



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
ACECA MISC. NO. 5 of 2017

(Previously **JUDICIAL REVIEW APPLICATION 14 of 2016, MALINDI**)

**IN THE MATTER OF: ARTICLE 159 AND 165 OF THE CONSTITUTION OF KENYA 2010,
AND CIVIL PROCEDURE RULES AND SECTIONS 8 AND 9 OF THE LAW REFORM ACT**

AND

**IN THE MATTER OF: AN APPLICATION FOR LEAVE TO APPLY
FOR AN ORDER PROHIBITION AND CERTIORARI**

AND

**IN THE MATTER OF: THE CHIEFF MAGISTRATES’ ANTI-CORREUPTION
COURT AT MALINDI LAW COURTS CRIMINAL CASE NUMBER 1 OF 2015.**

REPUBLIC.....APPLICANT

VERSUS

ETHICS & ANTI-CORRUPTION COMMISSION.....1ST RESPONDENT

DIRECTOR OF PUBLIC PROSECUTION.....2ND RESPONDENT

THE CHIEF MAGISTRATES’ ANTI-CORRUPTION

COURT MALINDI LAW COURT.....3RD RESPONDENT

Ex-parte: STEPHEN SANGA BARAWA.....APPLICANT

R U L I N G

Introduction

1. The Applicant Stephen Sanga Barawa vide a Notice of Motion filed on 23rd November, 2016 seeks the following orders:

- i. An order of Certiorari be issued to remove to the High Court and quash the decision of the 1st

Respondent prohibiting the Applicant from withdrawing his complaint in Anti-corruption case No. 1 of 2015 pending for plea in the Chief Magistrate's Anti-Corruption at Malindi Law Court.

ii. That an order of Certiorari to remove to the High Court and quash the proceedings in Anti-corruption case No. 1 of 2015 pending for plea in the Chief Magistrate's Anti-Corruption Court at Malindi Law Court be issued.

iii. An order of Prohibition prohibiting the Respondents from prosecuting the Interested party and/or conducting proceedings including taking of plea by the Interested Party in Anti-corruption case No. 1 of 2015 or any other Court proceedings based on the same factual and evidentiary basis.

iv. That costs be provided for.

2. The Applicant, sought leave from the Court vide Chamber Summons dated 2nd November, 2016 on the following grounds:

i. The Applicant has withdrawn his complaint vide sworn affidavit.

ii. Charging the Interested Party in Anti-corruption case No. 1 of 2015 will prejudice the Applicant who has no intention of testifying in the criminal case.

iii. The 1st Respondent's action prohibiting the Applicant from withdrawing the complaint is malicious and made against the wish of the Applicant.

iv. The Applicant has a right of freedom of expression and should not be limited by the 1st Respondent's action.

v. That the Applicant should not be compelled to testify on a complaint he has voluntarily withdrawn.

Applicant's Case

3. The Applicant lodged a complaint with the 1st Respondent the Ethics and Anti-Corruption Commission's (EACC) office in Malindi against the Interested Party one Matano Riziki Choga, in March 2015. The Interested Party is an officer of the County Government of Kilifi working as the Acting Head of Supply Chain. The nature of the complaint was solicitation of a bribe from the Applicant in order to influence a tender. The EACC investigated the matter and found sufficient grounds for charging the Interested Party.

4. The Interested Party was then arrested by officers of the EACC and was later charged in a criminal case at the Chief Magistrate's Court in Malindi being Anti-Corruption Case Number 1 of 2015 with the offence of bribery involving agents under section 39 of the Anti-Corruption and Economic Crimes Act.

5. The Applicant purported to withdraw his complaint vide a sworn affidavit dated 27th of May, 2016 and a letter to the EACC dated 24th June, 2016 wishing to withdraw his complaint which was rejected. The EACC had already listed the Applicant as a witness in the Anti-corruption case.

6. The Applicant then filed an application by way of Chamber Summons seeking leave to file an application for withdrawal and citing the same grounds of the intended application. On the 4th of November, 2016, Chitembwe J sitting at the Malindi High Court granted leave to commence proceedings in the nature of Judicial Review. The said leave was to also operate as stay of proceedings in Anti-Corruption case No. 1 of 2015 which is pending for plea in the Chief Magistrate's Anti-Corruption Court at Malindi. The Applicant was directed to file and serve the substantive application within 21 days.

7. Having been granted leave, the Applicant filed the substantive application for withdrawal now before

the court and made his oral submissions on 22nd February, 2017.

Respondents Case

A. The 1st Respondent

8. The EACC received a complaint from the Applicant in March 2015 against the Interested Party who is the Acting Head of Supply Chain. The Applicant had alleged that the Interested Party tried to solicit a bribe from the Applicant in order to influence a tender. The 1st Respondent investigated the matter and found sufficient grounds for charging the Interested Party.

9. The Interested Party was then arrested by officers of the EACC on the 13th of March, 2015 and was later charged in the Chief Magistrate's Court in Malindi in Anti-Corruption Case No. 1 of 2015 with the offence of bribery involving agents under section 39 of the Anti-Corruption and Economic Crimes Act. The Interested Party was released on bail on the same day and is awaiting plea.

10. The EACC received a letter from the Applicant on the 27th of May, 2016 withdrawing the complaint that he lodged. The EACC rejected the Applicant's request for withdrawal vide a letter dated 20th June, 2016. The reasons given by the EACC for rejection were that the affidavit sworn by the Applicant on the 27th May, 2016, cannot stop the prosecution of the suspects who are formerly in court. In addition, the Applicant is a compellable witness who will be treated as a state witness among many other witnesses.

11. The EACC filed a Replying Affidavit dated 23rd of December, 2016 sworn by Mr. George Ojowi, who is the Officer in-Charge of the Ethics and Anti-Corruption Commission in Malindi. He averred that the ex-parte Notice of Motion is misguided, misconceived and is an abuse of court process. In addition, the application is said to be grounded on generalities, conjectures and suppositions in respect to the Respondents.

12. The EACC referred to **Article 157** of the **Constitution** and **Sections 5** and **25** of the Office of the Director of Public Prosecutions which provide that it is only the 2nd Respondent (the DPP) who has the exclusive power to discontinue, or withdraw any criminal proceedings with the leave of the court. The EACC provided the following reasons:

- i. There is sufficient evidence to prosecute the Interested Party and the criminal case should proceed. The freedom of expression that the Applicant alleges has been violated is only subject to article 157 clause 8 of the Constitution.
- ii. The ex-parte Applicant's application and the orders sought are aversive to public interest.
- ii. The ex-parte Applicant's application is highly prejudicial to the 1st Respondent.
- iv. The Interested Party is a compellable witness who reported the matter to the 1st Respondent.

13. The EACC asserted that the ground of freedom of expression that the Applicant has relied on is subject to the full operation of **Article 157(8)** of the **Constitution** as read together with **sections 4(f)** and **5 (1) (b)** of the **Office of the Director of Public Prosecution Act, 2013**. Hence, the EACC argued that the freedom of expression that the Applicant seeks is not subject to him but the EACC and in any case the Applicant's freedom of expression has not been violated. Further that the person who ought to allege breach of freedom of expression is the EACC and not the Applicant.

14. Lastly, the EACC in their Replying Affidavit asserted that the Applicant has not disclosed any reasonable cause of action to seek for orders of Certiorari and Prohibition.

15. The EACC filed a further Affidavit dated 3rd February, 2017 also sworn by Mr. George Ojowi, and

deposed that the Applicant should have made his application in the Chief Magistrate's Anti-Corruption Court which is the only court vested with the jurisdiction to permit withdrawal of complaints of a criminal case where there are sufficient grounds for the withdrawal. That the High Court has no jurisdiction to hear this matter.

16. In addition, the EACC alleged that the High Court does not have the jurisdiction to issue the orders sought and prayed for the dismissal of this matter with costs.

B. 2nd Respondent

17. The 2nd Respondent (DPP) filed a Replying Affidavit dated 23rd January, 2017 sworn by Mr. Vincent Sammy Monda who is in charge of the office of the Director of Public Prosecutions in Malindi. In his Replying Affidavit he agreed with the EACC that the Applicant is a compellable and competent witness and as such none of his fundamental rights had been breached.

18. The DPP also agreed with the EACC that the High Court has no jurisdiction to deal with the question as to whether the Petitioner should be allowed to withdraw the case against Riziki Matano where the DPP and the EACC declined to do so, or whether the Petitioner is a compellable and competent witness, or whether the trial would be against the constitutional rights of the Petitioner. The DPP sought to have this matter dismissed as being misconceived, fatally defective and speculative in nature.

C. 3rd Respondent

19. The 3rd Respondent the Chief Magistrate's Anti-Corruption Court Malindi was joined as a party to this case but did not file any response or submit in reply.

Analysis

20. In the grounds of the application and the oral submissions presented before the court by the parties on the 22nd February, 2017, the following issues arose for determination.

i. Does the Applicant have the authority to withdraw this matter having made the complaint through the Ethics and Anti-Corruption Commission? (who is a complainant).

ii. Does the High Court have the jurisdiction to:

- determine whether a criminal case can be withdrawn where the Director of Public Prosecutions and the Ethics and Anti-Corruption Commission have declined to do so?
- to determine whether the Applicant is a compellable and competent witness.
- Determine whether there will be violation of the Applicant's constitutional rights if the trial is withdrawn.
- issue prohibition and certiorari orders.

iii. The grounds that the Applicant seeks to rely on are insufficient.

21. Regarding the first issue on whether the Applicant has the authority to withdraw the case it is important to establish who a complainant is. The word complainant in criminal proceedings seems sometimes to cause misunderstanding in our courts as to the exact meaning and application. **Section 2** of the **Criminal Procedure Code** defines a complaint as **“an allegation that some person known or unknown has committed or is guilty of an offence.”**

22. The **Criminal Law Amendment Act No. 5 of 2003** taking cognizance of the omission of the definition as to who a complainant is amended sec 2 of the **Criminal Procedure Code** to include the definition of a complainant: **“As a person who lodges a complaint with the police or any other lawful authority.”** The amendment of **Act No. 5 of 2003 section 59** provided the definition of the word

complainant in the Criminal Procedure Code.

23. However, in an interesting turn of events Parliament revisited the issue vide **Statute Law Miscellaneous Amendment Act of 2007** and deleted the word complainant from **section 2** of the **Criminal Procedure Code**. The effect of that amendment in 2007 did away with the definition of a complainant in criminal law. The nearest definition that we can now find is from **section 208(1)** of the **Criminal Procedure Code** which reads as follows:

“(1) if the accused person does not admit the truth of the charge, the court shall proceed to hear the complainant and his witnesses and other evidence. (if any).”

24. On the one hand the complainant is one who lodges a complaint with the police or any other lawful authority that some offence or criminal act has been committed and on the other hand a complainant is the prosecutor. The essential function of a court is to adjudicate and that of the Director of Public Prosecutions is to control all criminal proceedings.

25. **Article 157** of the **Constitution** gives powers to the DPP to 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. The DPP also has powers to take over and continue criminal proceedings commenced in any court other than a court martial that have been instituted or undertaken by another person or authority with the authority of the person or authority.

26. The gist of the provisions of the Constitution and the statutes in relation to the matter before this court, is that the DPP is the complainant and not the Applicant. Precedents too have given expressions to this school of thought. **Nyakundi J in Republic vs Faith Wangoi (2015) eKLR** held:

“I am of the considered view and in applying the law that the form the instructions should have taken in withdrawing a complaint is through the prosecutor. In practice the courts have always acted on the word of the prosecuting counsel or public prosecutor who controls and guides criminal proceedings.”

27. In the case of **R vs Mwaura 1979 KLR 209** the High Court held that a complainant included the public prosecutor and similarly in **Ruhi vs Republic 1985 KLR 373**, the High Court reiterated that the term complainant in section 208(1) of the Criminal Procedure Code includes the prosecution as well as the person so described in the particulars of the charge.

28. In the case of **Roy Elimma & Another vs Republic Cr. Appeal No. 67 of 2002**, the Court of Appeal in considering section 202 of Criminal Procedure Code stated thus on the issue of complaint:

“The parties named in section 202 for example, are all complainants and the accused person if the complainant is aware of the hearing date and is absent without the explanation, the court may acquit the accused person, unless the court sees other good reason for adjourning the hearing. The “complainant” in this context has been interpreted to mean the “Republic” in whose name all Criminal Prosecutions are brought and not the victim of the crime who is merely the chief witness on behalf of the Republic.”

29. The prosecutor represents the Republic who is the complainant in whose name all criminal prosecutions are brought. A person who reports a crime may seek to withdraw his complaint but the DPP, in whose name the criminal proceedings began and are to be sustained, must be a part of the withdrawal process.

30. Under **Article 157(6) of the Constitution** the DPP shall exercise state powers of prosecution and may:

a. 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.

b. **Take over and continue any criminal proceedings commenced in any court (other than the court martial) that has been instituted by another person or authority with the permission of the person or authority.**

c. **Subject to clause (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.**

31. The DPP's powers are however not absolute. By virtue of **Article 157(8)** the DPP may not discontinue a prosecution without the permission of the court. These provisions of Article 157 are reflected in the Office of the Director of Public Prosecutions Act, No. 2 of 2013.

32. Even considered from a variant perspective, the same indication prevails and that is why in **Republic vs Fahmi Salim Said(2013)**, Muya J asked:

“Was the magistrate’s court supposed to be a rubber stamp? Ought not the magistrate interrogate the reasons given by the DPP as to satisfy himself as to whether they answer to the threshold set by the Constitution and in particular Article 157(11)?”

33. That is a valid question and although permission must be sought by the DPP to discontinue a prosecution, the Court, in my view, must never grant permission for withdrawal of any complaint by a complainant under circumstances in which the prosecution wishes to proceed therewith. This position has found approval in case law as evinced by the sentiments of Odunga J in **Nairobi High Court Misc. Civil Application No. 249 of 2012, Republic vs The DPP, Ex-Parte Victory Welding Works Limited and Another** where the Judge categorically stated that:

“The Office of the Director of Public Prosecutions is an independent constitutional office which is not subjected to the control, directions and influence by any person and only subject to the control by the Court on the aforesaid principles of illegality, irrationality and procedural impropriety.”

34. Further, under **Article 157(11)** of the **Constitution**, the DPP must exercise his powers with due regard to the public, the interest of administration of justice and the need to prevent and avoid abuse of the legal process. Only if the DPP applies to withdraw or opposes withdrawal in circumstances which besmirch of illegality, irrationality or impropriety, shall the Court disallow such an application.

35. In that regard, the Applicant can have the Anti-Corruption No. 1 of 2015 withdrawn with the approval of the DPP. Where the DPP rejects the request for withdrawal by an Applicant, the trial should proceed and the courts should not interfere. The DPP in this matter rejected the request for withdrawal by the Applicant and this court cannot interfere with the decision of the DPP to prosecute without there being demonstrable illegality, irrationality or impropriety on the part of the DPP.

36. **Section 204** of the **Criminal Procedure Code** requires that the Court should be satisfied that there are sufficient grounds on which the complainant is relying to withdraw a complaint before permitting such withdrawal. This means that at the time a complainant makes an application to withdraw a complaint, the court ought to establish the grounds on which the application is made and assess their sufficiency for that purpose.

37. Sufficiency of the grounds that are offered by a complainant to withdraw a complaint will differ from case to case and therefore have to be considered on the basis of the circumstances of the case.

38. Applying myself to the facts before me and the relevant legal provisions I find that the first reason that the Applicant offered for wishing to withdraw the complaint lacked merit. The DPP is not obliged to withdraw a case merely because the Applicant who is one of the witnesses had had a change of heart, if the DPP was of the view that investigations that sprung from his complaint had yielded a sustainable case.

39. The DPP may or may not agree with the request for withdrawal and proceed as guided by **Article 157** of the **Constitution**, **Section 204** of the **Criminal Procedure Code** and **Section 2** of the **Office of the Director of Public Prosecutions Act of 2015**. The Courts will not interfere with the decision of the DPP where he objects to a request for withdrawal except as stated in paragraph 34 of this ruling. Dulu J in **Johnstone Kassim Mwandi & Another vs Republic (2015) eKLR** stated in that regard that:

“The Court has no power to withdraw a criminal case on the direct request of the complainant, unless he/she is the prosecutor. Such request has to pass through the DPP.”

40. Regarding the second ground that the action of the EACC of stopping the Applicant from withdrawing the complaint is malicious and made against the wish of the Applicant, **Section 13(2) (c)** of the **Ethics and Anti-Corruption Commission Act** grants the EACC the authority and discretion to conduct investigations on its own initiative, or upon a complaint made by any person. Thereafter, the EACC forwards a criminal matter to the DPP. The EACC is therefore justified in pursuing the matter and is acting within its statutory powers in doing so even after the Applicant’s change of heart.

41. The Applicant asserts that his right to freedom of expression should not be limited by the EACC’s action. Lastly, that he should not be compelled to testify on a complaint he has voluntarily withdrawn since he is not a witness but a complainant and therefore should not be compelled to testify.

42. Section 125 of the Evidence Act defines competency as:

“All persons shall be competent to testify unless the court considers that they are prevented from understanding the questions put to them, or from giving rational answers to those questions, by tender years, extreme old age, disease (whether of body or mind) or any similar cause.”

Hence, a witness is competent to testify if he or she is not of tender age, extreme old age and suffering from any disease whether of body or mind.

44. **Evidence** by Roderick Munday and Roderick J.C. Munday page 110 elaborates that:

“Competent witnesses are also treated as compellable witnesses-that is, they may be constrained to testify, whether they wish to do so or not.”

Rose J pointed out in the case of **Yusuf (2003) 2 Cr App R 32, (16)**, referring to the obligation of witnesses to testify before criminal courts:

“The role of the courts, in seeking to provide the public with protection against criminal conduct, can only properly be performed if the members of the public co-operate with the courts. That co-operation includes participation in the trial process..... Witnesses who may have important evidence to give must come to court if Formally directed to do so. If they choose to ignore a summons, they are in contempt of court and can expect to be punished because their failure to attend is likely to disrupt the trial process and, in some cases, undermine it entirely.”

It shall however be up to the trial court to establish whether the Applicant is a competent and compellable witness who should testify.

44. The EACC raised the issue of jurisdiction and asserted that the High Court has no jurisdiction to determine whether:

- i. a criminal case can be withdrawn where the 1st and 2nd Respondent have declined to do so.
- ii. the Applicant is a compellable and competent witness

iii. violation of the 2nd Respondent's constitutional rights shall occur if the trial is withdrawn

iv. It can issue mandamus, prohibition and certiorari order in this case.

45. Jurisdiction is defined in **Mullah the Code of Civil Procedure 12th ed at page 225** as follows:

“By jurisdiction is meant authority which a court has to decide matters that are litigated before it or to take cognizance of matters presented in (a) formal way, for its decision. The limits of this authority are imposed by statute charter or commission under which the court is constituted and may be exercised or restricted by the like means. If no restriction or limit is imposed the jurisdiction is unlimited.”

Jurisdiction is also defined in **Halsbury' Laws of England (4th Ed.) Vol 9 at page 350**, as the following:

“Jurisdiction is meant the authority which a court has to decide matters that are litigated before it or take cognizance of matters presented in a formal way for decision.”

46. Pickford LJ in **Guaranty Trust Co. of Newyork vs Hannay & Co. (1915) 2 KB 536 at 563** rejected the nuance between the word “jurisdiction” and the expression “the court has no jurisdiction”, to help achieve a meaning when he said:

“The word “jurisdiction” and the expression “the court has no jurisdiction” are used in two different senses which I think often leads to confusion. The first and in my opinion, the only really correct sense of the expression that the court has no jurisdiction is that it has no power to deal with and decide the dispute as to the subject matter before it, no matter in what form or by whom it is raised. But there is another sense in which it is often used, i.e. that, although the court has power to decide the question it will not according to its settled practice do so except in a certain way and under certain circumstances.”

47. John Beecroft Saunders in his treatise **Words and Phrases Legally Defined Vol.3, at page 113** says ‘jurisdiction’

“By jurisdiction is meant the authority which a court has to decide matters that are litigated before it or to take cognizance of matters presented in a formal way for its decision. The limits of this authority are imposed by the statute, charter or commission under which the court is constituted, and may be extended or restricted by like means. If no restriction or limit is imposed the jurisdiction is said to be unlimited. A limitation may be either as to the kind and nature of the actions and matters of which the particular court has cognizance or as to the area over which the jurisdiction shall extend, or it may par take both these characteristics. If the jurisdiction of an inferior court or tribunal (including an arbitrator) depends on the existence of a particular state of facts, the court or tribunal must inquire into the existence of the facts in order to decide whether it has jurisdiction; but except where the court or tribunal has been given power to determine conclusively whether the facts exist. Where a court takes upon itself to exercise a jurisdiction which it does not possess its decision amounts to nothing, jurisdiction must be acquired before judgment is given”.

48. In the case of **Owners of the Motor Vehicle “Lilian S” vs Caltex Oil (Kenya) Limited (1989) KLR 1** in which it stated as follows:

“Jurisdiction is everything. Without it, a court has no power to make one or more step. Where a court has no jurisdiction there would be no basis for a continuation of proceedings pending other evidence. A court of law downs its tools in respect of the matter before it the moment the opinion that it is without jurisdiction.”

In sum the word “jurisdiction” refers to the authority and power to hear or adjudicate over matters before it.

49. The EACC asserts that the High Court has no jurisdiction to issue mandamus, prohibition and certiorari orders. **Section 8(1)** of the **Law Reform Act** states that:

“The High Court shall not, whether in the exercise of its civil or criminal jurisdiction, issue any of the prerogative writs of mandamus, prohibition or certiorari.”

The Constitution on the other hand empowers the High Court with unlimited original jurisdiction in criminal and civil matters. This means that there is a conflict between the Constitution and the Law Reform Act. **Article 2(4)** of the **Constitution** states that:

“Any law, including customary law that is inconsistent with this Constitution is void to the extent of its consistency, and any act or omission in contravention of this Constitution is invalid.”

50. Therefore, the Constitution will take precedence in this regard. **Article 165(3)** of the **Constitution** vests the High Court with unlimited original jurisdiction in criminal and civil matters. Hence, the High Court has the jurisdiction to hear the matters adverted to above by the EACC.

51. The Applicant seeks prohibitory orders in order to prohibit the Respondents from rejecting his request for withdrawal of Anti-Corruption case No. 1 of 2015 against the Interested Party. However, the Respondents have already made their decision to prosecute. In **Kenya National Examinations Council vs Republic Ex parte Geoffrey Gathenji Njoroge & Others Civil Appeal No. 266 of 1996** the court expressed itself as follows:

“Prohibition looks to the future so that if a tribunal were to announce in advance that it would consider itself not bound by the rules of natural justice. However, where a decision has been made, whether in excess or lack of jurisdiction or whether in violation of the rules of justice, an order of prohibition would not be efficacious against the decision so made. Prohibition cannot quash a decision which has already been made; it can only prevent the making of a contemplated decision.....”

Sir Michael Supperstone James Goudie QC, Sir Paul Walker in their book **Judicial Review 4th Edn page 561** defined prohibitory orders as,

“The modern prohibiting order is a coercive remedy granted by the High Court and directed to an inferior court, tribunal, public authority or any other body or persons who are susceptible to judicial review which forbids it to act in excess of its statutory or other public law powers, or forbids it from abusing those powers.....”

Hence the Applicant cannot come to court to seek prohibition orders to reverse a decision that has already been made.

52. The Applicant also seeks Certiorari orders in order to remove to the High Court and quash the decision of the Respondents rejecting the Applicant’s request for withdrawal of the Anti-Corruption case against the Interested Party. However, as stated above the Respondents have already made their decision to prosecute. In the **Geoffrey Gathenji Njoroge** case (supra) the court expressed itself as follows:

“.....Only an order of certiorari can quash a decision already made and an order of certiorari will issue if the decision is without jurisdiction or in excess of jurisdiction, or where the rules of natural justice are not complied with or of such like reasons.”

It has not been demonstrated that in reaching the decision to reject the request for withdrawal by the Applicant the Respondents acted in excess of, or without jurisdiction and therefore ultra vires, nor has the court been told that they failed to comply with rules of natural justice.

Conclusion

53. Having carefully considered the rival arguments on each of the grounds raised by the Applicant, I find that none of the grounds can succeed to avail him the orders sought. In the premise the application is found to be lacking in merit and is dismissed with costs to the Respondents.

SIGNED DATED and DELIVERED in open court this **22nd** day of **March, 2017**.

.....

L. A. ACHODE

JUDGE

In the presence ofAdvocate for the Applicant

In the presence ofAdvocate for the Respondents