



REPUBLIC OF KENYA

IN THE HIGH COURT

AT NAIROBI

ANTI-CORRUPTION & ECONOMIC CRIMES DIVISION

HIGH COURT ACEC 22 OF 2016

PAUL OBONYO.....PETITIONER

-VERSUS-

KENYA REVENUE AUTHORITY.....1ST RESPONDENT

ETHICS AND ANTI-CORRUPTION COMMISSION....2ND RESPONDENT

KENYA BUREAU OF STANDARDS.....3RD RESPONDENT

J U D G M E N T

1. The Petitioner herein is a Kenyan Citizen currently working as an Administrative and Finance Officer, United Nations Office for the Coordination of Humanitarian Affairs, Regional Office for Asia and the Pacific in Bangkok, Thailand.
2. The Petitioner's employer has offices in different locations and countries worldwide. It is routine for the Petitioner to be transferred and if not so transferred, to temporarily undertake assignments in any of the countries as designated.
3. Prior to the year 2008, the Petitioner was stationed in South Sudan where for his use, he imported a motor vehicle from Japan into Sudan. The motor vehicle was a Range Rover Chassis Number **SALLPAMM3YA-439233**, Engine no. **RT-22415 KE** manufactured in 2001.
4. In the year 2010, the Petitioner returned to Kenya. As a returning citizen, he sought and obtained a waiver from the then Minister for Industrialization, Hon. Henry Kosgey. The waiver exempted him from the prevailing requirements of the Kenya Standard KS1515:2000 which required that vehicles imported to Kenya should not be more than eight (8) years old. His vehicle was manufactured in 2001 and had therefore surpassed the stipulated 8 year period.
5. Before obtaining the waiver, the Petitioner deposited his vehicle with the 1st Respondent's warehouse at Busia Border as required pending clearance from customs. Upon obtaining the waiver, the 1st Respondent failed to approve the clearance without giving any reasons.
6. Sometime in January 2011, the 1st Respondent informed the Petitioner that his exemption was invalid. At this point the Petitioner sought waiver of customs charges from the 1st Respondent, and permission to re-export the motor vehicle to its country of origin.
7. The 1st Respondent granted the request for re-exportation on 17th January, 2011 but immediately revoked it stating that the vehicle featured in investigations by the Kenya Anti-Corruption Commission, the predecessor to the 2nd Respondent. That as a result of the investigations, court proceedings were initiated in Anti-Corruption Court Case Number 01 of 2011 and the vehicle would only be released once the proceedings were finalized.
8. The Petitioner stated that the proceedings have since been concluded but that the Respondents have failed to release the vehicle to him, or take administrative action to reach a decision on the matter. As a result of the Respondent's inaction, the vehicle has lost value due to waste and non-use reasons for which he is seeking compensation for the full value of the vehicle and expenses thereon.
9. This petition seeks a declaration that the Respondents' refusal to allow the Petitioner to import the vehicle as a returning citizen contravenes his right of freedom to enter and exit Kenya as guaranteed under Article 39 of the Constitution of Kenya. That the Respondents' refusal to make a decision in respect of the said vehicle contravened his right to fair and quick administrative action and the right to a fair hearing enshrined under Article 47 and 50 of the Constitution of Kenya respectively. He also states that he has been deprived of his

inalienable right to acquire and own property contrary to Article 40 of the Constitution.

10. The Petitioner is further seeking monetary compensation for USD 33,515 being the value of the vehicle plus interest at Court rates. The value of the vehicle is particularized as follows:

a. Cost of importation CIF Mombasa.....	USD 18,050/=
b. Import and taxes into Sudan including registration fee.....	USD 5,562/=
c. State tax.....	USD 300/=
d. Registration costs.....	USD 750/=
e. Mombasa clearing and port charges...	USD 3,320/= (Kshs. 249,000@75)
f. Clearance fee and transport from Mombasa to Juba (George Okambo).....	USD 4,200/=
g. Payments to Fast Freight Clearing & Forwarding (Busia customs).....	USD 1,333 (Khs.100,000@75)
Total	<u>USD 33,515/=</u>

11. The 1st Respondent filed a Replying Affidavit dated 25th February 2017 deposed by Samuel Lichungu an assistant manager within its Customs and Border Control Department, appointed as such under the Kenya Revenue Authority Act, Cap 469 Laws of Kenya. He stated that he is involved in assessment, collection and enforcement actions which are the subject of this suit.

12. Mr. Lichungu deposed that under **section 5(1)** of the **Kenya Revenue Authority Act**, the 1st Respondent, herein after referred to as the Authority, is an agency of the government for the collection and receipt of all revenue. The Authority is therefore required to administer and enforce all provisions of the Act for purposes of assessing, collecting and accounting for all revenues.

13. Mr. Lichungu contended that the Petitioner sought to bring a vehicle into Kenya through the port of Busia on 27th June, 2010. Prior to verification and clearance, the vehicle was detained and a Notice of Goods Deposited in Customs Warehouse issued to the Petitioner. The documentation presented by the Petitioner on the risks had discrepancies which were suspected to be a case of fraud or forgery. That by giving false information in relation to the description of the vehicle, the Petitioner contravened **section 203(b)** of the **East African Customs Management Act, 2004**.

14. The Petitioner was asked to clarify why the vehicle was not deregistered in Sudan since it still had a Sudanese number plate. The logbook presented was also in English and of a different color from the usual colour of logbooks from South Sudan. The chassis number of the vehicle on the logbook and on initial (17B) was also found to be incorrect.

15. Mr. Lichungu deposed that the 1st Respondent informed the Petitioner through a letter dated 17th January 2011 that the exemption he sought had been declined. The basis of the decline of the exemption was stated to be that he was not personally present and that he had used the vehicle at his duty station of employment for 12 months as per the Authority's circular issued in November 2010.

16. Mr. Lichungu contended that the Authority initially allowed the Petitioner's request for re-exportation vide a letter dated 3rd September 2010. The request was later denied since the subject motor vehicle was among those under investigation by the Kenya Anti-Corruption Commission. That the Petitioner was informed that the request would be considered once the investigations were done.

17. Mr. Lichungu stated that at the time, there were allegations that the Minister of Industrialization had acted illegally in granting the exemptions and the matter was pending determination before court. He urged that it was for the Petitioner to exercise his right and seek to comply with the law to re-export the vehicle once the court made a determination on the issue, but he has failed to take any such steps to remedy the situation.

18. Mr. Lichungu deposed further that the 1st Respondent acted within the purview of the law and the scope of its mandate. That the Petitioner was at all times given adequate notice and an opportunity to be heard and to seek clarifications with regard to the issue at hand.

19. He asserted that the Petitioner has failed to prove his allegations and that the petition is founded on a misapprehension of the true nature of the suit, reasons for which it ought to be dismissed for lack of merit. That the petition was purposely filed to delay, frustrate and defeat the collection of taxes which are due and outstanding to the Government of Kenya.

20. The 2nd Respondent filed a replying affidavit dated 30th January 2017 deponed by Salat Abdi Ali. He stated that he is a forensic investigator with the 2nd Respondent, hereinafter referred to as the Commission, appointed as such pursuant to **Section 23** of the **Anti-Corruption and Economic Crimes Act, 2003**.

21. Mr. Ali stated that sometime in 2011, the Commission received a report that the then Minister for Industrialization, Henry Kosgey, improperly used his office to grant exemptions from the eight (8) year rule commonly known as Kenya Standard (KS: 1515:2000) code of practice for road vehicles, without consulting the National Standards Council and without satisfying himself that it was in the National interest. He asserted that on conducting investigations, the Commission discovered that the Petitioner's vehicle was amongst those that fell within the banned category. He cited **Articles 79, 80 and 252 of the Constitution** and **section 11 of the Ethics and Anti-Corruption Commission Act** which mandate the Commission to carry out such investigations.

22. The Minister for Industrialization was later arrested by the Commission and charged with twelve (12) counts of offences of abuse of office contrary to **section 46** as read with **section 48** of the **Anti-Corruption and Economic Crimes Act** in **Anti-Corruption case number 1 of 2011**. The court pronounced itself on the matter at which point the Commission became *functus officio* and downed its investigative tools.

23. Mr. Ali contended that the 2nd Respondent's mandate did not extend to the regulation and control of motor vehicles being imported into or exported out of the country. The Commission had therefore been erroneously enjoined in these proceedings and the Petitioner's claim against the Commission could therefore not stand.

24. In opposing the application, the 3rd Respondent filed a replying affidavit dated 28th March 2017 and sworn by Erick K. Chesire who is the acting Director of Quality Assurance and Inspection of the 3rd Respondent.

25. Mr. Chesire asserted that under **Order 3 of the Verification of Conformity to Kenya Standards of Imports Order, 2005 (Legal Notice No. 78 of 2005) ("the Order")** a person importing goods into Kenya has a duty to ensure that the goods meet Kenya standards or approved specifications. That under the then Kenya Standards KS1515:2000, motor vehicles imported into Kenya were required to be no more than 8 years old from the first date of registration.

26. He stated that whereas the Minister was empowered under Order 8 to exempt any imports from the provisions of the Order, such exemption was to be on the advice of the National Standards Council and in the national interest. An exemption from compliance with the law is not a fundamental right but rather a privilege conferred upon a deserving citizen through the laid down procedures.

27. Mr. Chesire contended that the 3rd Respondent could not be called upon to account for the exemption since it is not aware of any participation by the National Standards Council when the Minister granted an exemption. He further stated that by the year 2004, the privilege extended to returning citizens to be exempted from the eight (8) year rule had been lifted and was no longer an entitlement as expressed by the Petitioner. The Ministry of Foreign Affairs was instructed to communicate this position to all concerned citizens and foreign nationals and the communication should have reached the Petitioner through his employers.

28. Mr. Chebire asserted that the 3rd Respondent received a letter dated 13th October 2010 from the 2nd Respondent stating that it was conducting investigations on exemption of motor vehicles from the eight (8) year rule and required all relevant documents. The 3rd Respondent retrieved and availed to the commission all the documents sought including that relating to the motor vehicle which is the subject of this petition. The 2nd Respondent's investigations disclosed *prima facie* evidence of wrongdoing and the Minister was indicted on several counts for abuse of office. As a result, caveats were placed on the motor vehicles including the suit vehicle and that this caveat overrode the exemption granted by the Minister.

29. Mr. Ali stated that once the court proceedings were concluded, the Petitioner sought for release of the motor vehicle yet this was outside the purview, powers and mandate of the 3rd Respondent and it cannot be held accountable for failing to enforce the request. He further stated that the proceedings in so far as they relate to the 3rd Respondent are ill founded and misplaced and ought to be dismissed with costs.

30. In response to the affidavits of the Respondents, the Petitioner filed a Supplementary Affidavit dated 11th April 2017. He stated that the allegations made by the Respondents were untrue and that he had never been questioned by the authorities in Kenya about the history or documentation of the vehicle. That it was upon the Respondents to decide on his matter on the basis of the applications he made to them after the court proceedings were concluded and their inaction was in violation of his rights as outlined in the petition. He also stated that the lifting of the privilege to returning citizens was made in March, 2012 long after his vehicle had been exempted.

31. On 28th April 2017 the court directed the parties to file and exchange written submissions. The Petitioner filed written submission and a list of authorities dated 16th June, 2016. He reiterated the contents of his petition and submitted that where there are constitutional wrongs, the wrong doer should be called upon to remedy the situation by an order of the court.

32. He stated that the fact that the Minister was found to be blameless in granting the exemptions meant that the Respondents had no legal basis to impound the Petitioner's vehicle thereby infringing on his rights under Article 39 and 40 of the Constitution. That as a result he was entitled to an award of compensation to redress the infringement of his constitutional rights. He cited the case of **Peter Ndegwa Kiat T/a Pema Wines & Spirits vs Attorney General & 2 others [2017] eKLR**.

33. The Petitioner urged that the Respondents' continued failure to release the vehicle to him, or to make an appropriate decision thereon blatantly contravened the provisions of **Article 47(1)** of the **Constitution of Kenya** which guarantees the right to administrative action that is expeditious, efficient, lawful, reasonable and procedurally fair. That it is over seven years since the vehicle was brought to Kenya and the non-action of the Respondents constitutes an impunity and a violation of his constitutional right. He referred the court to the case of **Judicial**

Service Commission vs Mbalu Mutava & Another [2015] eKLR.

34. The Authority, submitted that its refusal to clear the Petitioner's motor vehicle did not amount to infringement and violation of the Petitioner's right to property. It stated that under **section 5(2) of the Kenya Revenue Authority Act, Cap 469 Laws of Kenya**, the Authority is required to administer and enforce all provisions of the written laws set out in Part 1 and 2 of the First Schedule to the Act for the purposes of assessing, collecting and accounting for all the revenues in accordance with those laws. That one of the laws stipulated under the First Schedule is the **East African Community Customs Management Act, 2004**, herein after referred to as EACCMA.

35. The 1st Respondent urged that under the EACCMA, it has a duty to investigate all claims and information received from any source that a party has or seeks to contravene the relevant customs laws. The Authority noticed discrepancies in the information presented to it by the Petitioner, it was mandated to investigate the discrepancies which were suspected to be a possible case of fraud or forgery. That the Authority's action of detaining the vehicle pending inspection and clearance was reasonable and justified.

36. The Authority submitted that it was for the Petitioner not to merely cite provisions of the constitution which he believed had been infringed, but also demonstrate in a precise manner the correlation between the alleged infringement and the actions of the 1st Respondent. To buttress this position, the 1st Respondent relied on the case of **Mumo Matemu vs Trusted Society of Human Rights Alliance & 5 others** and the case of **Manase Guyo & 260 others vs Kenya Forest Services**.

37. The Authority also urged that the Petitioner had failed to prove that the authority acted unreasonably, in bad faith or abused their power to constitute an infringement of his right to fair administrative action. That a court will only intervene where an administrative authority has exercised its powers in a manner that is procedurally irregular or irrational and unreasonable. To advance this argument, the 1st Respondent cited the cases of **Associated Provincial Pictures Houses Ltd vs Wednesbury Corporatio (1948) II KB 223**, **CCu vs Council of Civil Service Unions [1984]3 All ER 935** and **H.C Misc. Civil Application No. 283 of 2006: KAPA Oil Refineries Ltd vs Kenya Revenue Authority, Commissioner of Income Tax and Commissioner for Value Added Tax & Commissioner of Domestic Taxes**.

38. The 2nd Respondent, herein after referred to as the Commission, filed their written submissions dated 3rd October, 2017 in which they submitted that the Commission had not in any way violated the Petitioner's constitutional rights as alleged. That the freedom of movement enshrined under **Article 39(3) of the Constitution** extended only to citizens and not to inanimate objects such as the Petitioner's vehicle. They stated that even though the Petitioner has a right to acquire and own property, **Article 40(6) of the Constitution** provides that this right does not extend to property acquired unlawfully. That the Petitioner's vehicle was seized due to a suspicion of an infraction of the law in granting exemptions by the Minister necessitating investigations by the Commission which resulted in initiation of criminal proceedings.

39. The 2nd Respondent submitted that they always informed the Petitioner in writing, of every stage of the criminal case and the preceding investigations. That in conformity with Article 50 of the Constitution, the Commission referred the dispute that arose with the Minister to court, which dispute was determined and the Minister discharged from the proceedings.

40. The Commission further submitted that the Petitioner did not table any evidence to indicate that he made an attempt to have his vehicle released after judgment was delivered. That the Petitioner has suddenly woken up out of his slumber four (4) years later, after his car has wasted away in the yard to demand for compensation from the Respondents. They stated that it is a trite doctrine of equity that *equity aids the vigilant, not the indolent* and as such the Petitioner's case, which is an afterthought, does not deserve the intervention of this court.

41. To buttress their case they relied on the cases of:

- i) **Njuguna Githiru vs Attorney General [2016] eKLR, Nairobi High Court Petition No. 204 of 2013,**
- ii) **Benson Lusweti Wanyonyi vs Kenya Power & Lighting Company Limited & Attorney General [2016] eKLR**
- iii) **Law Society of Kenya vs Attorney General & 3 Others [2016] EKLR Nairobi High Court Petition No. 148 of 2014**

42. The 3rd Respondent, the Kenya Bureau of Standards (KEBS), filed written submissions dated 15th September 2017 in which they submitted that the Petitioner had failed to demonstrate that KEBS had in any manner violated his rights. That the Petitioner failed to plead his case with reasonable precision to enable the court as well as the Respondent(s) clearly understand and appreciate the rights allegedly violated. They relied on the cases of **Anarita Karimi Njeru vs Republic (No. 1) [1978] KLR 154** and **Mumo Matemu vs Trusted Society of Human Rights Alliance & 5 others [2013] eKLR**.

43. The 3rd Respondent submitted that even though the Petitioner wrote to them in a letter dated 15th April, 2013 seeking release of the vehicle, they could not intervene to release the vehicle since such a decision falls outside its mandate. That if they were to intervene in the circumstances, they would have been deemed to have acted *ultra vires*. They further submitted that the Petitioner failed to show or even allege that the seizure of his vehicle was undertaken by the 3rd Respondent. The Petitioner cannot therefore claim that the 3rd Respondent violated his right to own and acquire property.

44. The 3rd Respondent urged that the Petitioner failed to prove their culpability with respect to the issues he raised in his petition. That no infringement had been established against the 3rd Respondent to invite an award of compensation. They relied on the case of **Peter Ndegwa Kiai vs The Attorney General & Two Others [2017] eKLR** in which Mativo J stated that an award of compensation against the state is an appropriate and effective remedy for redress for an established infringement of a fundamental right under the constitution.

Disposition:

45. I have considered the application, the affidavits filed in support of and in opposition to the application, the written submissions filed and the authorities cited in support thereof. I commend the parties for filing comprehensive written submissions, which I have examined and analyzed above.

46. It is evident from the arguments presented before this court, that the Petitioner's case is anchored on his right to fair administrative action. The Petitioner alleges that the Respondents' acts and omissions have resulted in infringement of his fundamental right and freedom of movement, his right to acquire and own property, his right to fair administrative action and his right to a fair hearing.

47. In light of this therefore, this court shall determine two issues namely: whether the Respondents violated the Petitioner's right to fair administrative action and whether the Petitioner is entitled to an award of compensation for redress.

48. The right to fair administrative action is stipulated under Article 47(1) and (2) of the Constitution of Kenya which states:

“47. (1) Every person has the right to administrative action that is expeditious, efficient, lawful, reasonable and procedurally fair.

(2) If a right or fundamental freedom of a person has been or is likely to be adversely affected by administrative action, the person has the right to be given written reasons for the action.

49. A Petitioner in a constitutional petition is required to plead with precision. This principle was established in **Anarita Karimi Njeru v The Republic (1976-1980) KLR 1272** and reaffirmed by the Court of Appeal in **Mumo Matemu v Trusted Society of Human Rights [2013] eKLR**. The Petitioner is therefore required to state the alleged constitutional provisions violated, and the acts and omissions complained of with reasonable precision.

50. The Petitioner herein has alleged that his constitutional rights were violated by the Respondents. He proceeded to expound on the provisions violated and the manner in which each Respondent infringed on these rights. While the Petitioner's arguments are not the epitome of precision, he has met the threshold required having provided the particulars of the alleged complaints, the manner of the alleged infringements and the basis for the action before this court.

51. This petition arose from the Petitioner's attempt to import into Kenya a motor vehicle, Range Rover Chassis Number **SALLPAMM3YA**. It is not in dispute that the Petitioner's vehicle exceeded the eight (8) year rule stipulated under the **Kenya Standards (KS) 1515:2000**. It is also not in dispute that the Petitioner obtained an exemption to the rule as a returning citizen from the then Minister for Industrialization. What is disputed is whether the exemption was valid.

52. While it is not for this Court to determine whether the exemption granted by the Minister then was or was not valid, it is important to analyze the evidence presented to determine whether the Respondent's acts and omissions after the grant of the exemption contravened the Petitioner's right to fair administrative action, which in turn violated his fundamental rights and freedoms as enumerated above.

53. The Petitioner presented to this court evidence of correspondence between himself, either personally or through his advocates, and the Respondents regarding the suit motor vehicle. He sought the release of his motor vehicle by the Respondents since the year 2011 up until the year 2013. During this period, the Petitioner was subjected to a cat and mouse game by the Respondents with each referring him to the other.

54. Some of the notable replies state: “Please note that your request will only be considered once the issues raised by KACC (the predecessor of the 2nd Respondent herein) have been finalized” – See letter dated 18th January 2011 from the Authority. The other response stated “accordingly we advise that your client get in touch with KEBS which may apply the applicable laws in the above matter without further reference to the Authority” – See letter dated 8th April, 2011 from the Commission.

55. In a letter dated 15th April, 2013 and addressed to the Respondents, the Petitioner sought to know the position with regard to his motor vehicle through his then advocates, Nyawara and Company Advocates. The letter referenced the 2nd Respondent's letter dated 11th June, 2012 in which the commission indicated that they would revert back to the Petitioner once the court proceedings were concluded. The Petitioner sought release of the motor vehicle since the court proceedings had been concluded. The 3rd Respondent acknowledged receipt of this letter but stated that the release of the vehicle was outside its mandate.

56. From the foregoing, it is evident that the Petitioner has suffered prejudice not only from the actions, but also the omissions of the Respondents. When this matter was filed in the year 2016, four (4) years had lapsed since the conclusion of the court proceedings and it was about three (3) years since the Petitioner's last correspondence to the Respondents which none of the Respondents responded to. The right to fair administrative action encompasses several duties.

57. The right to a fair hearing under the common law is a general right. Albeit a universal one. It refers to the three features of natural justice identified by Lord Hodson in *Ridge vs Baldwin* (supra). Although it is applicable to administrative decisions, it is apparently limited in scope in contrast to right to fair administrative action under Article 47(1) as the latter encompasses several duties – duty to act expeditiously, duty to act fairly, duty to act lawfully, duty to act reasonably and, in the special case mentioned in Article 47(2), duty to give written reasons for the administrative action. The duty to act lawfully and duty to act reasonably refers to the substantive justice of the decision whereas the duty to act expeditiously, efficiently and by fair procedure refers, to procedural justice. – See **Judicial Service Commission vs Mbalu Mutava & Another [2015] eKLR**.

58. The Respondents failed to act expeditiously and also failed to give written reasons for their actions, instead tossing the Petitioner back and forth between their offices. The Respondents acts, omissions and decisions have in turn affected the Petitioner's rights and interests in relation to the suit motor vehicle. It follows that the Respondents are in breach of the Petitioner's right to fair administrative action thereby

affecting his rights and interests. It is important to note that fair administrative action is not only confined to acting fairly and lawfully, but also acting reasonably and expeditiously which test the Respondents have failed.

59. The question that follows is whether the Petitioner has suffered damage as a result of the violation of his rights such as to warrant an award of compensation. I can do no better than to quote Lord Nicholls in the Privy Council case of **Siewchand Ramanooop vs The AG of T & T PC Appeal No. 13 of 2004** which was applied by the Court of appeal in **Hon. Gitibu Imanyara and 2 others vs The Hon. Attorney General, Civil Appeal No. 98 of 2014**. Per Lord Nicholls:

“When exercising this constitutional jurisdiction the court is concerned to uphold, or vindicate, the constitutional right which has been contravened. A declaration by the court will articulate the fact of the violation, but in most cases more will be required than words. If the person wronged has suffered damage, the court may award him compensation.....An award of compensation will go some distance towards vindicating the infringed constitutional right.”

60. The Petitioner has demonstrated that his rights have been infringed and as a result, the vehicle, which is the subject of this suit is now a wreckage due to waste and non-use over the years. Consequently the motor vehicle has lost its value. A motor vehicle inspection report based on the external inspection of the vehicle revealed extensive damage, yet it only focused on the most obvious defects. The damage on the suit vehicle is as a result of non-use for a long period which would likely have been avoided if only the Respondents had acted expeditiously and reasonably.

61. Applying the principles stated above, I am in no doubt that the Petitioner is entitled to an award of compensation. In **Hon. Gitibu Imanyara and 2 others vs The Hon. Attorney General, Civil Appeal No. 98 of 2014** the appellate court went further to pronounce itself thus:

“..the court’s discretion for award of damages in constitutional violation cases though is limited to what is ‘appropriate and just’ according to the facts and circumstances of a particular case...The appropriate determination is an exercise in rationality and proportionality.”

62. In view of the foregoing, I find that this Petition has merit and is accordingly allowed with the following reliefs:

1. A declaration that the Respondent’s failure to make a decision in respect of Motor vehicle Range Rover Chassis No. SALLPAMM3YA-439233 was in contravention of the Petitioner’s right to fair administrative action.
2. That the Petitioner is entitled to compensation for USD 33,515 to be calculated at the prevailing rate at the time which was Kshs. 75 as particularized under paragraph 14 of the petition.
3. Interest at court rate from 28th June, 2012 when court proceedings in the matter were concluded.
4. Costs of this suit.
5. Both the compensation and the costs are awarded to the Petitioner to be borne by the 1st Respondent.

DATED AND SIGNED AT NAIROBI THIS 9TH DAY OF APRIL 2018.

L. A. ACHODE

HIGH COURT JUDGE

DELIVERED, DATED AND SIGNED IN OPEN COURT AT NAIROBI THIS 11TH DAY OF APRIL, 2018.

HEDWIG I. ONG’UDI

HIGH COURT JUDGE