. On the other hand, the Applicant herein has thereafter proceeded to and canvassed the grounds and factors upon which a court of law can set aside a Default Judgment. Further, the Applicant has also cited various decisions, inter-alia, Shah versus Mbogo (1969) EA, Jese Kimani v Mcconel (1966)EA, Elizabeth Kavere & Another versus Lillian Atho & Another (2020)eKLR and James Kanyita Nderitu & Another versus Marios Philotas Gikas & Another (2016)eKLR; which are cases that underscores the circumstances under which an Ex-parte/Default Judgment can be varied and/or set aside.

42. For good measure, it is appropriate to state and underline that the Grounds and factors to be considered and addressed whilst dealing with an Application for setting aside a Judgment, are separate and distinct from the ones to be considered whilst dealing with an Application for Review.

43. Consequently and in the premises, having raised an Application for review, the Applicant herein was enjoined to satisfy the Honourable court that same has met and proved the requisite ingredients/ conditions stipulated under the provisions of Order 45 Rule 1 of The Civil Procedure Rules, 2010 and not otherwise.

44. In this respect, it is imperative to restate and reiterate the holding in the case of Stephen Gathua Kimani versus Nancy Wanjira Waruingi t/a Providence Auctioneers [2019] eKLR, where the court stated thus;

> " After analysing the enabling provisions, the learned judge rightly so, in our view, found that an application for review is restricted to certain parameters. These are as set out in Orders 45 Rule I of the Civil Procedure Rules, 2010 cited above.
>
> In our view, the appellant felt aggrieved as there was in existence, an order that vehicles insured by United Insurance Company Ltd should not be attached, and that an order had been made directing the respondent to release the appellant's motor vehicle. One can surely understand the appellant's grievances. However, unfortunately for him, and in the absence of legal counsel, he moved the court seeking an order for review. At the risk of being repetitive, an order for review is restricted to parameters set out by the law. The appellant may have had a genuine grievance but this did not fall within the ambit of a review application".

45. Furthermore, it is instructive to underscore that not every kind of mistake, lapse and/or failure, including the ones adverted to by the Applicant herein, can anchor an Application for Review.

46. Clearly and for good measure, he who seeks review, the Applicant herein not excepted, has an obligation to satisfy the strict parameters set and established under the law, including demonstrating due promptitude and diligence while approaching the seat of Justice.

47. Notably and to this end, it is imperative to take cognizance of the holding of the Court of Appeal in the case of Otieno, Ragot & Company Advocates versus National Bank of Kenya Limited [2020] eKLR, where the court stated and observed as hereunder;

> " Order 45 rule 1 does not excuse every error or mistake, even if inadvertent. It excuses those mistakes and allows a party to introduce documents which it could not lay its hands on even after the exercise of due diligence. There was no response to the replying affidavit in so far as it accused the respondent of lack of diligence."

48. Before departing from the issue herein, it is also instructive to point out and underscore that an order for review shall not issue at the beckoning of Party, who has chosen to withhold critical material from the Honourable court, in an endeavor to defraud the cause of Justice. Instructively, the directions to file and exchange written submissions were issued by the Honourable court in the presence of all the Parties, the Applicant herein not excepted.

49. Furthermore, the Applicant herein was thereafter served with the written submission by the Petitioners/Respondents as well as the rest of the Respondents. However, despite having been duly served with the said submissions, the Applicant herein did not bother to file any written submissions or better still to follow up and ascertain the status of the subject matter, which was well known to the Applicant.

50. As if the service of the written submissions by the Petitioners/Respondents and the rest of the Respondents was not enough, the Applicant herein also received various communication from the E-Platform of the Honorable court, disseminating the status of the subject matter, but yet again the Applicant remained unperturbed.

51. Clearly, it is not the business of the court to assist and aid any litigant who is merely intent on obstructing, circumventing or otherwise defeating the Due process of the court. Consequently and in this regard, an order for review cannot be granted to provide succor to the Applicant herein, whose conduct does not meet the threshold of Equity.

52. In this respect, it suffices to cite and reiterate the holding of the Court in the case of Republic versus Advocates Disciplinary Tribunal Ex-parte Apollo Mboya (2019)eKLR

    30. The principles which can be culled out from the above noted authorities are:-

        i. A court can review its decision on either of the grounds enumerated in Order 45 Rule 1 and not otherwise.

        ii. The expression "any other sufficient reason" appearing in Order 45 Rule 1 has to be interpreted in the light of other specified grounds.

        iii. An error which is not self-evident and which can be discovered by a long process of reasoning cannot be treated as an error apparent on the face of record justifying exercise of power under Section 80.

        iv. An erroneous order/decision cannot be corrected in the guise of exercise of power of review.

        v. A decision/order cannot be reviewed under Section 80 on the basis of subsequent decision/judgment of a coordinate or larger Bench of the tribunal or of a superior court.

        vi. . While considering an application for review, the court must confine its adjudication with reference to material, which was available at the time of initial decision. The happening of some subsequent event or development cannot be taken note of for declaring the initial order/decision as vitiated by an error apparent.

        vii. Mere discovery of new or important matter or evidence is not sufficient ground for review. The party seeking review has also to show that such matter or evidence was not within its knowledge and even after the exercise of due diligence, the same could not be produced before the court/tribunal earlier.

viii. A mistake or an error apparent on the face of the record means a mistake or an error, which is prima-facie visible and does not require any detail examination. In the present case the petitioner has not been able to point out any error apparent on the face of the record.

ix. Section 80 of the Civil Procedure Code provides for a substantive power of review by a civil court and consequently by the appellate courts. The words occurring in Section 80 mean subject to such conditions and limitations as may be prescribed thereof and for the said purpose, the procedural conditions contained in Order 45 Rule 1 must be taken into consideration. Section 80 of the Civil Procedure Code does not prescribe any limitation on the power of the court, but such limitations have been provided for in Order 45 Rule 1.

x. The power of a civil court to review its judgment/decision is traceable in Section 80 CPC. The grounds on which review can be sought are enumerated in Order 45 Rule 1.

31. Guided by the jurisprudence discussed above, it is my finding that the reasons cited by the applicant do not quality to be any of the grounds prescribed in Order 45 Rule 1 of the Civil Procedure Rules.

32. In view of my above conclusions, I find that the grounds cited do not qualify to be grounds for review to bring the applicant's application within the ambit of the grounds specified in Order 45 Rule 1. It is my finding that this is not a proper case for the court to grant the review sought or even to exercise its discretion in favour of the applicant. Accordingly, the applicant's application dated 27th March 2019 is dismissed with no orders as costs.

53. In a nutshell, there is no gainsaying that the Applicant herein has no brought herself within the confines of the provisions of Order 45 Rule 1 of the Civil Procedure Rules, 2010 and thus the Application for review, is legally untenable.

**Issue Number 2**

**Whether a Person pursuing Review can simultaneously seek for Leave to Appeal against the same decision sought to be impugned vide Review.**

54. Other than the fact that the Applicant herein has neither highlighted nor amplified the requisite grounds to warrant an order for review; it is also important to point out that the Applicant herein has sought for the orders of review and at the same time sought for Leave to Appeal against the same decision.

55. To my mind, a person who is pursuing review of a particular decision, like in the instant case pursuing review of the Judgment of the court rendered on the 28th July 2022; cannot contemporaneously seek for Leave to Appeal against the same decision.

56. Nevertheless and despite the crystal-clear provision contained at the foot of Order 45, the Applicant herein has the brevity and temerity to approach the Honourable court and seek for both orders in the same Application.

57. In my humble view, it was incumbent upon the Applicant to exercise an election and therefore to chose either to pursue review or appeal. However, the Applicant cannot pursue both remedies in the same Application or otherwise.

58. Notably and in this regard, I adopt and reiterate the dicta in the holding of the Court of Appeal in the case of Mary Wamboi Njuguna versus William Ole Nabala & 9 Others (2018)eKLR, where the Court stated and observed thus;

(25) As per the appellant, the ELC being a court of equal status to the High court, ought to have granted the prayer for abridgment of time to enable the appellant lodge his Notice of Appeal. In disallowing that prayer, the trial court found the appellant could not pursue both review and appeal simultaneously; that having opted for review, she had effectively abandoned the option of appeal. Under Order 45 rule 2 of the rules, it is stipulated that:

> "A party who is not appealing from a decree or order may apply for a review of judgment notwithstanding the pendency of an appeal by some other party except where the ground of such appeal is common to the applicant and the appellant, or when, being respondent, he can present to the appellate court the case on which he applies for the review."

We agree with the conclusion by the learned Judge that it was not open for the appellant to pursue an appeal and at the same time a review of the same orders. The appeal could only lie on the outcome of the application for review.

59. Nevertheless, even assuming that this court was seized to entertain and engage with an Application for Leave to appeal at the same time with an application for review (which is not the case); it would still be difficult to proceed and grant to and in favor of the Applicant herein Leave to appeal in the manner sought.

60. Firstly, it is important to point out that this Honorable court can only deal with an application for Leave/extension of time to file a Notice of appeal. For good measure, the Jurisdiction of this court to grant Leave to file Notice of appeal out of time is statutorily circumscribed by the provision of Section 7 of the *Appellate Jurisdiction Act*, Chapter 9 Laws of Kenya.

61. To the contrary, this Honorable court has not been granted the requisite mandate to extend time for filing an appeal. Clearly, the filing of an Appeal ipso facto means the filing of the record of appeal, which ordinarily follows the filling of the requisite Notice of Appeal.

62. However, the Applicant herein has not sought for Leave to file a Notice of appeal. Consequently, the difficulty that does arise, even if I were to assume that I had Jurisdiction (which is not the case), would be whether time can be extended to file an appeal in the absence of a Notice of Appeal.

63. Be that as it may and in my humble view, it behooves the Applicant herein, if same was keen to pursue the issue of filing an appeal, to first and foremost to seek to file a Notice of appeal out of time, which is not the case.

64. Whichever way ones looks at the current Application, it is difficult to understand why the Applicant has lumped together two (2) separate and conflicting remedies, which cannot be pursued contemporaneously.

65. To surmise, the Applicant herein has in any event, not even justified the reason why same was not able to take appropriate measures and/or steps, immediately the impugned Judgment was delivered, taking into account the fact that all Parties received status update and alerts from the Judiciary E-platform.

**Issue Number 3:**

**Whether the instant Application has been made with inordinate and unreasonable delay and if so; whether the Application is affected by the Doctrine of Latches.**

66. To start with, the Judgment giving rise to the decree which is now sought to be reviewed was rendered and/or delivered on 28th July 2022; and yet the Application seeking for review was never filed up to and including the 28th February 2023.

67. Instructively, it is evident that the instant Application was not filed until after lapse of seven months from the date when Judgment was delivered.

68. According to the Applicant, it is contended that same was neither aware of nor privy to the delivery of the Judgment beforehand. Furthermore, the Applicant avers that same only got to know of the Judgment, when same was served with the draft decree by the Petitioner.

69. Nevertheless, despite the contention by the Applicant that same only got to know of the Judgment when the draft decree was served, it is imperative to point out that the Petitioner herein pointed out that all the Parties, the Applicant not excepted were entitled to and indeed received digital updates from the courts e-filing platform, relating to each and every steps taken in a matter.

70. Additionally, even though the Petitioner swore an affidavit and attached an extract showing how the various Parties, the Applicant, not excepted, were duly notified from the court e-filing platform, the Applicant herein neither filed any supplementary affidavit to respond thereto nor does same controverts the averments on behalf of the Petitioners.

71. Based on the foregoing position, it is safe to find and hold that the Applicant herein who was privy to and knowledgeable of the fact that same was obliged to file written submissions; was and has been aware of the status of this matter, including the delivery of the Judgment.

72. However, assuming that the Applicant was not knowledgeable of the delivery of the Judgment, despite exercise of due diligence, (which is not the case), then it behooved the Applicant to take appropriate and suitable steps to interrogate what may have been happened to the subject matter.

73. To my mind, the entire supporting affidavit, which was filed in support of the current application does not enumerate/ enlist any efforts and/or steps taken by the Applicant. consequently and in the premises, it appears that the Applicant was content with indolence, lethargy and apathy.

74. In a nutshell, the current Application by the Applicant, which has been mounted after more than seven months from the date of delivery of Judgment, albeit without any justification, is certainly defeated by the Doctrine of Latches.

**Conclusion and Final Disposition:**

75. From the foregoing analysis, there is no gainsaying that the omnibus Application filed by the Applicant and which seeks both review and appeal contemporaneously, is not only misconceived but legally untenable.

76. Consequently and in the premises, I come to the conclusion that the Application dated the 28th February 2023; is devoid and bereft of merits. In this regard, same be and is hereby Dismissed with costs to the Petitioners/Respondents only.

77. It is so ordered.

**DATED, SIGNED AND DELIVERED AT NAIROBI THIS 16TH DAY OF JUNE, 2023.**

**OGUTTU MBOYA**

**JUDGE**

In the presence of:

Mr. Gichangi h/b for Mr. Amol for the Applicant.

Mr. Mbugua Mureithi for the Petitioners/Respondents.

N/A for the 2nd, 3rd and 4th Respondents.