



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KIAMBU

MISC. CRIMINAL APPLICATION NO. 47 OF 2019

REPUBLIC APPLICANT

VERSUS

1. AFRICA SPIRITS LIMITED

2. WOW BEVERAGES LIMITED.....RESPONDENTS

AND

1. THE DIRECTOR OF PUBLIC PROSECUTIONS

2. THE DIRECTOR OF CRIMINAL

INVESTIGATIONS.....PROPOSED INTERESTED PARTIES

RULING

1. On 4th February 2019, the Kenya Revenue Authority (KRA) successfully moved the subordinate court in Thika *vide Misc. Criminal Application No. 9 of 2019* for the issuance of a search and seizure warrant to **No. 236817 IP John Mutwiri**, described as an investigator with the Directorate of Criminal Investigation (DCI) and attached to the KRA. The warrant was in respect of the business premises of **Africa Spirits Ltd** and **Wow Beverages Limited** said to be located along Castle Road, Thika Town.

2. The terms of the extracted warrant order stated in part that:

“I NOW THEREFORE authorize (2) No. 236817 INSPECTOR JOHN MUTWIRI an Investigator with the Directorate of Criminal Investigations attached to the Kenya Revenue authority Police Unit by this warrant to access the Africa Spirits Limited’s premises and Wow Beverages both the factory and warehouses located along Castle Road Thika Town, Kiambu County and carry away records, documents and data storage devises, goods, equipment, extract of CCTV footage relevant for purposes of carrying out tax fraud investigation.”(sic)

3. There is a dispute concerning the date and circumstances in which the warrants were executed. However it is undisputed that a criminal case **No. 742 of 2019** had been instituted against **Prabhu Sethu and Africa Spirits Limited** (hereafter **Africa Spirits**) jointly on two counts namely, Being in possession of uncustomed goods contrary to Section 200(d) (iii) of the East African Community Customs Management Act, and Being in possession of excisable goods affixed with counterfeit excise stamps contrary to Section 28 and 40 of the Excise Duty Act and Regulation 30(1) g of the Excise Duty (Excisable goods management system) Regulations as read with Section 41 of the Excise Duty Act.

4. Aggrieved with the alleged unlawful execution and use of the warrants, **Wow Beverages Limited** (hereafter **Wow Beverages**) filed an application for the setting aside of the said warrant which application it appears , was heard *ex parte* after the KRA and **Inspector John Mutwiri** failed to appear after allegedly being served for *interpartes* hearing on 2nd May 2019. The orders culminating from the said hearing were *inter alia*, to compel the KRA and **Inspector John Mutwiri** to provide to the Respondents to initial application, that is **African Spirits** and **Wow Beverages** an inventory of all records, data storage devices, goods and equipment seized and to return to the said Respondents all such “documents” within 7 days. By the order, the KRA and the DCI were further restrained from **“using or purporting to use the warrant issued herein to close the Respondent premises allegedly under the guise of tax fraud investigations”** (sic).

5. This latter order prompted the filing of **Miscellaneous Criminal Application No. 47 of 2019** before this Court. The application was brought in the name of the Republic against Africa Spirits and Wow Beverages, and sought an interim order to stay execution of the lower court order of 2nd May 2019 and in the main, the review of all the orders of **Hon. A. M. Maina, Senior Principal Magistrate** Thika Law Courts.”

6. Initial stay was granted by **Ogembo J** on 9th May 2019 and *interpartes* hearing set for 20/5/19. On that date, the Applicants were absent. **Wakiaga J** set down the matter for directions on 30/5/19. On the latter date, Mr. Akula representing the Director of Public Prosecutions (DPP) intimated that the DPP desired to be enjoined as an Interested Party. The court fixed a hearing date (12/6/19) for the State's motion filed on 9th May 2019. In the meantime, the DPP filed a motion on 7/6/19 which is the subject of this ruling.
7. The motion seeks principally that leave be granted to the DPP and the Director of Criminal Investigations(DCI), (hereinafter the proposed Interested Parties) to be enjoined as the 1st and 2nd Interested Parties and subsequent thereto, leave to respond to the application for review filed on 9th May 2019. On grounds *inter alia* that, the applicants are aggrieved by the impugned order of the lower Court of 2nd May 2019 as it purports to unlawfully control and or curtail the exercise of the constitutional and statutory powers of the proposed Interested parties; exposes the proposed Interested Parties to possible citation for contempt of court; prejudices ongoing investigations and subsequent legal actions, and may render nugatory the investigations carried out in this instance. The application is expressed to be brought *inter alia*, under Articles 47(1), 50(1) and 244 of the Constitution.
8. In support of the motion is an affidavit sworn by **PC Shem Gichuki** who described himself as a police officer currently attached to the DCI Headquarters Nairobi, and one of the investigating officers seized of the matter herein. Apart from emphasizing the right of the proposed Interested Parties to be heard, their legitimate interest in the matter and their respective mandates, the affidavit also sets out details of events commencing from 31st January 2019 leading up to the issuance of the search/seizure warrants and the involvement of the "multi-agency team" made up of KRA and DCI officers in initial investigations, search and seizures and subsequent investigations carried out in respect of and at the business premises of Africa Spirits and Wow Beverages. He deposes further that the proposed Interested parties, despite being active/interested parties in the lower court matter were deliberately denied a chance to be heard through non-service of notice upon them, of the hearing on 2nd May 2019. The deponent further expands on the key grounds on the face of the motion.
9. The respective responses by Respondents were on one hand a 100- paragraph replying affidavit sworn by **Peter Njenga Kuria**, described as a director of Africa Spirits, and on the other, on behalf of Wow Beverages, a 64- paragraph Replying Affidavit sworn by **Robert Thinji Mureithi** described as a director of Wow Beverages Ltd. The Respondents oppose the joinder of the proposed Interested parties, viewing the application as misconceived and intended to injure and prejudice the Respondents. Having set out the alleged facts pertaining to events commencing on the night of 30th and 31st January 2019 at the Africa Spirits factory premises, the deponent Peter Njenga Kuria disputes the key grounds in the motion by the proposed Interested Parties, and asserts that the matter before the court relates to the purported possession of uncustomed ethanol and counterfeit excise stamps and that the enforcement of the East African Community Customs Management Act, Excise Duty Act, Tax Procedures Act including assessment and collection of taxes, searches and seizures fall exclusively within the mandate of KRA as exercised through the authorized and proper officers stipulated in the relevant laws. He deposes that the proposed Interested Parties have no role beyond lending necessary peripheral assistance to the stipulated officers in relation to the application for search warrants, carrying out of searches and seizures in tax-related investigations.
10. The remainder of the affidavit is taken up with what are essentially contentious evidential and argumentative material some of which does not relate directly to the application at hand, and a repetition of similar depositions in the said affidavit. The deponent takes the position that the proposed Interested parties, not having participated in the lower court miscellaneous proceedings and not having demonstrated a recognizable legal interest in this matter, do not stand to be prejudiced in any way. Further that, that their application for joinder is brought in bad faith, with the aim of sanitizing the alleged illegal search and seizures precipitating the orders now challenged through review and to perpetrate illegality, oppression and injustice against Africa Spirits.
11. The affidavit by **Robert Thinji Mureithi** commences with a narration of alleged pertinent facts concerning the business in which Wow Beverages is engaged in, namely, the importation and distribution of so-called "*premium alcoholic and non-alcoholic brands*", rather than the manufacture of alcoholic drinks. The deponent distances the company from allegations of possession of uncustomed ethanol and counterfeit stamps and narrates the events surrounding the alleged search, recovery and seizure thereof by KRA personnel. It is further deposed that Wow Beverages did serve its motion to set aside the warrants issued on 4th February 2018 in the lower court upon all parties in the miscellaneous application and that KRA and **IP John Mutwiri** did not attend the hearing.
12. The deponent recites several incidences to demonstrate that there is a deliberate campaign to malign and falsely implicate Wow Beverages Ltd in the Criminal case involving Africa Spirits, which he points out was instituted by the KRA prosecution unit. He asserts that the proposed Interested Parties have not demonstrated likely prejudice in the exercise of their respective mandates and reiterates that the proposed Interested Parties were not involved in the lower court proceedings and that, despite being aware of the existence of the search warrants issued therein, did not apply prior for enjoinder in the lower court miscellaneous case, and that despite having constructive notice of the hearing of 2nd May 2019 the said applicants failed to appear before the lower court.
13. During the oral canvassing of the application, Messrs. Monda and Akula represented the DPP. Wow Beverages (the 1st Respondent) were represented by Mr Ouma while Mr. Musyoki represented the 2nd Respondent, Africa Spirits. The Applicants' key submissions were as follows. The proceedings which are the subject matter of the present review application before this Court are criminal proceedings in respect of which the DPP has full mandate under Article 157 of the Constitution, and secondly that, the DCI officers were involved, alongside KRA officers in the relevant investigations. Several annexures were referred to in that regard. Restating the duty of the DPP under Article 157(11) of the Constitution, the Applicants' counsel submitted that the motive behind for the joinder motion is to ensure that justice is done.
14. The Applicants took issue with contentious matters of fact contained in the replying affidavits. They asserted that the fact of the involvement of the DCI in investigations was well known by the Respondents. The Applicants urged a liberal approach as taken in **Aharub Ebrahim Khatri v Nelson Marwa (2017) e KLR** to allow the joinder of DPP in a civil matter. Further citing Article 156 of the Constitution and Section 362 of the Criminal Procedure Code, the Applicants asserted that the court has wide powers thereunder and that they have demonstrate a recognizable, identifiable legal interest/stake and duty to justify admission for the ends of justice to be safeguarded. Reliance was also placed on the case of **Khalet Khalja v R and 3 Others [2014] e KLR**. The Applicants asserted their right to be heard and contended that during investigations, the DCI are informative agencies, and in subsequent proceedings, complainants. The case of **Timothy Isaac Bryant and 3 Others v Inspector General of Police and 3 Others [2013] e KLR** was cited in this regard.

15. The 1st Respondent contended that the search warrants issued in the lower court were sought after a criminal charge had been laid against Africa Spirits and another on 1/2/19 *vide* a charge sheet in the name of the KRA, hence the DCI has no interest herein. Moreover that, relevant tax laws envisage that applications for warrants, entry, search and seizure are functions to be exclusively carried out by proper and authorized officers under the said regime, the role of the police being merely limited to assistance. Asserting that any further involvement by the DCI is improper, the 1st Respondent submitted that the joinder sought herein is intended to justify unauthorized and illegal actions by the DCI. More so as the DCI and DPP though aware of the lower court proceedings did not seek to enjoin themselves in the matter before the lower court. Besides, it was argued, the KRA failed to enjoin the proposed Interested parties in the revision application.

16. Pointing to the charge sheet before the lower court, the 1st Respondent contended that the DCI cannot be both investigator and complainant, and in their view, any questions falling for determination will be between the proper officer as envisaged under the tax law regime and the persons aggrieved. Further they assert that no exceptional circumstances have been placed before the court to justify joinder of the proposed Interested parties.

17. On behalf of the 2nd Respondent it was argued, emphasizing the nature of the revision application before the court that, only the KRA has a stake therein, while the DPP's mandate ought to be exercised in respect of pending proceedings in the lower court. It was argued that the Applicants have not demonstrated how their joinder will facilitate a just determination; that the facts in the Respondents' authorities are different and distinguishable from those herein; that the non-participation of the proposed Interested parties in the lower court proceedings is adequate demonstration of the fact that they have no stake in the present matter and their application is in bad faith.

18. In a brief rejoinder, the Applicants pointed out that the proceedings in the lower court are in the name of the Republic, that the interest of the DPP and DCI not is limited to the lower court proceedings; that the question of the proper/authorized officer and roles played during investigations are matters of fact and that the Applicants have shown sufficient interest in the matter before this court.

19. The court has considered the motion, the rival affidavit material canvassed in respect of the motion as well as the parties' respective arguments. The substantive matter before this court is the revision application, brought pursuant to this court's revision mandate under Article 165(3)e), (6) and (7) of the Constitution, and Section 362 of the Criminal Procedure Code. The supervisory jurisdiction donated to the High Court under these provisions is fairly wide.

21. Although there is much disputation concerning the background facts of this case, it is not disputed that the present revision application was provoked by the orders of the lower court *inter alia* varying the terms of the warrants issued to IP. Mutwiri earlier by the same court. Secondly, it is not disputed that there already exists a criminal case, No.742 of 2019 instituted at Thika Law Courts against **Africa Spirits and Prabhu Sethu** on 1st February 2019 in connection with tax related offences. Whether or not and to what extent the warrant to IP Mutwiri is related to the said criminal case is a matter for determination through evidence. The culpability of the Accused persons in the lower court case or the complicity of Wow Beverages Ltd in the offences preferred therein is also a matter for the investigators and the trial court, in the event of charges being preferred against the said Wow Beverages.

22. What cannot be contested is that the investigations carried out in the material period or ongoing relate to tax matters and appear to have a criminal element. Hence the miscellaneous criminal application before the lower court, seeking search and seizure warrants against both Respondents. A great deal of energy was expended by the Respondents through affidavits and oral arguments in addressing the question of the lawfulness, legality, and propriety and extent of involvement of the DCI officers in the investigations prior to and after the issuance of the warrants by the lower court. It is my respectful view that, considering the nature of the matters under investigation, these questions can only be considered and determined after a proper inquiry where evidence is tendered. The determination of those questions at this stage would in my considered opinion be premature and unnecessary for the determination of the instant application. It suffices for the purpose of determining the instant application that certain investigating officers some of whom may have been drawn from the DCI were involved in the impugned investigative process. See annexures **PNK1, PNK 2, PNK32** to the affidavit of **Peter Njenga Kuria**.

23. There is no definition of an Interested party in the Criminal Procedure Code. However, Rule 2 of the Constitution of Kenya (Protection of Rights and Fundamental Freedoms) Practice and Procedure Rules (commonly known as the "Mutunga Rules") contains the following definition:

"Interested Party" means a person or entity that has an identifiable stake or legal interest or duty in the proceedings before the court but is not a party to the proceedings or may not be directly involved in the litigation".

24. This definition, as well as Sections 23 and 25 of the Supreme Court Act (on enjoinder of an interested party) were discussed by the Supreme Court in the case of **Francis Karioko Muruatetu and Another V Republic and 5 Others [2016] e KLR** in a ruling regarding, *inter alia*, a joinder application made by **Katiba Institute**. I find it useful to quote in extenso from that ruling, as the principles enunciated therein apply equally, to constitutional and proper criminal matters, so far as an interested party seeks joinder.

25. After setting out the provisions of Sections 23 and 25 of the Supreme Court Act, the Supreme Court stated that:

"[33] These legal provisions have been considered by the Court in *Trusted Society of Human Rights Alliance v. Mumo Matemu & 5 Others*, Supreme Court Petition No. 12 of 2013, [2014] eKLR (an application by the Law Society of Kenya). In this case, the Law Society of Kenya (LSK) sought to be enjoined in the proceedings as an interested party, but leave was denied. The Court observed that :

"[13] While the Rules have a definition of who an amicus is, there is no definition attributed to 'Intervener' or 'Interested Party'. However, from Rule 25 above, one is allowed to apply to be enjoined any time in the course of the proceedings.

"[14] Black's Law Dictionary, 9th Edition, defines "intervener" (at page 897) thus:

“One who voluntarily enters a pending lawsuit because of a personal stake in it”

and defines ‘Interested Party’ (at p.1232) thus:

“A party who has a recognizable stake (and therefore standing) in a matter”.

[34] With that definition of “interested party,” the Court proceeded to hold further [paragraphs 17-18]:

“[17] Suffice it to say that while an interested party has a ‘stake/interest’ directly in the case, an amicus’s interest is its ‘fidelity’ to the law: that an informed decision is reached by the Court having taken into account all relevant laws, and entertained legal arguments and principles brought to light in the Courtroom.

“[18] Consequently, an interested party is one who has a stake in the proceedings, though he or she was not party to the cause ab initio. He or she is one who will be affected by the decision of the Court when it is made, either way. Such a person feels that his or her interest will not be well articulated unless he himself or she herself appears in the proceedings, and champions his or her cause...”

[35] This Supreme Court decision was cited by the High Court in *Judicial Service Commission v. Speaker of The National Assembly & 8 Others*, [2014]eKLR. The High Court also cited the definition of ‘interested party’ in: *The Constitution of Kenya (Protection of Rights and Fundamental Freedoms) Practice and Procedure Rules, 2013* (hereafter the “Mutunga Rules”)thus:

“Rule 2 of the Mutunga Rules defines an interested party as a person or entity that has an identifiable stake or legal interest or duty in the proceedings before the Court, but is not a party to the proceedings or may not be directly involved in the litigation.”

[36] Once again in the said High Court matter, the LSK was denied admission as an interested party because, in the perception of the Court, it could not show an identifiable stake in the matter or in its outcome, or what prejudice it would suffer if not enjoined as a party.

[37] From the foregoing legal provisions, and from the case law, the following elements emerge as applicable where a party seeks to be enjoined in proceedings as an interested party:

One must move the Court by way of a formal application. Enjoinder is not as of right, but is at the discretion of the Court; hence, sufficient grounds must be laid before the Court, on the basis of the following elements:

i. The personal interest or stake that the party has in the matter must be set out in the application. The interest must be clearly identifiable and must be proximate enough, to stand apart from anything that is merely peripheral.

ii. The prejudice to be suffered by the intended interested party in case of non-joinder, must also be demonstrated to the satisfaction of the Court. It must also be clearly outlined and not something remote.

iii. Lastly, a party must, in its application, set out the case and/or submissions it intends to make before the Court, and demonstrate the relevance of those submissions. It should also demonstrate that these submissions are not merely a replication of what the other parties will be making before the Court.”

The substantive matter before this court is a revision application challenging the lower court order to vary the terms of warrants issued at the investigatory stage. At the same time, this court cannot ignore the existence of a criminal case in the lower court, brought pursuant to the events commencing on or about 30th January 2019 and in connection with investigations against the Respondents. With regard to the DPP, there is no gainsaying the fact of his wide mandate under Article 157 of the Constitution, concerning the direction of criminal proceedings and even investigations. The DPP exercises an independent mandate that is only subject to sub-article 11 of Article 157 of the Constitution.

25. The Office of the Director of Public Prosecutions Act (the ODPP Act), enacted pursuant to sub-article 12 further sets out the powers and functions of the DPP as follows:

“Pursuant to Article 157 of the Constitution the Director shall—

(a) have power to direct the Inspector-General to investigate any information or allegation of criminal conduct and the Inspector-General shall comply with any such direction;

(b) exercise State powers of prosecution and may—

(i) institute and undertake criminal proceedings against any person before any court (other than a court martial) in respect of any offence alleged to have been committed;

(ii) take over and continue any criminal proceedings commenced in any court (other than a court martial) that have been instituted or undertaken by another person or authority, with the permission of the person or authority; and

(iii) subject to Article 157 (7) and (8), discontinue at any stage before judgment is delivered any criminal proceedings instituted by the Director of Public Prosecutions or taken over by the Director of Public Prosecutions; 2013 Office of the Director of Public Prosecutions 19 No. 2

(c) formulate and keep under review public prosecution policy; (d) perform any functions and exercise any powers prescribed by legislation, in addition to the functions and powers conferred by the Constitution and this Act.

(2) The Director shall exercise State powers of prosecution and may—

(a) notwithstanding the provisions of any other law in force for the time being, perform all that is necessary to be done for the purpose of performing the functions of the Director; and

(b) direct that investigations be conducted by an investigative agency named in the direction.

(3) Without prejudice to other provisions of this Act or any other law in force, the Director may assign an officer subordinate to him to assist or guide in the investigation of a crime and every investigative Agency shall give effect to that direction.

(4) The Director shall—

(a) promote appropriate standards of practice by public prosecutors, assistant prosecutors, and any other person exercising prosecutorial authority under this Act;

(b) implement an effective prosecution mechanism so as to maintain the rule of law and contribute to fair and equitable criminal justice and the effective protection of citizens against crime;

(c) cooperate with the National Police Service, investigative agencies, the courts, the legal profession and other Government agencies or institutions so as to ensure the fairness and effectiveness of public prosecutions; Office of the Director of Public Prosecutions 2013 20 No. 2

(d) set the qualification for the appointment of prosecutors;

(e) review a decision to prosecute, or not to prosecute, any criminal offence;

(f) advise the State on all matters relating to the administration of criminal justice; and

(g) do all such other things as are necessary or incidental to the performance of its functions under the Constitution, this Act or any other written law. Independence of the Director.

Pursuant to Article 157(10) of the Constitution, the Director shall—

a. not require the consent of any person or authority for the commencement of criminal proceedings;

b. not be under the direction or control of any person or authority in the exercise of his or her powers or functions under the Constitution, this Act or any other written law; and (c) be subject only to the Constitution and the law.”

26. Under the ODPP Act, the DPP may delegate any power and assign any duty conferred upon him to a subordinate and appoint any qualified person to prosecute on his behalf. However, he retains control of all prosecutions and directive authority over investigative agencies including the National Police Service and KRA. In the present instance, the DPP was not a direct party in the lower court proceedings resulting in the issuance of warrants of search or the subsequent variation thereof.

27. Rightly or wrongly, the DPP views the variation order, and especially the court’s direction for the return of certain seized material to the Respondent(s), as an attempt to unlawfully limit or interfere with his proper powers, and further asserts that compliance therewith would compromise the entire investigations. He therefore seeks to be heard at this stage even though not a party in the lower court. It is the Court’s considered view that in light of the wide powers donated to the DPP, it does not avail much for the Respondents to emphasize that the DPP was not a party in the proceedings giving rise to the revision herein.

28. In so saying, I associate myself with the sentiments of **Achode J** in **Timothy Bryant’s** case that a key underlying consideration in an application of this nature is whether the **“ends of justice would be better served by joining the interested parties to the suit, allowing them to ventilate their side of the story.”** see also **Meme V R [2004] 1 EA pg. 124.**

29. With regard to the DCI, because of its role in investigating crimes, that office is joined at the hip, so to speak, with the DPP, given the fact that the former is an investigative agency subject to direction by the DPP under the provisions of the ODPP Act. The full extent of or lawfulness of the DCI’s involvement in the initial investigations in this case is, as observed earlier, a contested matter. *Prima facie*, it appears that DCI officers were involved in one way or another in the pertinent investigations. Indeed, the second limb of the lower court’s variation order of 2nd May, 2019 directs **IP John Mutwiri** (whose earlier description is that he is an officer with the DCI and attached to KRA) to *inter alia* provide an inventory of seized material and documents and **“to return all such documents within 7 days”**.

30. Although the application giving rise to the said order was by Wow Beverages Ltd, the order is not specific as to the particular documents to be returned and to whom they were to be returned. It is stated at paragraph 14 of the affidavit supporting the instant motion that the DPP had since directed the DCI to take over the investigations in the matter, arising from the alleged complexity, security and public interest element therein and that, all seized items had been handed over to the DCI. In that regard, an inventory annexed as “SG 5” has been exhibited. Whether indeed the alleged take-over/hand-over happened and/or its lawfulness are matters vigorously contested by the Respondents. Suffice to say at this stage that, the DCI has on the face of it been an active party at the investigatory stages of this matter, has the legal duty to conduct criminal investigations in Kenya, and like the DPP, has expressed apprehension of likely prejudice if not given an opportunity to be heard in the revision application.

31. Reviewing all the foregoing, I am satisfied that the Applicants herein have demonstrated a proximate identifiable legal interest and duty in the proceedings before this Court and that they might suffer prejudice, more particularly in the execution of their respective mandates, if locked out of the revision proceedings which, primarily relate to important issues pertaining to the administration of justice. I do therefore allow the motion filed on 7th June 2019 in terms of prayer 4 and 5. Replies by the Applicants ought to be filed within 30 days of today’s date.

32. At the same time, it is my view that from the material presented before this Court, the investigations which are the subject of the revision application are in respect of offences related to matters of tax compliance and public revenue. In the circumstances, the proper court for purposes of hearing and determining the revision application is the Anti-Corruption and Economic Crimes Division of the High Court in Nairobi. I direct therefore that the revision application be transferred to that court and be listed before the Duty Judge on 18th September 2019 for directions. By the same token, and in the interest of justice, this court moving *suo motu*, hereby invokes its powers under Article 165 (7) of the Constitution and Section 81(1) and (2) of the Criminal Procedure Code, to order that **Criminal Case No.742 of 2019 Republic vs Prabhu Sethu and Africa Spirits Ltd** now pending before the Chief Magistrate’s Court at Thika, be immediately transferred to the Chief Magistrate’s Court Nairobi for hearing before a magistrate duly appointed to hear cases relating to corruption and economic crimes.

DELIVERED AND SIGNED AT KIAMBU THIS 13TH DAY OF AUGUST 2019

C. MEOLI

JUDGE

In the presence of:

Mr. Kasyoka holding brief for Messrs. Monda and Akula for the DPP

Mr. Mwenda for KRA.

Ms Jepkorir holding brief for Mr. Musyoki and Mr. Ouma for the Respondents.

C/A: Nancy/Kevin