



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAROK

PETITION NO 2 OF 2018

IN THE MATTER OF AN APPLICATION UNDER ARTICLE 165(3), 2, 10, 19, 20(1), (3), (4), 21 AND 22 OF THE CONSTITUTION OF KENYA 2010

AND

IN THE MATTER OF THE PROTECTION TO PROPERTY UNDER ARTICLE 40 OF THE CONSTITUTION OF KENYA. 2010

AND

IN THE MATTER OF NATIONAL GOVERNMENT CO-ORDINATION ACT, ACT NO. 1 OF 2013 PUBLIC OFFICER ETHICS ACT, CAP 183 LAWS OF KENYA, NATIONAL POLICE SERVICE ACT, ACT NO. 11A OF 2011

AND

IN THE MATTER OF SECTIONS 118, 118A, 119, 120 AND 121 OF THE CRIMINAL PROCEDURE CODE, CAP 75 OF THE LAWS 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 VINDICATION OF THE RIGHTS OF RICHARD TANGUS

AND

IN THE MATTER OF AN APPLICATION

BETWEEN

RICHARD TANGUS.....PETITIONER

AND

RONALD TUMBA & OTHERS.....RESPONDENTS

RULING

1. Through his petition dated 8/8/2018, the petitioner sought orders for declarations that the respondents confiscated and destroyed his betting and gaming machines, which he alleges was unconstitutional and unlawful. And as a result, he suffered loss and damages in respect of which, he seeks compensation together with the costs of this suit. In support of his petition, the petitioner has deponed to a 26 paragraphs supporting affidavit.
2. The respondents through the first respondent (Ronald Tumba) filed a 22 paragraphs replying affidavit in opposition to the petition. In that affidavit, he has factually denied confiscating the betting and gaming machines of the petitioner.
3. I have perused the petition and the affidavit evidence of the parties. As a result, I find that the petition raises issues that are only capable

of being resolved through oral evidence. This is because there is serious conflict in the evidence of the parties. I therefore direct the parties to take a hearing date for the trial of the instant petition.

Ruling dated, signed and delivered in open court at Narok this 21st day of February, 2019 in the absence of both parties and in the presence of the court clerk Kasaso.

J. M. Bwonwonga

Judge

21/2/2019