



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

PETITION NO.268 OF 2013

BETWEEN

GUANGO LIMITEDPETITIONER

AND

THE KENYA REVENUE AUTHORITY 1ST RESPONDENT

COMMISSIONER GENERAL KENYA

REVENUE AUTHORITY.....2ND RESPONDENT

THE COMMISSIONER OF DOMESTIC TAXES 3RD RESPONDENT

THE HONOURABLE ATTORNEY GENERAL 4TH RESPONDENT

JUDGMENT

Introduction

1. The Petitioner, Guango Limited, is a limited liability company incorporated and having its registered offices within the Republic of Kenya, and carries on the business of real estate agents, leasing out and managing of properties and general business with regards to real estate.
2. The 1st Respondent, the Kenya Revenue Authority, (hereafter 'KRA') is a body corporate established under the **Kenya Revenue Authority Act, Chapter 469** of the Laws of Kenya and is the central body mandated with the duty to assess and collect revenue as well as administration and enforcement of laws relating to revenue.
3. The 2nd Respondent, the Commissioner General, Kenya Revenue Authority, and the 3rd Respondent, the Commissioner of Domestic Taxes, are both Commissioners working in KRA.
4. The 4th Respondent is the Attorney General of the Republic of Kenya and is the legal representative and advisor of the Kenyan Government in civil matters.
5. The facts leading to the present Petition relate to certain demands by the Domestic Taxes Department, KRA, in regards to Pay As You Earn (PAYE) remittances and Withholding taxes

which were alleged to be due from the Petitioner herein. KRA had apparently instituted enforcement actions against the Petitioner for the recovery of the said sums and the Petitioner then filed the present Petition challenging the actions of KRA, which it claims are unconstitutional and in violation of its constitutional right to fair administrative action under **Article 47** of the **Constitution**.

The Petitioner's Case

6. The Petitioner's case is contained in its Petition dated 23rd May, 2013 supported by an Affidavit sworn on its behalf by its Director, Leonard Kigathi, on the same date and Written Submissions dated 11th March, 2015.
7. It is its case that it has since the date of its inception dutifully and diligently settled its tax obligations as required by law. That on 5th April, 2013, it received a demand letter from the Domestic Tax Department, KRA, demanding the payment of tax arrears amounting to Kshs.3,640,685/= with regard to PAYE remittances and Kshs. 834,549/= with regard to withholding tax, within seven days. Upon receiving the said demand letter, through its Director, it made a call to the 3rd Respondent's offices, in particular to a Senior Assistant Commissioner, Mr. Gitonga, and sought an explanation for the demand. Mr. Gitonga allegedly assured it that he would address the situation, and he further informed its Director to wait for a Notice of Assessment which would indicate a breakdown of how the said arrears were accrued. However, to date, no communication has been received as promised.
8. It was the Petitioner's contention that on 22nd May, 2013, its Director received a call from its bankers, Barclays Bank of Kenya Ltd, informing him that the company's bank account had been frozen pursuant to orders of distress by the 1st, 2nd, and 3rd Respondents, and further directed that the sum of Kshs.4,475,234/= should be immediately transferred to the Respondents' account in settlement of the alleged tax arrears.
9. According to the Petitioner, the said tax arrears demanded are not only fictitious, but are also baseless and unsupported by any facts or accounts as there has not been any audit carried out by the Respondents on its financial books. That as such, it is unfathomable how the Respondents came up with the said figures without a proper audit being carried out. Further, that the due process with regard to demand and distress for tax arrears, pursuant to the provisions of the **Income Tax Act** and **Value Added Tax** have not been followed by the 1st, 2nd, and 3rd Respondents in the present matter and as such, their actions are illegal, and contrary to the provisions of the Constitution.
10. Further that, before distressing for tax arrears, the 1st, 2nd, and 3rd Respondents are mandated by law to issue a Notice of Assessment of tax arrears, clearly indicating a breakdown of how the arrears were accrued, the exact amount owed, the time limit for effecting payment, the consequences of failing to comply with the demand and the opportunity provided by law to contest/appeal/object to the demand. Additionally, that the demand that was issued to it does not fully adhere to the foregoing as it does not give a breakdown of the alleged tax arrears, and does not also provide or advise the taxpayer of the opportunity or avenues of contesting or objecting to the tax arrears demanded.
11. In the Petitioner's view, the **Value Added Tax Act** provides for the right of a tax payer to contest the amount of tax charged by KRA within 30 days of the issuance of a demand, and further, such contest or objection is to be lodged at and deliberated by the **Value Added Tax Tribunal**. In that context, it was its averment that none of those requirements was adhered to by the 1st, 2nd, and 3rd Respondents.
12. The Petitioner further asserted that as a result of the 1st, 2nd, and 3rd Respondents' illegal actions, its accounts have been frozen and the closure has caused it a severe cash crunch thereby damaging

its ability to run its business effectively and that it also risks losing its funds in the sum of Kshs.4,475,234/= to the 1st, 2nd and 3rd Respondents, and that fact would cripple its business irreversibly.

13.The Petitioner therefore argued that the 1st, 2nd, and 3rd Respondents' actions are in direct contravention of **Article 47** of the **Constitution** and as such, it would only be fair and just that this Court lifts/immobilizes the notice by them to its bankers to freeze its accounts so as to enable it to continue with its business, unencumbered.

14.Based on the foregoing, the Petitioner prays for the following orders:

- a. *A declaration that the Petitioner's fundamental rights and freedoms under Article 47 of the Constitution have been infringed upon by the 1st, 2nd, and 3rd Respondents.*
- b. *An order for compensation as assessed by the Court.*
- c. *Costs of this suit.*
- d. *Such further or other relief as this Honourable Court may deem fit and just to grant.*

The 1st, 2nd, and 3rd Respondents' Case

15.The 1st, 2nd, and 3rd Respondents opposed the Petition and filed two sets of Replying Affidavits both sworn on their behalf by the Principal Revenue Officer of KRA Mr. John Gitonga on 2nd July, 2013 and 6th October, 2013 respectively, and Written Submissions dated 14th September, 2015.

16.Their case was that on 2nd August, 2012, the Petitioner was served with a notice to carry out a compliance audit and that the audit was conducted on the Petitioner's records at its premises for the period 2007 to 2011 between 21st August, 2012 and 27th September, 2012. As a result, the audit established that the Petitioner had outstanding tax arrears amounting to Kshs.3,640,685/= being PAYE and Kshs.834,549/= being Withholding tax. The details of the findings were presented and explained to the Petitioner's Management contrary to its assertions in this Petition.

17.It was their contention in that regard that the examination of the documents/records obtained from the Petitioner indicated that it had not been complying with the provisions of the **Income Tax Act** and for instance, payments made to its directors and other staff who earned chargeable income were not subjected to tax, its Chairman's credit card expenses were not subjected to tax and the Company had been engaging the services of various professionals such as lawyers, surveyors, architects and secretarial services but all Withholding tax due was not deducted and remitted as is the law.

18.They further contended that the assessment as stated above was communicated to the Petitioner vide a letter dated 4th October, 2012 and the same was duly acknowledged by the Petitioner, and it was further advised to pay the sums demanded to avert interest accrual. That the assessment aforesaid letter showing the computation of the tax arrears and demand letter dated 5th April, 2013 served as an assessment notice because the **Income Tax Act** does not prescribe the format in which an assessment notice should be issued. Furthermore, **Section 84** of the **Income Tax Act** gives a person who disputes an assessment under the Act the right to object to the same within 30 days in writing but the Petitioner did not raise any objection to the assessment and its deliberate failure to do so is inexcusable.

19.Additionally, they stated that despite their demand aforesaid, the Petitioner did not make good payment of the outstanding sum prompting them to issue a final notice on 5th April, 2013 demanding immediate payment within seven days failure to which they would commence action

- for recovery thereof. That the Petitioner was also invited to contact the 1st, 2nd and 3rd Respondents for any clarification regarding the assessment notice; was involved throughout the process from the time the audits were carried out to the issuance of agency notices and that despite the aforesaid demands giving the Petitioner ample time to remit payment, and numerous telephone calls follow up by them, the Petitioner has failed to make the said payments.
20. Further, that the agency notices were properly issued in accordance with **Section 96** of the **Income Tax Act**, and that the taxes were properly assessed in accordance with the said Act and as such, the same cannot be said to be unlawful or unconstitutional.
21. The 1st, 2nd and 3rd Respondents also maintained that they did not flout the provisions of the **Income Tax Act** and acted at all times within the law, fairly, reasonably and have not in any way, whether by their actions or conduct failed to accord the Petitioner fair administrative action as expected under **Article 47** of the **Constitution**. Accordingly, that the Petitioner has failed to demonstrate how such actions have infringed its rights under **Article 47** of the **Constitution** and that the issues raised in the Petition do not warrant the intervention of this Court as the obligation to pay outstanding taxes is a constitutional obligation on the part of the Petitioner.
22. The Respondents also argued that the present Petition fails to meet the constitutional threshold required for actions brought in enforcement of the Bill of Rights because the Petitioner has not alleged that any of the revenue statutes or provisions which were relied on in assessing and collecting the due taxes are unconstitutional. That the Petitioner therefore filed the instant Petition in bad faith purposely to frustrate and defeat the collection of taxes which are due and outstanding to the Government and it is only fair and just in the circumstances to allow the 1st, 2nd and 3rd Respondents to undertake their statutory duties unhindered and to safeguard much needed Government revenue.
23. Mr. Gitonga in his Replying Affidavit also deponed on behalf of the 1st, 2nd and 3rd Respondents that in the spirit of settling the dispute between the parties amicably, sometime in June 2013, together with the Petitioner, the Respondents commenced discussions out of Court to deliberate on the issues of the disputed taxes with a view to settlement in accordance with the provisions of the **Income Tax Act**. As a result of these discussions, the 3rd Respondent conceded to a late objection of the Petitioner's assessment which was done vide the Petitioner's letter dated 13th August, 2013 in accordance with the provisions of **Section 84** of the **Income Tax Act**. In that regard, the Respondents acknowledged the said objection and by a letter dated 30th September, 2013 the Petitioner was requested to settle the taxes not in dispute amounting to Kshs.1,174,944/= to enable the 3rd Respondent reconsider the taxes in dispute.
24. It was Mr. Gitonga's further deposition that in the said letter, the Petitioner was also requested to arrange for a meeting on 4th October, 2013 at its premises with a view to resolving the disputed issues. That the said meeting was however postponed to 8th October, 2013 at the Petitioner's request, and was instead held on 23rd October, 2013. In the said meeting, the Petitioner's Director undertook to respond in writing and agreed to settle the taxes as recomputed immediately but because the documents for review of the disputed issues were not availed, the said Director pledged to avail the same at a later date.
25. Further to the above agreement, the Petitioner settled the principal tax by payment of Kshs.311,460/= in post-dated cheques attached to a letter dated 28th October, 2013, and in an email communication dated 6th November, 2013, the Respondents' officers once again sought to review the Petitioner's documents from 11th to 13th November, 2013. In that regard, the Respondent's officers went to the Petitioner's premises on the said date but the Petitioner's Director was absent and its staff were under no instructions to avail the records.
26. According to Mr. Gitonga, a reminder for the production of records to resolve the late objection

and income tax compliance checks was then sent to the Petitioner on 5th December, 2013 to enable the resolution of the objection. Further, that on 10th January, 2014, the Respondents wrote to the Petitioner demanding production of records for purposes of resolution of objection to the said taxes assessments and examination of income tax records.

27. That as a result of the Petitioner's failure to comply with the request for production of the necessary documents in support of the disputed taxes and /or honour any scheduled meetings to facilitate the resolution of the dispute, the Respondents were constrained to confirm the assessments earlier done in accordance with **Section 85 (3) (b)** of the **Income Tax Act** vide a letter dated 31st March, 2014. In addition, that the Petitioner having failed to discharge its burden as is required of it under **Section 87 (1) (b)** of the **Income Tax Act**, the Respondents had no option but to issue and confirm the tax assessment and the Petitioner was informed of its rights to appeal against the assessments as required by **Section 86 (1) (b)** of the **Income Tax Act**. However, it did not appeal within the 30 days required and the assessment consequently stood unchallenged.

28. The 1st, 2nd and 3rd Respondents for the above reasons urge this Court to dismiss the instant Petition with costs.

29. I note that the 4th Respondent did not respond to the Petition and filed no submissions either.

The Parties' Submissions

For the Petitioner

30. The Petitioner submitted that the 1st, 2nd and 3rd Respondents did not carry out a proper audit of its accounts before levying the impugned tax arrears and as a result, it would not be possible to ascertain the accurate figures for tax arrears which it should pay.

31. The Petitioner, while relying on the decision in **Petition No.352 of 2012, Geothermal Development Co. Limited vs The Kenya Revenue Authority, Commissioner of Domestic Taxes and Others**, maintained that the requirements for issuance of a Notice of Assessment to a tax payer was captured in **Paragraph 9** of the **Seventh Schedule** of the then **Value Added Tax Act** and that the demand letter that was sent to it by the above Respondents did not conform to the standards of a valid Notice of Assessment.

32. It was further the Petitioner's submission that the right to administrative action as provided in **Article 47** of the **Constitution** cannot be waived under any circumstances and the 1st, 2nd and 3rd Respondents, being State agents charged with the duty of collecting taxes, are bound by the provisions in the Bill of Rights to the fullest extent in its operations, and that they should not be seen to be acting contrary to the Constitution.

33. In the Petitioner's view, owing to the said Respondents' failure to carry out a proper compliance audit and later freezing its accounts without according it an opportunity to be heard or challenge the said tax arrears, then the said actions reek of impunity, and tend to show an institution that does not value nor adhere to either the Rule of Law or rules of natural justice. Furthermore, that the 1st, 2nd and 3rd Respondents' act of engaging it in out of Court negotiations and thereafter coming up with a figure substantially lower than the originally claimed amount is a clear indication that the prior figures were actually incorrect.

34. That for the above reasons, it is deserving of the orders sought.

For the 1st, 2nd and 3rd Respondents

35. The above Respondents reiterated that they carried out a valid audit on the Petitioner's books of account and their position was that they issued a notice to the Petitioner pursuant to **Section 56** of

the **Income Tax Act** and subsequently, the Petitioner was duly provided with a comprehensive breakdown and computation of the taxes owing, comprising of the principal tax due, penalties and interests.

36. It was their other submission that the Petitioner's assertions in regard to the Notice of Assessment is based on an erroneous interpretation of the law since the PAYE and Withholding tax audit in the present case were carried out in accordance with the provisions of the **Income Tax Act** and not under the **Value Added Tax Act**. That, the Petitioner cannot impugn the Notice of Assessment for want of compliance in terms of form as long as the same complied with the requirements envisaged under **Section 81 (1)** of the **Income Tax Act** and that in any event, even if the said Notice was defective or erroneous as alleged, the error cannot preclude the Commissioner from collecting lawfully assessed taxes as was held in **Tarmal Industries Ltd vs Commissioner of Customs and Excise [1968] EA 471**.
37. The 1st, 2nd and 3rd Respondents further sought to distinguish the **Geothermal Development Company Ltd vs Kenya Revenue Authority Case (supra)** and submitted that in that decision, the impugned notice was issued under **Paragraph 9** of the **7th Schedule** to the **Value Added Tax Act** and that unlike in the present case, **Section 81 (1)** of the **Income Tax Act** on want of compliance with forms was not raised by the respective Counsel and therefore, the Court therein did not have an opportunity to adjudicate and make findings on that issue.
38. The above Respondents also took the position that this Court lacks the jurisdiction to entertain the present Petition because the Local Committee as established under the **Income Tax Act** is a competent authority duly established under **Section 82** thereof and is the proper forum to ventilate the issues arising herein and as such, it is imperative for this Court to allow it to execute its mandate. While relying on the decision in **KAPA Oil Refineries vs Kenya Revenue Authority and Others, Petition No. 203 of 2012**, it was also their submission that the present Petition is an utter abuse of this Court process and has been overtaken by events in that the 3rd Respondent, having admitted the Petitioner's late objection to the assessment, then the matter mutated into a tax dispute and as such, ought to have been dealt with in accordance with the provisions of **Section 86** of the **Income Tax Act** and not by the filing of a constitutional Petition before this Court.
39. Further, according to the 1st, 2nd and 3rd Respondents, their actions are not unconstitutional, illegal and/or null and void so as to warrant the invocation of the jurisdiction of this Court for the protection of fundamental rights and freedoms under **Article 47 (1)** of the **Constitution** because the obligation to pay outstanding taxes is a constitutional obligation to which the Petitioner is not exempted. That the 2nd Respondent has a statutory obligation recognized under **Article 209** of the **Constitution** to assess and collect taxes on behalf of the Government and it would thus be failing in doing the same to the detriment of the entire public if it does not collect the disputed taxes herein.
40. While relying further on **Alex Muriuki vs Attorney General and Others, Petition No. 412 of 2013**, they finally submitted that they were justified in law to issue agency notices in accordance with **Section 96** of the **Income Tax Act** to the Petitioner for purposes of recovery of taxes that were due, assessed and demanded.

Determination

41. I have read and considered the various pleadings filed before this Court in the present matter and in my view, the key question for determination is whether there has been a violation of the Petitioner's constitutional rights as alleged and the remedies available to it if any. I must however address the preliminary question of jurisdiction as raised by the 1st, 2nd and 3rd Respondents.
42. In that regard, it is undisputed that the jurisdiction of this Court is grounded in **Article 165 (3) (d)** of the **Constitution** which is to the effect that subject to clause (5), the High Court shall have-

- a. *Unlimited original jurisdiction in criminal and civil matters;*
- b. *Jurisdiction to determine the question whether a right or fundamental freedom in the Bill of Rights has been denied, violated, infringed or threatened;*
- c. *Jurisdiction to hear an appeal from a decision of a tribunal appointed under this Constitution to consider the removal of a person from office, other than a tribunal appointed under Article 144;*
- d. *Jurisdiction to hear any question respecting the interpretation of the Constitution including the determination of-*
 - i. *The question whether any law is inconsistent with or in contravention with the Constitution;*
 - ii. *The question whether anything said to be done under the authority of the Constitution or of any law is inconsistent with, or in contravention of, the Constitution;*
 - iii. *Any matter relating to constitutional powers of State organs in respect of county governments and any matter relating to the constitutional relationship between the levels of government;*
 - iv. *A question relating to conflict of laws under Article 191; and*
 - v. *Any other jurisdiction, original or appellate, conferred on it by legislation.*

43. Under **sub-Article (6)** of the above **Article**, the High Court is also vested with supervisory jurisdiction over subordinate courts and over any person, body or authority exercising a judicial or quasi-judicial function, but not over a Superior Court.

44. In that context, the key question is whether the matters arising herein fall within the jurisdictional ambit of this Court. From the Petitioner's pleadings as reproduced elsewhere herein, it is evident that its key grievances are in regard to the assessments pertaining to the PAYE and Withholding taxes as demanded from them and the Petitioner has taken issue with the manner in which the said tax arrears were computed and has argued further that the process with regard to the demand and distress for the said taxes, pursuant to the provisions of the **Income Tax Act** and the **Value Added Tax Act**, were unlawful.

Having so said, I note that in its letter dated 31st March, 2014 addressed to the Petitioner, the 3rd Respondent notified the Petitioner of the confirmation of assessments pertaining to PAYE and Withholding taxes amounting to Kshs.3,640,685/= and Kshs.834,549/= respectively. In the said letter, the Petitioner was further advised of its right of appeal against the assessments pursuant to **Section 86 (1) (b)** of the **Income Tax Act**. Does the present Petition therefore fall within the jurisdiction of this Court? To the extent only that the issue of assessment is the core issue in dispute, my answer to this question must be in the negative.

45. I say so because the **Income Tax Act** establishes a Local Committee under **Section 82** thereof. The creation and mandate of the Local Committee is outlined under **Section 86** of the Act as follows:

“(1) A person who has been served with a notice under Section 85 (3) may-

- a. *If his assessment is based upon or consequent upon a direction issued under section 23 or 24, appeal from the decision of the Commissioner to the Tribunal; or*
- b. *In any other case, appeal from that decision to the local committee appointed for the area in which he resides or, if he is a non-resident person, to a local committee appointed for the Nairobi Area,*

Upon giving notice of appeal in writing to the Commissioner within thirty days after the date of service upon him of the notice under that subsection.

A party to an appeal under subsection (1) of this section or under section 89 (1) who is dissatisfied with the decision thereon may appeal to the Court against that decision upon giving notice of appeal to the other party or parties to the original appeal within fifteen days after the date in which a notice of that decision has been served upon him; but an appeal to the Court under this subsection may be made only on a question of law or of mixed law and fact.

46. The effect of the foregoing is that the **Income Tax Act** has established mechanisms for the resolution of disputes pertaining to assessment of taxes. In my view, the establishment of the Local Committee manifests the Legislature's intention to have such disputes resolved by a specialized body such as the said Local Committee.
47. In the present Petition, no evidence has been placed before this Court that the Petitioner indeed moved the Local Committee in regard to the said assessments. Absence of such evidence leads to the inescapable conclusion that the Petitioner is merely by-passing the dispute resolution forum established under the **Income Tax Act** in order to prematurely invoke the jurisdiction of this Court.
48. I must reiterate that the unlimited jurisdiction of this Court is not to be exercised in a vacuum but must be exercised while having regard to other dispute resolution mechanisms that have been established under various Acts of Parliament. The importance of exhausting other dispute resolution mechanisms as provided under various statutes cannot be gainsaid and that is why the Court in **Peter Ochara Anam and 3 Others vs Constituencies Development Fund Board and 4 Others, Kisii High Court Petition No.3 of 2010** expressed the view that:

“Jurisdiction we all know is everything and once raised it must be confronted from the onset and if successful the court must down its tools. I have no doubt at all that under article 165(3) of the Constitution, I have unlimited and inherent jurisdiction. I am also aware that under article 23(1) of the same constitution this court has jurisdiction, in accordance with article 165 to hear and determine applications for redress of a denial, violation or infringement of, or threat to, a right or fundamental freedom in the bill of rights. I also agree as pointed out by counsel for the petitioner that any interpretation of the Constitution that seeks to curtail such wide and unfettered jurisdiction would be contrary to the spirit and letter of the constitution and would thus render itself invalid. I do not however agree that the bodies created under the provisions of the CDF such as the 1st respondent are invalid, null and void as per the constitution. As I have already stated elsewhere in this ruling, it is not uncommon in this country for a statute to provide the procedure through which proceedings founded under the statute are to be handled. Such is section 52 of the CDF. There is nothing unconstitutional about it. The section does not deny the petitioners the right to come to court. It only provides a procedure to be followed when dealing with the disputes under the Act, like the instant dispute. The petitioners have a right to come to this court on whatever matter and howsoever but that must be done in the correct way. It cannot therefore be the case of the petitioners that section 52 of the CDF is in conflict with articles 22, 23, 48 and 50 of the Constitution. Similarly, it cannot be their case that section 52 qualifies the right to access justice in this court...”

The Learned Judge then proceeded to state:

I do not think that it is right for a litigant to ignore with abandon a dispute resolution mechanism provided for in a statute and which would easily address his concerns and rush to this court under the guise of a constitutional petition for alleged breach of constitutional rights under the bill of rights...

... Coming to court by way of a constitution petition is not excepted either much as the Constitution is superior law to the statute aforesaid. In view of this provision and there being no allegations or evidence that the petitioner exhausted these remedies, in bringing this petition, the petitioners have deliberately avoided the procedure and remedy provided for under the Act. They have not proffered any explanation as to why they did not refer any of the complaints they have raised to the 1st respondent as required by law. It has been stated constantly that where there exists sufficient and adequate legal avenue, a party ought not trivialize the jurisdiction of the court pursuant to the Constitution. Indeed, such a party ought to seek redress under the relevant statutory provision, otherwise such available statutory provisions would be rendered otiose.” (Emphasis added)

(See - also Stanley Mungathia Daudi and 4 Others vs Hon. Cyprian Kubai and Others, Meru Petition No.5 of 2013 and Diana Kethi Kilonzo and Another vs IEBC and 10 Others, Petition No.359 of 2013.) I am in agreement with the above expressions of the law and I decline the invitation to determine the present Petition.

49.As a result, I am inclined to dismiss the present Petition, as the jurisdiction of this Court has been prematurely invoked and if any advice is needed, let the dispute be settled in the specialized forum of the Local Committee aforesaid. Lastly, I shall also not delve into the question whether Article 47 of the Constitution was breached or not as the matter may yet find its way to the High Court in later proceedings and for the above reasons.

Disposition

50.Based on my analysis and findings above, the Petition is hereby dismissed but with no order as to costs.

51.Orders accordingly.

DATED, SIGNED AND DELIVERED AT NAIROBI THIS 15TH DAY OF APRIL, 2016

ISAAC LENAOLA

JUDGE

In the presence of:

Muriuki – Court clerk

Mr. Rutere holding brief for Mr. Ngugi for Petitioner

Mr. Lemiso holding brief for Miss Sanga for 1st, 2nd and 3rd Respondent

Mr. Obura for 4th Respondent

Order

Judgment duly read.

ISAAC LENAOLA

JUDGE