



REPUBLIC OF KENYA

**IN THE HIGH COURT OF KENYA
AT MERU**

CONSTITUTIONAL PETITION NO E009 OF 2021

IN THE MATTER OF CONSTITUTION OF KENYA ARTICLES 1, 2(1) & (2) & (5), 3(1) & (2), 4(2), 10, 19, 20, 21, 22(1) & (2) (b) & (c), 23(1), 24(1), 3(1) (a), 35, 38(1), 47(1) & (2), 48, 50, 52, 93, 96, 165(3) (b) & (d) (ii), 73(1), 75(1) (c), 174, 175, 181, 196(1) (b), 200, 258, 259, 260

AND

IN THE MATTER OF ARTICLES 1, 2, 3, 47, 50(b) & (c), 181 OF THE CONSTITUTION OF KENYA

AND

IN THE MATTER OF THE CONSTITUTION OF KENYA (PROTECTION OF RIGHTS AND FUNDAMENTAL FREEDOMS PRACTICE AND PROCEDURE RULES 2013

AND

IN THE MATTER OF ARTICLES 1, 3, 25(a) OF THE INTERNATIONAL CONVENTION ON CIVIL AND POLITICAL RIGHTS OF 1966

AND

IN THE MATTER OF THE COUNTY GOVERNMENT ACT 2012, SECTIONS 8, 30, 31, 33(1) & (2), 87

AND

IN THE MATTER OF THE STANDING ORDER NO 67 OF THE WAJIR COUNTY ASSEMBLY STANDING ORDERS

AND

IN THE MATTER OF THE INTENDED REMOVAL FROM OFFICE OF THE GOVERNOR OF WAJIR COUNTY BY WAY OF IMPEACHMENT

BETWEEN

ADEN IBRAHIM MOHAMMED.....1ST PETITIONER

OMAR JELE ABDI.....2ND PETITIONER

BASHIR AHMED HUSSEIN.....3RD PETITIONER

SAFIYA MAHAMED ABDI.....4TH PETITIONER

YUSSUF IBRAHIM DIMBIL.....5TH PETITIONER

COUNCIL OF GOVERNORS.....6TH PETITIONER

VERSUS

COUNTY ASSEMBLY OF WAJIR.....1ST RESPONDENT
CLERK OF THE COUNTY ASSEMBLY OF WAJIR.....2ND RESPONDENT
SPEAKER OF THE WAJIR COUNTY ASSEMBLY.....3RD RESPONDENT
ABDULLAHI ISSACK.....4TH RESPONDENT
SPEAKER OF THE SENATE.....5TH RESPONDENT
THE SENATE.....6TH RESPONDENT
THE ATTORNEY GENERAL.....7TH RESPONDENT

AND

HE. THE GOVERNOR OF WAJIR COUNTY AMB. MOHAMMED ABDI
MOHAMMUD.....1ST INTERESTED PARTY
THE DEPUTY GOVERNOR AHMED ALI MUKHTAR...2ND INTERESTED PARTY
THE CHIEF REGISTRAR OF THE HIGH COURT.....3RD INTERESTED PARTY
ASSUMPTION OF OFFICE COMMITTEE.....4TH INTERESTED PARTY

DIRECTIONS

The two Petitions disclose the same cause of action regarding the removal of the 1st Interested Party in No E009 of 2021 and the 1st Petitioner in No 17 of 2021. We see possibility of similar question of law arising for determination in both.

Where such is in cause, the Rules 17 of the Constitution of Kenya (Protection of rights and fundamental freedoms) Practice and Procedure Rules, 2013. Rules permit the consolidation of such petitions either on own notion by the court or upon application. We consider that to be one of the tools designed to achieve overriding objectives of the court and that of the Rules.

With that appreciation we direct that the two petitions be consolidated and heard together.

In directing that the Petitions be consolidated, we have given due regard to the concerns raised by counsel for the 1st – 4th Respondents and take the view that the question of competence of a Petition even if taken as a Preliminary point can be raised and argued as an opposition to the petition and not separately to help with efficient employed of judicial time.

We have equally given due regard to the concerns by counsel for the 2nd Interested Party on his application for discharge of the interim orders and we take the view that consolidation doesn't take away or subtract from a parties' position in the pleadings.

We see no prejudice being visited upon any of the parties by the order of consolidation.

For purposes of offering submissions in the consolidated petition, Professor Ojienda from the 1st Interested party in Petition No E009 of 2021 and 1st Petitioner in No E017 OF 2021 shall present his case as the Petitioner while Mr. Issa for 2nd Interested Party in Petition E007 of 2021 and 3rd Respondent in Petition No 17 of 2021 shall submit as a Respondent and address both Petitions.

TIME ALLOCATION

- i. The Petitioners shall have 1 hour to be shared between the two counsels.
- ii. The Respondents represented by S. C. Ahmeednassir and Mr. Issa, shall share one hour between them while Ms. Thanji will rely on the Written Submissions filed.
- iii. Thereafter the Petitioners will have ten (10) minutes each to respond to anything arising on a point of law from the submissions by the Respondents.

Mr. Issa will then have ten (10) minutes to respond to any question of law raised by the Petitioner in opposition to his application for setting aside.

DATED AND DELIVERED AT MERU THIS 20TH DAY OF DECEMBER, 2021

EDWARD MURIITHI

PATRICK J.O OTIENO

WAMAE T.W CHERERE

PRESIDING JUDGE

JUDGE

JUDGE