



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT HOMA BAY

PETITION NO.2 OF 2017

IN THE MATTER OF: THE PREAMBLE AND ARTICLES 1, 2, 3, 4(2), 10, 19, 20, 21, 22, 23, 24, 25, 27, 28, 35, 47, 50(1), 73, 75, 232, 258 AND 259 OF THE CONSTITUTION OF KENYA

IN THE MATTER OF: THE ALLEGED VIOLATION OF ARTICLES 10, 21, 27, 35, 47, 73, 75, 159, 165, 201, 210, 232, 258, AND 259 OF THE CONSTITUTION OF KENYA

IN THE MATTER OF: DOCTRINE OF LEGITIMATE EXPECTATION

IN THE MATTER OF: THE CONTINUING MISAPPROPRIATION AND NEGLIGENCE BY THE COUNTY TREASURY IN MIS USE OF PUBLIC FUNDS

IN THE MATTER OF: THE PUBLIC FINANCE MANAGEMENT ACT, THE PUBLIC PROCUREMENT AND DISPOSAL ACT AND THE ANTI CORRUPTION AND ECONOMIC CRIMES ACT

BETWEEN

MICHAEL KOJO OTIENO.....1ST PETITIONER

SAMORA MACHEL ALOSI.....2ND PETITIONER

VERSUS

COUNTY GOVERNMENT OF HOMA BAY.....1ST RESPONDENT

CYPRIAN OTIENO AWITI.....2ND RESPONDENT

COUNTY TREASURY OF HOMA BAY.....3RD RESPONDENT

COUNTY SECRETARY OF HOMA BAY.....4TH RESPONDENT

COUNTY EXECUTIVE OF HOMA BAY.....5TH RESPONDENT

COUNTY EXECUTIVE FOR TOURISM & SPORT.....6TH RESPONDENT

COUNTY EXECUTIVE FOR TRANSPORT &

INFRASTRUCTURE.....7TH RESPONDENT

COUNTY ASSEMBLY OF HOMA BAY.....8TH RESPONDENT

THE ETHICS AND ANTI CORRUPTION

COMMISSION.....9TH RESPONDENT

THE ATTORNEY GENERAL.....10TH RESPONDENT

RULING

This matter was coming for hearing today. Several counsel are not ready reply has not been filed. From the affidavit of service what I can see is that service was effected on 13th and 14th and infact there are receipt stamped to testify to that. What may have happened is as explained by Mr. Nyauke that he was instructed on Friday and has not adequately prepared. Mrs Dhikusoka has also indicated she needs time to prepare and get adequate instructions from her employer.

The truth here is that all parties have been served and that this is a public interest litigation – the longer it takes to resolve the greater the tension and anxiety by those interested. The matter was certified as urgent. I will therefore direct that all counsel do file and serve appropriate responses within 3 days from today.

(2) The applicants are at liberty to file supplementary affidavit if need be within 3 days of service.

(3) The 10th Respondent if it wishes to be enjoined as an amicus and to be removed as a Respondent must make a formal application to be filed and served within 3 days hereof.

(4) Hearing of the application shall proceed.

H.A. OMONDI

21.03.2017