REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

MILIMANI LAW COURTS

CONSTITUTIONAL AND JUDICIAL REVIEW DIVISION

MISC. CIVIL APPLICATION NO. 101 OF 2016

IN THE MATTER OF SECTIONS 8 AND 9 OF THE LAW REFORM ACT (CAP 26) LAWS OF KENYA

AND

IN THE MATTER OF AN APPLICATION FOR LEAVE TO APPLY FOR ORDERS OF MANDAMUS, PROHIBITION AND CERTIORARI

AND

IN THE MATTER OF THE UNIVERSITIES ACT

AND

IN THE MATTER OF ARTICLES 22(1), 2(A) (B) (C), 23 (1), 27(1) (2) OF THE CONSTITUTION OF KENYA, 2010

AND

IN THE MATTER OF KENYATTA UNIVERSITY AND THE VICE CHANCELLOR, KENYATTA UNIVERSITY

BETWEEN

REPUBLIC……...……..APPLICANT

VERSUS

KENYATTA UNIVERSITY……1ST RESPONDENT

THE VICE CHANCELLOR

KENYATTA UNIVERSITY……2ND RESPONDENT

EXPARTE: WELLINGTON KIHATO WAMBURU

JUDGEMENT

Introduction

1. By a Notice of Motion dated 2nd March, 2016, the applicant herein, **Wellington Kihato Wamburu**, seeks the following orders:

> **1. THAT this Honourable Court be pleased to give an order of mandamus directing the Respondents to release for examination both internal and external the applicant's thesis for his doctor of Philosophy Degree in Management Science submitted on 20th March 2015.**
>
> **2. THAT an order of mandamus do issue directing the Respondent to enlist the names of the applicant Wellington Kihato Wamburu in the graduation list next following in the university or in any subsequent graduation.**
>
> **3. THAT this Honourable court do issue an order of certiorari to bring to the high Court for the purpose of being quashed the Respondent's letter dated 25th February 2016 referenced "Suspension for Examination Irregularities".**
>
> **4. THAT an order of prohibition do issue to prohibit the Respondents from publishing or further writing and publishing or disseminating an letter(s) containing information, which is negative or adverse or respondents letter to the applicant dated 25th February 2016 and the respondents do conspicuously publish an unqualified apology acceptable to the applicant and this Court arising from or appurtenant to the contents of the letter dated 25th February 2016.**
>
> **5. THAT An order for a declaration do issue declaring that the respondents refusal to release the results of the applicant's thesis for his doctor of philosophy degree in Management Science and the refusal to enlist the applicant's name in the graduation list for consecutive years from 2014 amounts to violation of applicant's right enshrined in the Constitution of Kenya, 2010 in regard to the desired fair administrative action, fair hearing, expedition, efficiency, lawful applicant for all or any adverse administrative action.**
>
> **6. THAT costs be provided for.**

Ex Parte Applicant's Case

2. According to the Applicant, he holds hold a Bachelor of Education degree (Mathematics and Geography) from Kenyatta University (1992-1997) and a Masters degree in Business Administration (MBA) Specializing in Management Science from the University of Nairobi (2002-2006). He averred that in the year 2009 he applied for a Doctor of Philosophy Degree (PhD) in Management Science which commenced on 22nd February 2010 and as a pre-condition for registration and admission to the programme one had to pay the requisite fees which he did and was duly registered upon admission and allocated admission number **D86/CTY/13730/2009.**

3. It was averred that the said offer was to remain valid for 3 years plus one extra year in special circumstances. He contended that he completed and passed all the coursework/units under the programme which lasted up to December 2010. It was averred that after finishing his coursework, the Chairman of the Department of Management (science) which is under the school of Business appointed and **Dr. Karanja** and **Dr. Kahiri** as his supervisors.

4. The applicant averred that he successfully defended his proposal at the department level after which it was recommended he should make the suggested correction with the supervisors and proceed to the school level. According to him, the said corrections were done with the supervisors and it was taken to the department for onward transmission to the school of Business and on 4th June 2014 the School of Business through the Chairperson School of Business postgraduate coordinator set the date of defence at

the school level for 13th June 2014 which was done under the chairmanship of **Dr. James Kilika** of the School of Business postgraduate committee in the presence of **Mr. E. N. Nyachoti** after which he was allowed to proceed to the field for data collection on condition that he effects all the corrections which were set out during the defence stage. He disclosed that **Dr. Nzuki** was appointed as the Correction Assistant and after corrections he was issued with a correction certificate which was signed on 14th and 15th July 2014 by the correction assistant and the supervisors and the documents were taken to the graduate school.

5. The applicant averred that he did the data collection an in a meeting held on 13th August 2014 the proposal was passed, signed and approved by the graduate school and he got a letter to that effect and was subject only to deletion of three words, **"the relationship between"** from the title of the thesis and he complied. It was deposed that the approval of the research proposal was given by the graduate school, vide the letter dated 2nd September 2014 but for reasons unknown to him the same letter stated that he should proceed to the field for data collection which, according to him, demonstrates lack of proper co-ordination at the University, as he had undertaken this project.

6. The applicant disclose that on 30th October 2014 his Notice of Submission of the thesis was given but the same (notice) faced administrative challenges which marked the beginning of his problems. Some of the issues which were raised according to him were the data of the approval by the graduate school; the date he obtained a research permit from NACOSTI (National Commission for Science, Technology and Innovation); and the dates when he submitted progress reports. Although the Chairperson, Management Department after reporting to the Coordinator Doctoral and Master of Business Programme Communication to the Dean, Graduate School purported to have copied the letter dealing with the above issues to the Dean School of Business it came to the applicant's knowledge that the said letter was never sent to the Dean Business School.

7. Following the discrepancies in communication, the applicant gave a second notice of intention to submit thesis on 4th February 2015 which was signed by his said supervisors but this second notice was also administratively challenged by the coordinator Doctoral and Master of Business Administration (MBA) Programmes. In anger, the applicant wrote a letter dated 18th February 2015, to the Chairman, Management, Science Department enquiring on the status of his notice of intention to submit the thesis.

8. It was however contended by the applicant that since then the dean has been in possession of the notice while 4 copies of his thesis are with the Chairman, Management Science and have not been released for external examination in the absence of which his graduation is in oblivion.

9. It was averred by the Applicant that each time he makes enquiries a committee is hurriedly constituted by the DVC Academic to do "**progression irregularity".** The Applicant however contended that a **Dr. S.M.A Muathe**, one of the members of the constituted committee had already read the proposal and the final thesis after corrections before it was forwarded for examination and appended his signature thereon hence **Dr. Muathe** as a committee member could not act without a bias having already read the documents at the proposal stage, at the school stage and the final stage. To the Applicant, the verdict reached by the various investigations committees have been kept as heavily guarded top secrets as he has never received a communication therefrom todate. Instead, vide a letter dated 12th March 2014 the committee through a **Mr. Muriuki** wrote to him asking him to write on the progress of his PHD from the date he was admitted or registered up to 12th day of March, 2015 and whereas he complied and submitted the same on 13th March 2015, he has never known what the committees were investigating.

10. He however received a letter dated 2th February, 2016 referenced *"Suspension on Examination Irregularities"* while his thesis was still awaiting examination. According to him this letter amounted to unexplained injustices, blatant and gross violation of his constitutional and legal rights embodied in the Kenya Constitution 2010. To him the said action was actuated by malice, nepotism, tribal inclinations, indignity, irresponsibility of holders of a public office, inefficiency, unlawfulness, unreasonableness, adverse administrative actions and reactions devoid of any form of written reasons assigned to the

apparent decision thereby denying him the fruits of his hard earned degree of Doctor of philosophy.

Respondent's Case

11. On behalf of the Respondent, it was admitted that the *ex parte* Applicant was admitted to Kenyatta University's School of Business on 16th February 2010 to pursue a Doctor of Philosophy Degree in Business. However, the University investigated and discovered apparent irregularities in the progression of the *ex parte* Applicant's studies which touched on the propriety of further examining or awarding him the degree.

12. According to the Respondent, on 2nd September 2014, the Dean of the University's Graduate School wrote to the *ex parte* Applicant, communicating the approval of his research proposal and authorising him to proceed with data collection. This was subject to clearance with the Principal Secretary, Higher Education, Science and Technology. On the same day, two supervisors for his Ph.D thesis were appointed namely **Dr. Karanja Ngugi** and **Dr. James Kahiri**. The same day, the Dean, Graduate School wrote to the Registrar (Academic) recommending the substantive registration of the *ex parte* Applicant for the Ph.D which was done on 5th November 2014 and on 2nd September 2014, the Dean, Graduate School wrote to the Principal Secretary, Higher Education, Science and Technology concerning the *ex parte* Applicant's intention to conduct research for his proposal.

13. According to the Respondent, the *ex parte* Applicant obtained the research permit from the Ministry of Higher Education, Science and Technology on 19th September 2014 for the purposes of data collection, which fact he confirms in his e-mail to the 2nd Respondent dated 19th May 2015. However on 4th September 2014, the *ex parte* Applicant filled out a progress report in which he indicated his work plan for the next six months to be data analysis and submission of draft and final theses for examination and this notably, was even before obtaining a research permit and being substantively registered. Shortly thereafter i.e. on 8th September 2014, the *ex parte* Applicant filled out and signed a notice of submission of his thesis by which date similarly, he had neither obtained a research permit for purposes of data collection nor had he been substantively registered.

14. It was averred that although by 8th September 2014 the *ex parte* Applicant filled out a notice to submit his thesis, subsequent progress reports showed that he was still working on it. For instance, on 29th September 2014, he filled out a progress report in which he indicated his work plan to be to submit the same thesis for examination and defence. The Dean, Graduate School also acknowledged receipt of another progress report on 30th October 2014. Similarly, the *ex parte* Applicant purported to issue another notice of submission of his thesis on 13th October 2014 even though the Dean, Graduate School would subsequently receive another progress report from him.

15. It was contended that the above triggered suspicions that the *ex parte* Applicant had plagiarised his thesis or that it had been done on his behalf, which warranted an investigation. Upon requesting for an anti-plagiarism report in respect of the *ex parte* Applicant's thesis, it recorded a 35% similarity index thus raising a red flag. The University also received an anonymous tip-off concerning one of the *ex parte* Applicant's supervisors namely **Dr. Karanja Ngugi**, who reportedly employed young undergraduate students to do theses on behalf of students for a fee. It was disclosed that the University clandestinely established contact with one of the people who allegedly worked for **Dr. Karanja Ngugi** and verified the contents of the e-mail tip-off through an exchange of correspondence. Specifically in relation to the *ex parte* Applicant, the person with whom the University corresponded not only knew of the *ex parte* Applicant's thesis topic, he drafted a research proposal which was identical to the *ex parte* Applicant's thesis in some parts.

16. It was this, according to the Respondent that necessitated the suspension of the *ex parte* Applicant pending his appearance before the Students' Disciplinary Committee where he would know the case against him and be allowed to defend himself.

Determinations

17. I have considered the application herein, the affidavits both in support of and in opposition thereto and the submissions filed.

18. The broad grounds on which the Court exercises its judicial review jurisdiction were restated in the Uganda case of **Pastoli vs. Kabale District Local Government Council and Others [2008] 2 EA 300.** In that case the Court cited with approval **Council of Civil Unions vs. Minister for the Civil Service [1985] AC 2** and **An Application by Bukoba Gymkhana Club [1963] EA 478** at **479** and held:

> **"In order to succeed in an application for judicial review, the applicant has to show that the decision or act complained of is tainted with illegality, irrationality and procedural impropriety ...Illegality is when the decision-making authority commits an error of law in the process of taking or making the act, the subject of the complaint. Acting without jurisdiction or *ultra vires*, or contrary to the provisions of a law or its principles are instances of illegality. It is, for example, illegality, where a Chief Administrative Officer of a District interdicts a public servant on the direction of the District Executive Committee, when the powers to do so are vested by law in the District Service Commission...Irrationality is when there is such gross unreasonableness in the decision taken or act done, that no reasonable authority, addressing itself to the facts and the law before it, would have made such a decision. Such a decision is usually in defiance of logic and acceptable moral standards.....Procedural Impropriety is when there is a failure to act fairly on the part of the decision-making authority in the process of taking a decision. The unfairness may be in non-observance of the Rules of Natural Justice or to act with procedural fairness towards one to be affected by the decision. It may also involve failure to adhere and observe procedural rules expressly laid down in a statute or legislative Instrument by which such authority exercises jurisdiction to make a decision."**

19. That the Respondent has powers and jurisdiction to discipline students is not in dispute. It is not contended that it has no power to suspend a student who is found to have committed an irregularity. As to whether there was such an irregularity is however not for this Court exercising its judicial review jurisdiction to determine. The question to be determined is whether in arriving at its decision the due process of the law was adhered to. Article 47(1) and (2) of the Constitution provide:

> ***(1) Every person has the right to administrative action that is expeditious, efficient, lawful, reasonable and procedurally fair.***
>
> ***(2) If a right or fundamental freedom of a person has been or is likely to be adversely affected by administrative action, the person has the right to be given written reasons for the action.***

20. In this case, it is contended by the applicant that he was not afforded an opportunity of presenting his case before the decision suspending him was arrived at. The general position on the right to a hearing was restated in ***Halsbury's Laws of England Fourth Edition Vol. 1 page 90 para 74*** as follows:

> **"The rule that no man shall be condemned unless he has been given prior notice of the allegations against him and a fair opportunity to be heard is a cardinal principle of justice...Although, in general the rule applies only to conduct leading directly to a final act or decision, and not to the making of a preliminary decision or to an investigation designed to obtain information for the purpose of a report or a recommendation on which a subsequent decision may be founded, the nature of an inquiry or a provisional decision may be such as to give rise to a reasonable expectation that persons prejudicially affected shall be afforded an opportunity to put their case at that stage; and it may be unfair not to require the inquiry to be conducted in a judicial spirit if its outcome is likely to expose a person to a legal hazard or other substantial prejudice. As has already been indicated, the circumstances in which the rule will apply cannot be exhaustively defined, but they embrace a wide range of situations in which acts or decisions have civil consequences for individuals**

by directly affecting their legitimate interests or expectations. In a given context, the presumption in favour of importing the rule may be partly or wholly displaced where compliance with the rule would be inconsistent with a paramount need for taking urgent preventive or remedial action; or where disclosure of confidential but relevant information to an interested party would be materially prejudicial to the public interest or the interests of other persons or where it is impracticable to give prior notice or an opportunity to be heard; or where an adequate substitute for a prior hearing is available."

21. In **Geothermal Development Company Limited vs. Attorney General & 3 Others [2013] eKLR,** it was held that:

> **"As a component of due process, it is important that a party has reasonable opportunity to know the basis of allegations against it. Elementary justice and the law demands that a person be given full information on the case against him and given reasonable opportunity to present a response. This right is not limited only in cases of a hearing as in the case of a court or before a tribunal, but when taking administrative actions as well. (See** *Donoghue v South Eastern Health Board* **[2005] 4 IR 217).** Hilary Delany **in his book,** *Judicial Review of Administrative Action***, *Thomson Reuters 2nd edition, at page 272,* notes that, '*Even where no actual hearing is to held in relation to the making of an administrative or quasi-judicial decision, an individual may be entitled to be informed that a decision which will have adverse consequences for him may be taken and to notification of the possible consequences of the decision'*…Article47 enshrines the right of every person to fair administrative action. Article 232 enunciates various values and principles of public service including '*(c) responsive, prompt, effective, impartial and equitable provision of services' and '(f) transparency and provision to the public of timely, accurate information'*…Fair and reasonable administrative action demands that the taxpayer would be given a clear warning on the probable consequences of non-compliance with a decision before the same is taken; in this case, the Company should in no uncertain terms have received information as to the implication of the letter and the consequences of its failure to make good the payments demanded in the notice. (See Supreme court decision in *TV3 v Independent Radio and Television Commission* [1994] 2 IR 439)…In many jurisdictions around the world, it has long been established that notice is a matter of procedural fairness and an important component of natural justice. As such, information provided in relation to administrative proceedings must be sufficiently precise to put the individual on notice of exactly what the focus of any forthcoming inquiry or action will be. (*See* *Charkaoui v Canada* **[2007] SCC 9,** *Alberta Workers' Compensation Board v Alberta Appeals Commission* **(2005) 258 DLR (4th), 29, 55 and** *Sinkovich v Strathroy Commissioners of Police (1988) 51 DLR (4th) 750).***"**

22. This was the position adopted by **Kasanga Mulwa, J** in **Republic vs. Registrar of Companies *ex parte* Githungo [2001] KLR 299,** where he held that natural justice requires that persons who might be affected by administrative acts, decisions or proceedings be given adequate notice of what is proposed.

23. Section 4(3) of the ***Fair Administrative Action Act, 2015,*** (hereinafter referred to as "the Act"), a statute enacted pursuant to Article 47 of the Constitution, provides as follows:

> ***(3) Where an administrative action is likely to adversely affect the rights or fundamental freedoms of any person, the administrator shall give the person affected by the decision-***
>
> > ***(a) prior and adequate notice of the nature and reasons for the proposed administrative action;***
> >
> > ***(b) an opportunity to be heard and to make representations in that regard;***
> >
> > ***(c) notice of a right to a review or internal appeal against an administrative decision, where applicable;***

(d) a statement of reasons pursuant to section 6;

(e) notice of the right to legal representation, where applicable;

(f) notice of the right to cross-examine or where applicable; or

(g) information, materials and evidence to be relied upon in making the decision or taking the administrative action.

24. Section 4(4) on the other hand provides as follows:

The administrator shall accord the person against whom administrative action is taken an opportunity to

(a) attend proceedings, in person or in the company of an expert of his choice;

be heard;

(b) cross-examine persons who give adverse evidence against him; and

(c) request for an adjournment of the proceedings, where necessary to ensure a fair hearing.;

25. Section 2 of the Act defines "administrative action" to include:

(i) the powers, functions and duties exercised by authorities or quasi-judicial tribunals; or

(ii) any act, omission or decision of any person, body or authority that affects the legal rights or interests of any person to whom such action relates;

26. The same section defines "administrator" as "a person who takes administrative action or who makes an administrative decision." Section 3 on the other hand provides:

(1) This Act applies to all state and non-state agencies, including any person

(a) exercising administrative authority;

(b) performing a judicial or quasi-judicial function under the Constitution or any written law; or

(c) whose action, omission or decision affects the legal rights or interests of any person to whom such action, omission or decision relates.

27. From the foregoing it is clear that a decision suspending the applicant was an administrative action and both the provisions of the Constitution and the Act decreed that the applicant be afforded an opportunity of being heard before the said decision was arrived at. There is no contention that the applicant was ever heard. Accordingly his position that he was never heard before the impugned decision was made is uncontroverted.

28. It may be argued that there was no requirement for hearing at that stage of the proceedings.

29. According to **Michael Fordham** in ***Judicial Review Handbook***; 4th Edn. at page 1007:

"Procedural fairness is a flexi-principle. Natural justice has always been an entirely contextual principle. There are no rigid or universal rules as to what is needed in order to be procedurally fair. The content of the duty depends on the particular function and

circumstances of the individual case".

30. In **Kenya Revenue Authority vs. Menginya Salim Murgani Civil Appeal No. 108 of 2009,** the Court of appeal delivered itself as follows:

> **"There is ample authority that decision making bodies other than courts and bodies whose procedures are laid down by statute are masters of their own procedures. *Provided that they achieve the degree of fairness appropriate to their task it is for them to decide how they will proceed*."** [Emphasis added].

31. In **R vs. Aga Khan Education Services *ex parte* Ali Sele & 20 Others High Court Misc. Application No. 12 of 2002**, it was held *inter alia* as follows:

> **"On the allegation that there was breach of the rules of natural justice, it is not in every situation that the other side must be heard. There are situations where a hearing would be unnecessary and even in some cases obstructive. Each case must be put on the scales by the court and there cannot be general requirement for hearing in all situations. There will be for example situations when the need for expedition in decision making far outweighs the need to hear the other side and in such situations, the court has to strike a balance."**

32. In **Russel vs. Duke of Norfork [1949] 1 All ER at 118**, the Court expressed itself as hereunder:

> **"There are in my view no words which are of unusual application to every kind of inquiry and every kind of domestic tribunal. The requirements of natural justice must depend on circumstances of the case, the nature of the inquiry, rules under which the tribunal is acting, the subject matter that is being dealt with and so forth. Accordingly I do not derive much assistance from the definition of natural justice which have been from time to time being used, but *whatever standard is adopted one essential is that the person concerned would have had a reasonable opportunity of presenting his case*."** [Underlining mine].

33. As was held in **Simon Gakuo vs. Kenyatta University and 2 Others Misc. Civil Application No. 34 of 2009:**

> **"The *audi alteram partem* rule should not be interpreted to mean a full adversarial hearing or anything close to it as per the courtroom situations and as per section 77 of the Constitution. Interpreting the demands of natural justice as requiring an adversarial hearing or anything similar is a serious misdirection in law. There are no rigid or universal rules as to what is needed in order to be procedurally fair. What is needed is what the court considers sufficient in the context of each situation with its own unique facts with the needs of good administration in view. I urge practitioners of law not to rigidly import the hearing requirements in court room situation etc."**

34. These decisions must however now be read in light of the provisions of section 4(6) of the Act which provides that:

> ***Where the administrator is empowered by any written law to follow a procedure which conforms to the principles set out in Article 47 of the Constitution, the administrator may act in accordance with that different procedure.***

35. In other words an administrator may be empowered by a written law to follow a procedure other than the one prescribed under the ***Fair Administrative Action Act*** and such a procedure will not faulted as long as it does not derogate from the provisions of Article 47 of the Constitution.

36. In this case, the Respondent has not disclosed the existence of a written law that provides that it can suspend a student without affording him a hearing. Even if that procedure existed it is doubtful whether it would pass the test prescribed by Article 47 of the Constitution.

37. The applicant has not only sought an order quashing the decision suspending him but also sought an order of mandamus directing the Respondents to release for examination both internal and external the applicant's thesis for his doctor of Philosophy Degree in Management Science submitted on 20th March 2015. This Court in held in **Republic vs. Commission for Higher Education Ex-Parte Peter Soita Shitanda [2013]eKLR** that:

> **"Article 43(1)(f) of the Constitution provides that every person has the right to education. The right to education would make no sense if a person's academic qualification is not recognised by the State on unreasonable grounds."**

38. This Court appreciates that once it grants an order of certiorari, unless the Respondent is legally obliged to take further steps the Court will leave it to the Respondent to decide on what steps to take and will not compel the Respondent to take particular steps which the respondent is not legally obliged to take. In **Republic vs. University of Nairobi Civil Application No. Nai. 73 of 2001 [2002] 2 EA 572** the Court of Appeal expressed itself as follows:

> **"The learned judge had jurisdiction to quash the University decision but whether he was right or wrong in exercising that jurisdiction in the manner he did is not and cannot be a matter for the Court's consideration in the application for stay of execution pending appeal. It is doubtful whether the university could be prohibited from instituting further disciplinary proceedings after the earlier ones had been quashed unless, of course it was shown that the proposed further proceedings would be contrary to law….. Under section 8(2) of the Law Reform Act, the High Court has power to issue the orders of *certiorari,* prohibition and *mandamus* in circumstances in which the High Court of Justice in England would have power to issue them. The point to be canvassed in the intended appeal being whether, in the exercise of his admitted jurisdiction, the learned judge was in fact entitled to, in effect, issue an order of *mandamus* against the University when neither the applicants nor the University had asked for such an order, is clearly arguable. If the superior court had no jurisdiction to order a retrial, then the validity of the subsequent proceedings held pursuant to such an order would themselves be highly questionable."**

39. In this case however the applicant's right to education would be meaningless unless the results of his examination are released. Accordingly the Respondent is under a constitutional obligation to let the applicant know the results of his examination.

40. The Applicant further seeks an order of mandamus directing the Respondent to enlist his name in the graduation list next following or in any subsequent graduation. It is however clear that the Applicant's results are yet to be released. Accordingly it would be premature to issue such an order at this stage.

Order

41. Consequently the orders which commend themselves to me and which I hereby grant are as follows:

> **1. An order of certiorari removing into this Court for the purposes of being quashed the decision made by the Respondent vide its letter dated 25th February 2016 referenced "Suspension for Examination Irregularities" which decision is hereby quashed.**
>
> **2. Unless the Respondent commences the disciplinary proceedings in accordance with the law within 14 days from the date of this decision, an order of mandamus compelling the Respondent to release for examination both internal and external the applicant's thesis for his doctor of Philosophy Degree in Management Science submitted on 20th March 2015.**
>
> **3. The costs of this application are awarded to the applicant to be borne by the Respondent.**

42. Orders accordingly.

Dated at Nairobi this day 19th of September, 2016

G V ODUNGA

JUDGE

Delivered in the presence of:

Mr P K Njoroge for the Applicant

Mr Mwangi for the Respondent

Cc Mwangi