



**REPUBLIC OF KENYA**

**IN THE HIGH COURT AT MALINDI**

**IN THE ELECTION PETITION NO 9 OF 2017**

**IN THE MATTER OF THE ELECTIONS ACT, 2011**

**AND**

**IN THE MATTER OF THE ELECTIONS ( PARLIAMENTARY AND COUNTY ELECTIONS )  
PETITIONS RULES 2017,**

**AND**

**IN THE MATTER OF THE ELECTION FOR MEMBER OF NATIONAL ASSEMBLY OF  
KILIFI SOUTH CONSTITUENCY**

**BETWEEN**

**SULEIMAN SALIM KAINGU .....PETITIONER**

**VERSUS**

**INDEPENDENT ELECTORAL AND BOUNDARIES**

**COMMISSION .....1ST RESPONDENT**

**WAFULA CHEBUKATI.....2ND RESPONDENT**

**DOUGLAS KARISA NEEMA.....3ND RESPONDENT**

**KITI RICHARD KEN CHONGA .....4TH RESPONDENT**

**RULING**

1. The matter came up for the hearing of three ( 3) applications on 9th November,2017.

The first application was a notice of motion application by the 4th Respondent, KITI RICHARD KEN CHONGA, through his learned counsel, M/s JULIE SOWETO dated 28th September,2017.

The other two applications were filed by the Petitioner, SULEIMAN SALIM KAINGU, on 6th OCTOBER, 2017.

2. The fourth (4th) Respondent filed a notice of motion application dated 28th September, 2017, in court

seeking to have the petition struck out or dismissed with cost to be awarded to him, which is what will be heard first.

3. The fourth ( 4th ) Respondent's application is premised on thirteen (13) grounds on the face of it and supported by an affidavit sworn by KITI RICHARD KEN CHONGA. on the same date.

4. The grounds upon which the fourth (4th) respondent has relied are as follows;

**(a) There is no proper and valid petition before the Honourable court;**

**(b) The petition presently before court is not the petition that was originally filed on 6th September,2017 and which was served upon the 4th Respondent on 13th September,2017;**

**(c) The 4th respondent has been confronted with two petitions by the same petitioner and it is not possible to discern which of the two is to be dealt with by this court;**

**(d) It is also not known to the 4th Respondent when how and under what circumstances the present petition was introduced into the court file, and the only logical conclusion is that the same as done unlawfully;**

**(e) In the attendant circumstances, the petitioner did not and could not have presented or filed the petition now before the court within twenty eight days after the declaration of the results of the elections when it was not already in the court file on 13th Setember,2017;**

**(f) The impugned petition now in the court file was introduced into the court file sometime after 14th September, 2017 after time for filing or amending a petition has lapsed; and the petition which was already there removed.**

**(g) In any event the petitioner could only amend the petition with the leave of the court which was never sought;**

**(h) Therefore, the petitioner has fraudulently, illegally and/or unlawfully attempted to remove , alter, change and/or amend the petition outside of the time within which the petition may be presented;**

**(i) The petitioner has fraudulently, illegally and/or unlawfully tampered with, interfered with and/or altered the records of the court within which he petition was allegedly filed;**

**(j)The integrity of the court process has been irreparably and irredeemably tainted and damaged;**

**(k) In any event the petition before the court is incompetent and irredeemable defective;**

**(l) the Honourable court lacks jurisdiction;**

**(m) It is the interest of justice and for the protection of the integrity of the court, the judicial process and the administration of justice that the petition must be struck or and /or dismissed.**

5. The highlights of the fourth (4th) respondent's affidavit are as follows;

**(5.3.1.) THAT, the results of the elections were declared by Returning officer on 10th September, 2017 and the results are as contained in form 35 B,( annexed as exhibit " KRCK1")**

**(5.4.2) THAT , on 13th September 2017, upon the advice of my advocates, I personally went to the Malindi High Court registry to see whether an election petition had been filed to challenge my election since none had been served upon me and time for filing petitions had lapsed.**

**(5.5.3) THAT, upon inquiry. I indeed learnt that an election petition had been filed and registered as Election Petition No 9 of 2017. Upon identifying myself, I was allowed to take copies of the petition and all the documents in the court file ( Annexed as Exhibit "KRCK-2)**

**(5.6.4.) THAT, on 14th September, 2017, I was served vide the DAILY-NATION NEWSPAPER of Thursday, September , 2017 with a notice of an election Petition by Advertisement drawn by the firm of Mwaniki Gitahi & Partners. The notice stated that an election petition had been filed in the High court at Malindi in Election petition No. 9 2017 in respect of Kilifi South Constituency ( Exhibit KRCK -3)"**

**(5.8.5) THAT , I personally noted the advertisement in the news-pape though it related to Election petition No.9 of 2017, it was drawn by a different firm from the one stated in the documents I had received from court which are marked " KRCK -"2"**

**(5.9.6) THAT , upon bringing the matter to the attention of my advocates on record, I was advised to obtain fresh copies of the petition from the registry. Thus on 15th September, 2017, I sent my assistant PATRICK BAYA to the Malindi High Court, Registry to obtain copies of the petition and documents filed by Mwaniki Gitahi & Company Advocates. I am informed by the said PATRICK BAYA, which information I verily believe to be correct that the clerks at the Registry refused to give him any copies of the documents. I also notified my advocate on record of the same.**

**(5.12.7) THAT, in view of the foregoing on 18th September, 2017 my advocates on record, wrote a letter to the Deputy Registrar of the High court at Malindi; requesting for, among others;**

**(a) certified copies of the petition filed by Gatundu & Co. Advocates; and**

**(b) certified copies of the petition filed by Mwaniki Gitahi & Partners. (Exhibit "KRCK - 5")**

**(5.4.8) THAT , I was further informed by my advocates on record, which information I believe to be correct that upon perusal of the court file on 19th September, 2017 it was discovered that the petition presently in the court file, although allegedly drawn and signed on behalf of Gatundu & Co. Advocates, it is not the same petition given to me on 14th September 2017 by the court registry ( Exhibit " KRCK-6).**

**(5.15.9) THAT, I have been shown a copy of the petition that is presently in the court file and aver that this petition was not in the court file and on 13th September 2017, nor among documents I was given when I obtained copies of all the documents in the file. It is definitely not the petition that was issued to me.**

6. The remaining paragraphs are an explanation by the applicant ( 4th respondent) of what he makes of the facts he has laid before court for determination.

7. The first ( 1st) and second respondents replied vide their affidavit sworn on 9th October, 2017 and the highlights on the contested facts are as follows;

**(i) THAT, we were served with the Petition Number 9 of 2017, parties being SULEIMAN SALIM KAINGO VRS INDEPENDENT ELECTORAL AND BOUNDARIES**

**COMMISSION, DOUGLAS KARISA NEEMA and RICHARD KEN CHONGA dated 5th September,2017 and filed on 6th September, 2017;**

**(ii) THAT, upon being served with the subject application and affidavit, I am surprised to learn that there was another petition by the same petitioner against the same respondents purportedly filed on the 6.9.2017;**

**(iii) THAT, the current petition was filed belatedly in a bid to correct the mistakes that were in the original petition and un procedural means used to give it the same number;**

**(iv) THAT, it is evident that some serious illegalities were committed pitting the petitioner and the registry which, led to the current situation and the court should order a probe into the said illegalities and those found culpable be brought to book;**

**(v) THAT , the petition is therefore totally defective, irredeemable and otherwise an abuse of the court and court process and the same ought to be dismissed with costs to the 1st to 3rd respondents.**

8. The petitioner, vide his replying affidavit sworn on 6th October, 2017 opposed the applications and to answer the pertinent question of which petition was properly on record, replied as follows at paragraph 21. In answer to the existence of the 2nd petition, the petitioner states;

(8.21.1) In answer to the existence of h 2nd petition, the petitioner states;

**(a) THAT, I deny the allegations made in paragraph 4 and 5 of the said affidavit that the same are not true for the following reasons;**

**(i) That I had instructed my previous advocates Gatundu and company advocates to prepare and file this petition and on 6th September, 2017, he showed me the petition which he had prepared and gave me to sign ready for filing. However, Mr. Gatundu was at that time drunk and unsteady.**

**(ii) THAT, Mr. Gatundu had prepared about 12 petitions and due to his conditions a colleague prepared another which I also signed ready for filing.**

**(iii) THAT, on perusal of the two sets of petitions, I and the two advocates agreed to file the second petition but inadvertently Mr. Gatundu filed the first petition instead.**

**(iv) THAT, at the same time of filing Mr. Gatundu's colleagues realized the mistake and requested the registry to exchange the first petition and file the second petition.**

**(v) THAT, there is only one petition which was filed on 6th September 2017 and served on 14th September,2017, that is the petition herein.**

**(b) At paragraph 24, the petitioner ( Respondent) deposed;**

**THAT in reply to the allegations made in paragraphs 9 to 15 of the said affidavits, I state that I know that the Deputy Registrar of the High court of Kenya sitting at Malindi has responded to all the issues raised in the said paragraphs and has explained what actually happened. (Exhibit "SSK-3 and 4")**

9. To support the application, the fourth (4th) Respondent filed skeleton submissions and a list of thirteen (13) authorities on 30th October, 2017 while the petitioner filed his list of five (5) authorities dated 10th October, 2017.

10. During the hearing of the applications, Mr. Aboubakar represented the petitioner while Mr Adala represented the 1st to 2nd Respondents and M/s Julie Soweto represented the 4th respondent/applicant.

11. In her submissions to court, M/s Soweto expounded on what is laid out in the grounds on the face of the application, the averments by the 4th respondent in his supporting affidavit, the further affidavit, supplementary affidavit, some exhibited authorities and the law.

12. According to M/s Soweto, counsel for the Applicant/4th Respondent, there are two different petitions with the same cause number and for the same parties in respect of the same election, meaning that the first petition was filed and withdrawn at some point. She submitted that the withdrawal must have happened after 13th September, 2017 and the 2nd petition, which is now in the courts record, was then not in the said records on 13th September, 2017 therefore it would not have been filed on 6th September, 2017 as shown on its face.

13. M/s Soweto then urged the court to interrogate how this new petition came to be in the court record without a formal application being made for the withdrawal of the earlier petition or leave sought to amend the 1st petition. She added that there has been no challenge, denial or rebuttal to the fact that the 4th Respondent is in possession of the 1st petition, hence the petitioner has the onus to explain to court, how and under what circumstances they have two petitions.

14. M/s Soweto referred the court to the petitioner's replying affidavit in an effort to show that the petitioner's story cannot be believed, as it is a fabrication and an afterthought.

15. She pointed out paragraph 21 of the said replying affidavit where the petitioner states that;

"THAT, I deny the allegations made in paragraph 4 and 5 of the said affidavit and I aver that the same are not true. for the following reasons;

**(i) That I had instructed my previous advocate, Gatundu and company Advocates to prepare and file this petition and on 6th September,2017. He showed me the petition which he had prepared and gave me to sign ready for filing. However, Mr Gatundu was at that time drunk and unsteady".**

To this, M/s Soweto stated that the petitioner must be lying because the documents placed before the court and referred to as "KRCK -2" show that the petition was signed on 5th September,2017 and the petitioner swore an affidavit on the same day.

He goes on to depone;

**(v) That there is only one petition which was filed on 6thSeptember,2017 and served on 14th September, 2017 and that is the petition herein".**

**M/s Soweto, in response to this maintained that they are in possession of two petitions.**

16. M/s Soweto then referred to paragraph 24 of the replying affidavit in which it is stated;

"TH AT, in reply to the allegations made in paragraphs 9 to 15 of the said affidavit I state that I know that the Deputy Registrar of the High court of Kenya sitting at Malindi has responded to all the issues raised in the said paragraphs and has explained what happened".

That learned counsel, in response to this averment, referred to annexures marked "SSK3 and "SSK4" in the petitioners replying affidavit and submits that the letter alleged to have been from the Deputy Registrar appears to be a picture which cannot be said how and from where the petitioner obtained it from and that it pertains to totally different matter, being MALINDI HIGH COURT ELECTION PETITION NO 6 OF 2017, JACOB THOYA VERSUS INDEPENDENT ELECTORAL BOUNDARIES COMMISSION ANDTHREE OTHERS, which is addressed to M/s FRIDA JADU.

Also M/s Soweto referred to another letter relating to MALINDI HIGH COURT ELECTION PETITION NO.5 OF 2017, which is purportedly written to the Deputy registrar but is not signed and is addressed to the firm of M/s AOKO OTIENO AND ASSOCIATES. Again, M/s Soweto submitted that the said annexures are photographs taken from somewhere and are not in the possession of the petitioner, so that everything about the petition and petitioner is dubious.

17. A further reference was made by Ms Soweto in her submissions to paragraph 27 of the replying affidavit, where the petitioner claims;

**"THAT, further the 4th respondent applicant wrongly impute that the filing of the second petition on the same day and time of the registry was tantamount to amending the first petition while the fact is that the first petition was inadvertently filed and withdrawn and was never served"**

**In response to this, Ms Soweto submitted that this is proof that there is an admission on record that there was another petition which was withdrawn, but the mystery is, when it was withdrawn as it does not exist in the court records. She also submitted that there is a fact that speaks for itself which is that a new petition was filed and the only question is when it was filed, how it came to replace the 1st petition and whether court fees was paid for it.**

18. M/s Soweto summed up her submissions with regard to the first ground that a document filed especially in an election petition, cannot be withdrawn or amended without the leave of court. That the date of lodging /filing the election petition herein lapsed on 7th September 2017 counting 28 days from 10th August ,2017 and hence the 2nd petition , having appeared in the court file only after 13th September 2017 must be presumed to have been filed out of time, notwithstanding the date that appears in the said petition.

19. With regard to the Applicant's /4th Respondent's second (2nd ) ground that the petition is incompetent, M/s Soweto, counsel for 4th Respondent submitted that the failure to comply with the mandatory requirement of rules 8 (1) (c) and (d) of the Elections ( Parliamentary and County Elections) Petitions Rules, 2017, which require that the petition states the results if any, and however declared and the date of the results of the election, renders this petition incompetent.

20. M/s Soweto, counsel for the Applicant/4th respondent referred court to a number of decisions being;

(a) The authority of JOHN MICHAEL NJENGA MUTUTHO VERSUS JAYNE NJERI WANJIKU KIHARA & 2 OTHERS , COURT OF APPEAL (NAKURU) NO. 102 OF 2008, eKLR, where it was decided that an election petition envisages challenging results in an election.

(b) HASSAN ALI JOHO VERSUS SULEIMAN SAID SHAHBAL & 2 OTHERS; SUPREME COURT PETITION NO. 10 OF 2013 ( 2014) e KLR, which is about when time begins to run with regard to filing an election petitions and this court disclosed that;

**"For purposes of computation of time in respect of the filing of the election petition, we hold that the final declaration presents the instrument of declaration in accordance with Article 87 (2) of the Constitution."**

(c) the authority of CHARLES KAMUREN VERSUS GRACE JELAGAT KIPCHOIM & 2 OTHERS, COURT OF APPEAL ( NAIROBI ) CIVIL APPEAL NO 159 OF 2013 (2013) e KLR in which the court of appeal addressed in particular the use of article 159 (2) (d) of the Constitution as not being the panacea of correcting mistakes.

21. In view of the afore going, the Applicant/4th Respondent's prayers is to have the application dated 28th September,2017 allowed, the petition struck out or dismissed with costs.

**Submissions by Mr. Adala, counsel for 1st and 2nd respondents**

22. Mr Adala, counsel for the 1st to 2nd Respondents supported the application dated 28th September, 2017 and aligned himself with the sentiments of M/s Soweto in her submissions., he indicated that he was relying on the affidavit he deposed on 9th October, 2017 and filed on the same date.

23. Mr Adala , counsel for the 1st to 2nd Respondent submitted that the petition was fatally defective, that it cannot be cured. He wondered how a petitioner could file two petitions and one disappears mysteriously then explains that one was wrong and had to be replaced with another. And thus Mr Adala , counsel for the 1st to 2nd Respondent, in his submissions, pointed out what happened in Elections petitions No. 5,6,9 and 11 all of 2017.

24. According to Mr Adala, there are only two procedures provided by law where a litigant who finds himself or herself not satisfied with pleadings they have filed and need corrections, to follow. They are

(a) firstly, to amend either with leave or without leave of court

(b) secondly, to withdraw.

And this being an election petition, leave of court is mandatory for either procedure.

25. He submitted that the Deputy Registrar has no power to deal with the pleadings in the matter these pleadings are alleged to have been dealt with.

26. Mr Adala concluded by saying that proper procedure was not followed hence a defective petition is on record and ought to be struck out.

### **Submissions by Mr Aboubakar for the Petitioner**

27. In response, Mr Aboubakar , counsel for the petitioner, submitted that everything that was submitted by the respondent's counsel in inviting the court to strike out the petition is based on speculation.

28. He stated that the obligation under sections 107,108 and 109 of the Evidence Act had been reversed so that the burden of proof had been shifted by the respondents and placed upon the petitioner, when it was them required to prove their allegations/claims.

29. Mr Aboubakar submitted that there was no evidence or receipt to prove the 4th Respondent perused the documents in the registry and who allowed him perusal of such records.

30. Mr Aboubakar submitted, while referring to the 4th Respondent's affidavit, that persons such as Patrick Baya, who is said to have been to the registry to collect a copy of petition, was not made to swear an affidavit to confirm the averments by the 4th Respondent.

31. Mr Aboubakar maintained that the claims by the 4th Respondent are a fabrication intended to poison or prejudice the mind of the court so as to grant them their prayers of striking out the petition. He stated that they have a valid petition, which, if it goes to hearing, the petitioner will prove that the 4th Respondent was not validly elected.

32. He submitted that the Respondents had a well crafted plan to have the petition struck out even if it means lying to court because they are fearful of the petition proceeding for hearing. He presented the petitioner, SULEIMAN SALIM as an honest, truthful man who has explained what happened in his replying affidavit and yet had no obligation to do so. He pointed out that the petitioner's story was not controverted by anyone or evidence.

33. Mr Aboubakar further submitted that the Deputy Registrar had discretion as a person in charge of the registry to accept documents in the manner she did. He stated that there is no evidence of fraud or bad faith, or intimidation and that, what happened was an inadvertence and it has been explained . He invoked the provisions of Article 159 (2) (d) of the Constitution to be read together with Article 38 of

the constitution and Article 259 of the Constitution in support of averment that the Deputy Registrar had discretion in the manner in which she handled the petitions.

34. On the prayer by the 4th Respondent asking the court to strike out the petition because it does not disclose the results, Mr Aboubakar submitted that this was desperation on the part of the said respondent since it has not been mentioned anywhere in the notice of motion application. He then invited the court to look at the petition and will find that all the requirements of the law therein were adhered to.

35. Counsel cited the following authorities in support of his claim that the law does not require one to include the results of the election;

(a) HASSAN ALI JOHO VRS SULEIMAN SAID SHAHBAL & 2 OTHERS, (2014) e KLR

Where the supreme court was clear that declaration starts at the polling station.

(b) the petitioner's list of authorities filed on 10.10.2017, which are High court cases decided after the promulgation of the Constitution and most of them departed from the authorities that have been cited by the Respondents.

In finality, Mr Aboubakar invited court to apply the principal of subjudice where one petition would be stayed while the other petition is heard. He submitted that they only have one petition and urged the court to strike out the application with costs.

#### **Rejoinder by the 4th Respondent's counsel.**

35. In response to the petitioner's submissions, M/s Soweto asked the court to take judicial notice of the fact that there are several different applications in different Elections Petitions, all filed by the firm of M/s Gatundu & co. advocates, taken over by a different firm of M/s Mwaniki & co. Advocates, under allegedly the same circumstances YET the story that is being given in the different courts in the different matters is not the same. She invited the court to look at the decision of Justice P. J. Otieno in Malindi Election Petition No. 6 of 2017 with regard to the story the petitioner was giving in relations to the issues of filing two petitions in the instant case.

36. M/s Soweto also pointed out that even in Election Petition No. 11 of 2017 where the same advocate appears in this one, the story or evidence in each case is different.

37. She also, submitted that on 19.9.2017 when they wrote to court, they were allowed to take copies and there is a receipt No 6431840 to confirm they paid for the same.

38. M/s Soweto pointed out that while the Deputy Registrar made a response to the advocate in reference to the petitioner's story in other matters, there is deafening silence from the Deputy Registrar in regard to this matter. She also wondered why Mr Gatundu or the other advocate would not have provided evidence to explain the circumstances under which the petitions were filed.

39. On the issue of substance, M/s Soweto submitted that to be heard on merit or substance, a competent document must have been presented but what is before this court is incompetent.

40. She maintained that the failure to disclose the election results renders the petition incompetent and that there is no estoppel against the law.

41. M/s Soweto summed up by stating that the Civil Procedure Rules do not apply to Election petitions except to the extent that they apply to Election petition Rules.

42. Mr Adala, counsel for 1st and 2nd respondents, aligned himself to the response by M/s Soweto which he found sufficient.

## DETERMINATION

43. In my determination of what is before court, I have perused the grounds on the face of the application dated 28th September, 2017, the supporting affidavit, the replying affidavits by the petitioner and 1st and 2nd respondents counsel, written submissions and the list of cited authorities and law with regard to it. I also listened to the oral submissions by all counsel and read through the said authorities and relevant provisions of the law.

44. I have singled out the following issues for determination;

- (a) whether the petitioner filed two petitions;
- (b) whether the correct procedure was followed in withdrawing one of the petitions;
- (c) whether the correct petition is properly on record or it ought to be struck out for being fatally defective;
- (d) who should bear the costs, if any?

45. According to the petitioner, he indeed instructed the firm of M/s Gatundu and company advocates to file a petition on his behalf. He averred in his replying affidavit that the said advocate got himself intoxicated that he was over-whelmed and this prompted him to instruct a lawyer in the same firm of advocates, to file a petition. He goes further to depone that infact the said petition was withdrawn and the latter, which is the one before court, replacing it.

46. The law requires that orderly and lawful means be employed and or applied when one is withdrawing a petition. The Elections ( Parliamentary and County Elections) Petitions Rules, 2017, at Rule 21, sets out an elaborate procedure to be followed once a petition is received by court and how the same can be withdrawn. Rule 21 (1) provides as follows:

"A petition shall not be withdrawn without leave of election court"

Rule 21 (2) and (3) set out the other terms and form in which the withdrawal may be framed.

47. Further, the petitioner, having knowledge of the existence of the two petitions should have disclosed the facts. The Deputy Registrar cannot be drawn into the fray and the petitioner' hopes that his confirmation of the fact that there was some confusion caused by human nature and action improve the compliance to the law and or excuses a party.

48. It is my finding that there exists two petitions, the petitioner having failed to follow the procedure laid out in the rules with regard to withdrawal of a petition.

49. In the circumstances of this petition, the petitioner ought to have also filed an affidavit sworn by the said M/s Gatundu, advocate or the other advocate to explain what transpired on the day of filing the same.

51. On the second issue, having come to the conclusion that there are two petitions, it then follows that the petition now before court was improperly filed. The 4th respondent was therefore obviously prejudiced as to which defence he ought to file.

51. As a result of the observations made herein, the current petition ought to fail, and so I hold.

52. The petition herein be and is hereby struck out with costs which costs I restrict to Ksh 1,000,000. The same to be apportioned as follows;

- (i) the 1st and 2nd respondents to equally share Ksh 500,000/=;

(ii) the 4th Respondent to be paid the balance of Ksh 500,000/=

53. On the same day the application by the 4th respondent, in which he was seeking the petition to be struck out, was heard, another application by 4th respondent with regard to the petitioner failing to plead the results of the said election and two applications by the petitioner filed on 10th October, 2017 relating to prayers for recount and scrutiny were heard. However, having found the petition before court improperly filed, and having proceeded to strike it out, I find that it would be an academic process, to proceed and make a determination on those applications, hence waste of precious judicial time.

It is so ordered.

**Ruling read, signed and dated this 20th day of November, 2017**

**D. O. CHEPKWONY**

**JUDGE**

In the presence of;

Mr Aboubakar, counsel for the Petitioner/Respondent

Mr Adala, counsel for the 1st and 2nd Respondents and also holding brief for M/s Soweto for 4th Respondent/Applicant

C/clerk- Mwanaidi

20.11.2017

Before Hon. D O Chepkwony (J)

C/clerk- Mwanaidi

Mr Aboubakar, counsel for the Petitioner

Mr Adala, counsel for 1st and 2nd Respondents and also holding brief for M/s Soweto for 4th Respondent.

Court - Ruling read in open court in the presence of counsel present

Mr Aboubakar- I apply for typed and certified copies of proceedings for purposes of filing an appeal and considering the time frames provided for filing appeals, I pray that the same be supplied within 3 days.

**D. O. Chepkwony**

**Judge**

Court - The parties to be supplied with typed and certified copies of proceedings and Ruling herein within 3 days from today.

**D. O. Chepkwony**

**Judge**