



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
CONSTITUTIONAL AND HUMAN RIGHTS DIVISION

PETITION NO.476 OF 2015

BETWEEN

COALITION FOR REFORM AND DEMOCRACY (CORD).....PETITIONER/APPLICANT

AND

ATTORNEY GENERAL.....RESPONDENT

RULING

Factual background

(1) On 29th October 2015, the Petitioner (the Applicant in the instant Application) a coalition of political parties, filed a Petition dated 27th October 2015 in which it impugned the constitutional validity of the reservations made by the President of the Republic of Kenya on certain provisions of the **Public Audit Bill, 2014, Retirement Benefits (Deputy President and Designated State Officers) Bill, 2015, Central Bank of Kenya (Amendment) Bill, 2014, Information and Communication (Amendment) Bill, 2013, Public Prosecution and Disposal (Amendment) Bill, 2015, Public Statute Law Miscellaneous (Amendment) Bill, 2014, National Flag, Emblems and Names (Amendment) Bill, 2013, National Police Service Commission (Amendment) Bill, 2013** and the **Excise Duty (Amendment) Bill, 2015**.

In that regard and before the hearing of the Petition, the Petitioner filed an Application dated 15th December 2015 seeking certain conservatory orders. It is that Application which forms the subject of this Ruling.

Petitioner's case

(2) The gravamen of this case is that the President's conduct in making the reservations aforesaid exceeded the strictures of **Article 115** of the **Constitution** in that his reservations were akin to making law, a preserve of the Legislature. In that regard, the Petitioner urged this Court to make declarations to the effect that the President's powers under the said Article are limited to making reservations and do not extend to making law and that his conduct is therefore unconstitutional, null and void.

(3) Against the above background, in its Notice of Motion dated 15th December 2015, the Petitioner sought the following orders:

“1. ...

2. Pending the hearing and determination of this application inter partes, a conservatory order does issue staying and or to stay/suspend the operation and or implementation of the Legal Notice No. 245 published vide Special Gazette Supplement No. 188 of 27th November 2015 appointing the 1st of December 2015 to be the date of coming into operation of the Excise Duty Act, 2015 and in particular to STAY and or SUSPEND the operation or coming into force of the 1st Schedule, paragraph 1, Part One as far as it relates to ITEMS:

- i. Fruit Juices (including grapes), and vegetable juices unfermented and not containing added spirit, whether or not containing added sugar or other sweetening matter.**
- ii. Food supplements.**
- iii. Water and non-alcoholic beverage not including food or vegetable juices.**
- iv. Beer, cider, perry, mead, opaque beer and mixtures of fermented beverages with non-alcoholic beverages and spiritual beverages with alcoholic strength not exceeding 10%.**
- v. Powder beer.**
- vi. Wines, including fortified wines and other alcoholic beverages obtained by fermentation of fruits.**
- vii. Spirits of undentured ethyl alcohol; spirit liquors and other spirituous beverages of alcohol strength exceeding 10%.**
- viii. Cigars, cheroots, cigarillos, containing tobacco substitutes.**
- ix. Electronic cigarettes.**
- x. Cartridge for use in electronic cigarettes.**
- xi. Cigarettes containing tobacco substitutes.**
- xii. Other manufactured tobacco and manufactured tobacco substitutes; “homogeneous” and “reconstituted tobacco; tobacco extracts and essences.**
- xiii. Motor vehicles of tariff heading 87.02,87.03 and 87.04 (Less than three years old from date 1st registration Kshs.150,000 per unit; over three years old from the date of 1st registration kshs. 300,000 per unit.)**
- xiv. Motor cycles of tariff 87.11 other motorcycles ambulances.**

...

3. Pending the hearing and determination of the main Petition a conservatory order does issue staying and or to stay/ suspend the operation and or implementation of the Legal Notice No. 245 published vide Special Gazette Supplement No. 188 of 27th November 2015 appointing the 1st of December 2015 to be the date of coming into operation of the Excise Duty Act 2015 and in particular to STAY and or SUSPEND the operation or coming into force of the 1st Schedule paragraph 1 Part One as far as it relates to the following ITEMS:

- i. Fruit Juices (including grapes), and vegetable juices unfermented and not containing added spirit, whether or not containing added sugar or other sweetening matter.**
- ii. Food supplements.**

- iii. *Water and non-alcoholic beverage not including food or vegetable juices.*
- iv. *Beer, cider, perry, mead, opaque beer and mixtures of fermented beverages with non-alcoholic beverages and spiritual beverages with alcoholic strength not exceeding 10%.*
- v. *Powdered beer.*
- vi. *Wines, including fortified wines and other alcoholic beverages obtained by fermentation of fruits.*
- vii. *Spirits of undentured ethyl alcohol; spirit liquors and other spirituous beverages of alcoholic strength exceeding 10%.*
- viii. *Cigars, cheroots, cigarillos, containing tobacco substitutes.*
- ix. *Electronic cigarettes.*
- x. *Cartridge for use in electronic cigarettes.*
- xi. *Cigarettes containing tobacco substitutes.*
- xii. *Other manufactures tobacco and manufactured tobacco substitutes; “homogeneous” and “reconstituted tobacco”; tobacco extracts and essences.*
- xiii. *Motor vehicles of tariff heading 87.02, 87.03 and 87.04 (Less than three years old from date of 1st registration Kshs.150, 000.00 per unit; over three years old from the date of 1st registration Kshs.300, 000.00 per unit.*
- xiv. *Motor cycles of tariff 87.11, other motorcycle ambulances.*

4. *This Honourable Court does certify that this Petition raises a substantial question of law and shall be heard by an uneven number of Judges, being not less than three, assigned by the Chief Justice.*

5. *Costs of the application be provided for.”*

(4) In that context, the Petitioner stated that the President, in his purported reservations, inserted the items under Paragraph 1 of Part 1 to the first Schedule of the Excise Duty (Amendment) Bill, which insertion, if at all, should have been done by law makers. The Petitioner stated further that the President also purportedly expressed his reservations by deleting an item on cigarettes containing tobacco or tobacco substitutes and the corresponding excise duty in the said Bill and the corresponding excise duty with what is now appearing in the Schedule.

(5) The Petitioner also argued that the effect of the President’s conduct in that regard is that he reversed the National Assembly’s attempt to protect electronic cigarette smokers who are trying to stop smoking while charging less to actual and real tobacco cigarette smokers.

(6) The Petitioner also stated that the President increased the excise duty on motor vehicles which are over three years old from the date of 1st registration by adding excise duty to an amount between Kshs. 150,000.00 to 200,000.00 and in that regard, the Petitioner argued that the effect of the application of the **Excise Duty Act** and the provisions relating to the items listed in Part one of Paragraph 1 of the 1st Schedule has an adverse effect on ordinary Kenyans and ought to be stayed to the extent that it was enacted through an unconstitutional law making process and that the said Act is therefore discriminatory and punitive and flies in the face of **Articles 27, 28 and 46(2)** of the **Constitution**.

(7) In its Written Submissions dated 2nd February 2016, the Applicant submitted that this Court is not required to make a definite finding at this stage of the proceedings because the Applicant is only required to establish a *prima facie* case with a likelihood of success. In that regard, it elaborated that a *prima facie* case is not one that must succeed but one that discloses arguable issues. In that regard, it relied on **Judicial Service Commission vs Speaker of the National Assembly and Another Petition No.518 of 2013**, the Supreme Court decision in **Gitirau Peter Munya vs. Dickson Mwenda Kithinji and 2 Others** and **Cord and Another vs Republic of Kenya and 6 Others Petition No. 628 of 2015**.

(8) During hearing, Counsel for the Applicant adopted the above position and maintained that the President's reservations went beyond the constitutional bounds of **Article 115** of the **Constitution** and that as a result, if the said reservations are not rejected by the National Assembly, they will effectively become law without going through the ordinary law-making process including by ensuring that there is public participation.

(9) He submitted further that the threat and actual violation caused by the aforesaid conduct has and continues to cause irreparable injury and that the Applicant has established a *prima facie* case to warrant the orders of stay now sought. In that regard he relied on **Clinton vs City of New York** and **Cord vs AG (supra)** and **Hon. Kanini Kega vs Okoa Kenya Movement & 6 others [2014] eKLR**.

(10) He further submitted that in that regard that the presumption of constitutionality cannot be a bar to the granting of conservatory orders where there is a danger to human rights and that where no prejudice would be occasioned to the Respondent.

(11) In the end, he submitted that conservatory orders are therefore warranted because the excise duties concerned were unconstitutionally added and he relied on **Cord vs AG (supra)** where it was held that where a legal wrong is caused by violation of constitutional rights, the High Court can grant appropriate relief.

(12) Counsel lastly submitted that the Petition raises weighty issues requiring the constitution of a bench in terms of **Article 165(4)** of the **Constitution**.

Respondent's case

(13) On the 21st January 2016, the Respondent filed a Notice of Preliminary Objection dated 20th January 2016 and argued that if this Application is entertained, the entire Petition would be determined at an interlocutory stage. Further that, in any event, all legislation is presumed to be constitutional until proven otherwise and that the Applicant has failed to make a *prima facie* case in that regard.

(14) The Respondent filed Further Submissions dated 2nd February 2016 in which he reiterated his position that the Applicant has failed to rebut the presumption of constitutionality and has not demonstrated that the limitation of the rights it represents is not in accordance with **Article 24** of the **Constitution**.

(15) He further submitted that the Applicant has miserably failed to demonstrate that there are sufficient reasons and grounds to grant the orders sought at an interlocutory stage and that suspension of the entire **Excise Duty Act** or parts of it will leave a vacuum and cause hardship in the collection of taxes by the Government and that the Applicant has failed to satisfy the test for granting conservatory orders laid down in **AG and Another vs Coalition for Reform and Democracy and 7 Others (supra)** and **Gitirau Peter Munya vs Dickson Mwenda Kithinji (supra)**.

(16) The Respondent added that Parliament is the only organ that has the mandate to enact and amend legislation and that the Applicant has not established any wrongdoing on its part in that regard and has failed to join it in these proceedings.

(17) The Respondent furthermore submitted that in any event, the orders sought in this Application have

been overtaken by events as **Legal Notice 245 of 27th November 2015** has already taken effect and that the Petitioner is also guilty of laches. That the Application is therefore frivolous and vexatious and an abuse of the court process and should be dismissed.

(18) During the hearing, the Respondent's Counsel submitted that the Application is essentially brought under **Articles 19-24** of the **Constitution** and that in that regard no specific provision of the Bill of Rights was in fact relied on. He further referred to **Kizito Mark Ngaywa vs Minister of State for Internal Security and Provincial Administration & Another [2011] eKLR** to buttress his argument that the presumption of constitutionality is rebuttable only when there are glaring inconsistencies and that the suspension of a statute is a serious step and should only be done when there is a lacuna or vacuum in law that cannot be filled.

(19) He submitted further that in any event, there is no prejudice that will be occasioned if the Application is not granted and further, that the impugned legislation authorises the collection of taxes and to suspend it would be prejudicial to the State.

[20] Finally, he submitted that the Applicant has not satisfied the threshold for granting conservatory orders and that the Application should therefore be dismissed and the Petition be decided on its merits.

(21) On the issue of referring the matter to the Chief Justice for the constitution of a bench of judges in terms of **Article 165(4)** of the **Constitution**, he submitted that he has no objection because the matter is novel and has never been addressed in any previous matter before the Superior Courts of Kenya.

Determination

(22) I have applied my mind to the Parties' Affidavits and rival Submissions (both oral and written) and it appears to me that there is only one core issue falling for determination in the present Application and on which the other peripheral issues are hinged. That issue is whether the Petitioner has made out a case for granting of conservatory orders suspending or staying the application of the **Excise Duty Act, 2015** and it shall appear shortly that there are certain ancillary questions that ought to be addressed in order to ultimately answer that question.

(23) The other issue concerns the referral of this matter to the Chief Justice in terms of **Article 165(4)** of the **Constitution** for the constitution of a bench and as set out in the Parties' respective cases above, this issue is uncontested but nonetheless, I must determine it against settled principles applicable thereto.

Applicable law

(24) In an Application for conservatory orders, the jurisdiction of this Court to grant such orders is donated by **Article 23(3)** of the **Constitution** which provides as follows:

“In any proceedings brought under Article 22, a court may grant appropriate relief, including?

a. **a declaration of rights;**

b. **an injunction;**

c. **a conservatory order;**

d. **a declaration of invalidity of any law that denies, violates, infringes, or threatens a right or fundamental freedom in the Bill of Rights and is not justified under Article 24;**

e. **an order for compensation; and**

f. **an order of judicial review.” (Emphasis added.)**

(25) It is clear from the aforesaid Article that for a Party to seek the reliefs under **Article 23(3)**, the proceedings must have been brought under **Article 22** and in that regard the Article provides as follows:

“(1) Every person has the right to institute court proceedings claiming that a right or fundamental freedom in the Bill of Rights has been denied, violated or infringed, or is threatened.”

(26) The law on conservatory orders is also now settled? See, among others, the decisions in **Board of Management of Uhuru Secondary School vs City County Director of Education & 2 others [2015] eKLR**; **Kevin K Mwiti & others vs Kenya School of Law & others [2015] eKLR**; and **Coalition for Reform and Democracy (CORD) & another vs Republic of Kenya & another [2015] eKLR** as well as the Court of Appeal and the Supreme Court decisions in **Civil Application NO. NAI 2 OF 2015 (UR 2/2015) Attorney General and Another vs Coalition for Reform and Democracy and 7 Others [2015] e KLR** and **Gatirau Peter Munya vs Dickson Mwenda Kithinji & 2 others [2014] eKLR**.

(27) Before me in the above context is a Prayer for stay of the implementation of a legislation pending the hearing of the Petition and such an order falls within the broader category of conservatory orders. In that context, the principles gleaned from the above cases in that regard are that in order for the Court to grant conservatory orders, a party must satisfy the following conditions:

a. That the Petition is arguable and not frivolous; and

b. That unless the orders sought are granted the intended Petition will be rendered nugatory should the Petitioner be successful.

(28) The Supreme Court in **Gatirau Peter Munya (supra)** added a third condition which is that, it must be *in the public interest* that a conservatory order including a stay order be granted. This condition, the Court observed, should be understood through and within the broad scope and prism of the Bill of Rights.

(29) Regarding the first condition, it has been held that an arguable point is not necessarily one that must ultimately succeed, but one which is *bona fide* and worth of the Court’s consideration or investigation and that in that regard, a single arguable point suffices? See **Attorney General and Another vs Coalition for Reform and Democracy (Supra)**. On the second condition, a party must demonstrate that, in the circumstances of a particular case, if the conservatory orders are not granted, the Petition will be rendered nugatory should he be successful in the end - See **Gatirau Peter Munya (supra)**.

(30) The question whether the Petitioner has made out a prima facie case that raises an arguable point is, in my view, somehow tied up with the presumption of constitutionality which is has been canvassed by the Parties. I say so because a Party seeking conservatory orders will need to prove a *prima facie* case rebutting the presumption of constitutionality in order to be successful. I will revert to that issue shortly.

(31) The applicability of the third condition will, in my view, depend on whether the issues involved transcend beyond the Parties in the dispute and touches on matters affecting the general public. If the matter involves public interest, the condition must inevitably find application.

(32) The law on the issue of referral under **Article 165(4)** is also settled, and there is a general agreement that the issues to be considered in this regard are:

(i) Whether the issues raised are weighty and of public importance.

(ii) Whether the issues raised are novel - See **Martin Nyaga and Others vs Speaker County Assembly of Embu and 4 Others and Amicus [2014] eKLR**.

Analysis

(33) As already set out elsewhere above, the Applicant’s main grievance is that the President’s

reservations made in respect of certain provisions of the **Excise Duty Act** exceeded the constitutional bounds of **Article 115** of the **Constitution** and constituted a law-making process and are therefore unconstitutional. In that regard, it is the Petitioner's case that in the said process, the President recommended additions and deletions of certain excisable items and the corresponding payable excise duties in Part one of the 1st Paragraph of the 1st Schedule to the **Excise Duty Act**, the effect of which is a violation of **Articles 27, 28** and **46(2)** of the **Constitution**. In that regard, the Petitioner further argued that conservatory orders should be granted suspending or staying the operation of the said provisions of the **Excise Duty Act**.

(34) The immediate question that arises is whether the Applicant has made out *prima facie* case for alleged constitutional violations. In that regard, the Applicant has alleged, among others, that the said reservations did not only flout the proper law-making process, but further resulted in the punishment and discrimination of common Kenyans.

(35) The Applicant has submitted further that the effect of the law as it stands is that it targets ordinary citizens by increasing excise duties in items commonly used by this section of society. On that basis, it argued that the law discriminatively targets such ordinary Kenyans while protecting the rich in violation of **Article 27 (1)** of the **Constitution**.

(36) The Article provides thus:

“Every person is equal before the law and has the right to equal protection and equal benefit of the law.”

(37) In this regard, it is my view that where the right to equality is implicated, the right to have one's dignity respected and protected in terms of **Article 28** is also implicated.

(38) As regards **Article 46(2)**, the said Article deals with consumer rights and it provides as follows:

“(1) Consumers have the right?

- a. **to goods and services of reasonable quality;**
- b. **to the information necessary for them to gain full benefit from goods and services;**
- c. **to the protection of their health, safety, and economic interests; and**
- d. **to compensation for loss or injury arising from defects in goods or services.. . .**

(3) This Article applies to goods and services offered by public entities or private entities.”

(39) With due respect, I fail to appreciate the applicability of this Article for the purposes of the present Application and the Petitioner's reliance on it is therefore misguided. What is before me is the alleged unconstitutionality of the President's actions aforesaid and not anything to do with the specific issues arising from **Article 46** above. That is all I should state on this point.

(40) Turning back to the issue before me, then has the Applicant established a *prima facie* case for granting conservatory orders? In my view, it has done so and I say so bearing in mind that at this stage of the proceedings, this Court is forbidden from making definitive findings on the merits of the Petition. I must state however that the fact that I have found the Applicant's reliance on **Article 46(2)** to be misguided does not erode the case erected on the basis of **Articles 27** and **28**. This is so because a party need not establish more than one arguable point of law for its application to succeed - See **Attorney General and Another vs Coalition for Reform and Democracy (Supra)**.

(41) Further, from my rendition of the gravamen of the Applicant's case, a fundamental question arises for determination: What is the nature and format of a presidential reservation under **Article 115** of the

Constitution? For avoidance of doubt, it provides as follows:

“Within fourteen days after receipt of a Bill, the President shall?

a. assent to the Bill; or

b. refer the Bill back to Parliament for reconsideration by Parliament, noting any reservations that the President has concerning the Bill.” (Emphasis added)

(42) Other consequential questions upon any action under **Article 115(1)(b)** may include:

(i) Should the President, in making his reservations go ahead and draft alternative propositions to the Bill?

(ii) When Parliament makes an amendment to a Bill under **Article 115(2)(a)**, should the amendments be subjected to public participation?

(43) These and other questions are not idle and noting the intention of the framers of the Constitution, they are serious enough to warrant deep interrogation by this Court in that regard.

(44) In that regard, I therefore find that the Applicant has made a *prima facie* case for granting the conservatory orders sought.

(45) The second question is whether the Petition will be rendered nugatory if the Application is denied and the Petition is eventually successful. In this regard, I must state that, except for merely alleging continued violation of the constitutional rights provided in **Articles 27, 28 and 46(2)**, the Applicant did not attempt to submit on this point at all. I did not understand its case to be anything else than that if the impugned legislation is not stayed or suspended, ordinary Kenyans will suffer continued violation of the aforesaid constitutional rights. More was however required on this point. What is the basis for so stating? Which particular Kenyan, as an example has felt or has been threatened with any violation by the President’s actions? None at all.

(46) But, in any event, apart from preventing the alleged continued constitutional violations, is there anything that this Court should jealously preserve pending the determination of the Petition? I should state in that regard that the impugned law is in operation and it has been the machinery for collecting excise duty taxes on behalf of the State from 1st December 2015. To suspend it at this stage will only create unnecessary confusion and yet should the Petition succeed, there are sufficient mechanisms in law to undo any injustice caused, if at all.

(47) Ordinarily, this would mark the end of the Application but for the sake of completeness, I will continue to consider briefly, the third condition as espoused in the **Gatirau Peter Munya** case (*supra*).

(48) The Applicant’s case seems to have narrowly focused on the alleged violation of the aforesaid constitutional rights of ordinary Kenyans which it claims to be representing. However, in my considered view, the issues involved transcend beyond that. In that context, I must state that the staying or suspension of the **Excise Duty Act** is a matter that touches on matters affecting the general public and specifically on the constitutionality of presidential actions in regard to Bills sent to the President for assent. **Articles 165(3)(d)(i) and (ii)** as well as **Article 25** of the **Constitution** are pertinent therefore. This in my view invites a consideration of the third condition which is whether it is in the interests of justice to grant a stay or suspension of the operation of the impugned provisions of the **Excise Duty Act**.

(49) In the above regard, I associate myself with the Supreme Court’s characterisation of conservatory orders in **Gatirau Peter Munya** case (*supra*) where it stated thus:

“Conservatory orders” bear a more decided public-law connotation: for these are orders to facilitate ordered functioning within public agencies, as well as to uphold the adjudicatory

authority of the Court, in the public interest. Conservatory orders, therefore, are not, unlike interlocutory injunctions, linked to such private-party issues as “the prospects of irreparable harm” occurring during the pendency of a case; or “high probability of success” in the supplicant’s case for orders of stay. Conservatory orders, consequently, should be granted on the inherent merit of a case, bearing in mind the public interest, the constitutional values, and the proportionate magnitudes, and priority levels attributable to the relevant causes.”

(50) Further and in a similar context, the Court of Appeal in **Attorney General & another vs Coalition for Reform and Democracy & 7 others [2015] eKLR** rendered itself as follows:

“[I]n an application of this nature, which is not seeking entirely private law remedies, the Court must also consider where the public interest lies. In **PLANNED PARENTHOOD OF GREATER TEXAS SURGICAL HEALTH SERVICES case, (supra), it was held that when the State is the appealing party in an appeal where the constitutionality of a statute is the subject matter for determination, the State interest and harm merges with that of the public. There is also the doctrine of presumption of constitutionality which must be borne in mind. The impugned Act is intended to serve the public.”**

(51) I am duly guided by the Courts’ exposition of the law in that regard and can only emphasise that in this case, the Applicant seems to have failed to appreciate the fact that the matters involved are of a public nature and in that regard, a proportionality balancing exercise is called for to prevent continuous human rights violations on the one hand and the need to ensure undisturbed State operations on excise duties collections on the other.

(52) The Applicant did not make any submissions on what will happen to the State’s obligation to collect excise duties if the impugned Act is stayed or suspended. It did not also suggest that there is an alternative mechanism that is readily applicable to prevent handicapping that obligation. In the end, the Application must fail because, as stated above, the Applicant failed to demonstrate that the Petition will be rendered nugatory if the conservatory orders suspending the operation of the impugned Act are not granted and also because it would not be in the interests of justice to grant such orders.

Referral of the matter in terms of Article 165(4) of the Constitution

(53) The Parties have agreed that the issues involved in the Petition are novel and of general public importance and have urged this Court to make a referral to the Chief Justice for the constitution of a bench of judges in terms of **Article 165(4)** of the **Constitution**.

(54) I concur with the Parties’ position in the above regard and it is also my view that the issues in the Petition raise a substantial question of law necessitating the constitution of a bench in terms of **Article 165(4)**. I say so because this is the first case under our constitutional democracy in which the President’s powers under **Article 115** of the **Constitution** have come under judicial scrutiny. The questions are therefore novel and of general public importance.

(55) I have also reached the above conclusion mindful of the Court’s dictum in **County Government of Meru vs Ethics And Anti-Corruption Commission [2014] eKLR** where the Court warned that:

“Substantial issue of law is not necessarily a weighty one or one that raises a novel issue of law or fact or even one that is complex.”

(56) I agree however, each case should be dealt with on its own merits and in the circumstances of this case, I am convinced that although novelty and public importance are not necessarily decisive indicators of the existence of a substantial question of law, in this case they do. In that regard, I am convinced that the matter is worthy of referral to the Chief Justice for the empanelment of a bench of judges in terms of **Article 165(4)** of the **Constitution**.

Conclusion

(57) In the above regard, I am satisfied that although the Petitioner have made out a *prima facie* case, it failed to demonstrate to this Court that conservatory orders are necessary to prevent the Petition from being rendered nugatory and that it will be in the public interest to grant such orders in the circumstances of this case and the Application should therefore fail.

Disposition

(58) The Application dated is dismissed and the Petition is certified for referral to the Chief Justice for the constitution of a bench of judges in terms of **Article 165(4)** of the **Constitution**.

(59) As regards costs, let each Party bear its costs.

(60) Orders accordingly.

DATED, SIGNED AND DELIVERED AT NAIROBI THIS 22ND DAY OF APRIL, 2016

ISAAC LENAOLA

JUDGE

In the presence of:

Muriuki – Court clerk

Miss Odipo for Petitioner

Mr. Kamunya holding brief for Mr. Njoroge for Respondent

Order

Ruling duly read.

Further Order

Mention on 6/5/2016 for directions.

ISAAC LENAOLA

JUDGE