



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KAJIADO

CONSTITUTIONAL PETITION NO. 3 OF 2015

LUCY WANJIRU.....1ST PETITIONER

JOHN NDIRANGU.....2ND PETITIONER

Versus

THE ATTORNEY GENERAL.....1ST RESPONDENT

THE COUNTY GOVERNMENT OF KAJIADO.....2ND RESPONDENT

RULING

JOHN NDIRANGU and LUCY WANJIRU hereinafter referred as the petitioners filed this petition against the Attorney General and the County Government of Kajiado hereinafter referred as the respondents pursuant to Article 2, 3, 10, 29 (a), 30, 41 (1) (2) (3) (6) and 165 (3) 201 and 259 (1) (8) of the 2010 Constitution of the Republic of Kenya and Rule 11 and 12 of the Constitution of Kenya.

Brief Facts:

On or about the year 2014 the 2nd respondent – County Assembly covered on diverse dates to albeith and legislates over the Kajiado County Finance Act 2014. That the said Act was passed into law on the 17th day of October 2014 and hence having the full force of the law within its intended jurisdiction. That among the key provisions of the Act was introduction of new taxes and levies that were imposed against the business operated by the petitioners among others within the county. That in introducing new taxes and levies, the Act reviewed the existing taxes and levies upward without due consideration of the input of the county residents in breach of the constitution requirement of the public participation. In view of the breach by the respondents' this petition has been filed for court's consideration and declaration of it being declared unconstitutional.

The petitioners were represented by Mr. Omwansa Okenyo advocates whilst the 2nd respondent was represented by firm of Koine Lompo advocates.

The Petitioners' Case:

The petitioners' case is set out in the petition dated 26/1/2015 and filed in court on 29/1/2015. The supporting affidavit of the 1st petitioner, one John Ndirangu dated 27/1/2015 outlines the averments and evidence relied upon by the petitioners to impugn the sued legislation subject matter of this petition.

The grounds on which the petition is based are also set out in the body of the petition. The petitioners

state among other things that the Act harshly reviewed taxes and other levies relating to liquor business without due consideration of the input of the county residents nor their public participation. It is further contended that the 2nd respondent purported public participation was deliberately skewed so as to circumvent the provisions of the constitution.

From the affidavit the petitioner depones that the reviewed taxes and levies have greatly affected their business occasioning a decrease to their only source of income. The petitioners further avers that the changes introduced in respect of the taxes and levies are harsh, punitive and discriminatory by their nature and do amount to double taxation.

According to the petitioners, the 2nd respondent never consulted them nor conducted proper public participation before enactment of the Act. As a result therefore, the respondents passed a legislation containing provisions which were punitive. The petitioners further depones that as a consequent of the action by the respondents, they have been exposed to a real risk of closure of business and loss of livelihood; this denying them fundamental right to economic well being and right to earn a living contrary to the provisions of the constitution.

Citing several provisions of the constitution, the petitioners contended that the 2nd respondent's Finance Act 2014 is in contravention with Articles 2 (1) (5), 3, 22, 23, 10, 196 (1) (b), 199 (1) of the Constitution. The petitioners therefore sought for:

(1) A declaration that the entire Kajiado County Finance Act 2014 is unconstitutional.

(2) An order for compensation.

(3) Costs of the suit

Respondents' Case:

The case for the respondents is brought out in the replying affidavit sworn by Dr. Kennedy Ole Kerei, the County Secretary on behalf of the County Government. The respondent depones that the passage of the Finance Act 2014 did follow the laid down procedures both constitutionally and at the county level.

In his affidavit Mr. Kerei contended that various mediums of media are used by the respondents to involve public participation for their input prior to enactment of the complained Act. It is the respondent's averment that introduction of the Act preceded notices in the local dailies, involving the residents of the entire county for public meetings to seek their input to the bill in question as a legal requirement to its enactment. The respondent further deponed that besides public meetings, the county residents were invited to present proposals, memorandum and also views at scheduled consultative meetings.

In support of this contention the respondent annexed attachment as evidence, a notice to newspapers, scheduled meetings date and views, and level of discussion by way of minutes. The respondent further deponed that all these efforts of the County Assembly going round to hold public meetings with residents were a clear demonstration that their input was sought before enactment of the Act on Finance Act 2014.

As far as the 2nd respondent Finance Act of 2014 was concerned, the deponent avers that the bill was drafted with full participation of members of the public and that the petitioners are aggrieved not by the manner in which the Act was passed but by the increase of taxes and levies upwards. In particular the deponent singled those residents operating liquor business. He urged the court to find that if the orders sought by the petitioners are not tenable as reliefs under the constitution as the 2nd respondent acted within the law and the constitution.

This petition was disposed off by way of written submissions.

The Petitioners' Submissions:

Mr. Omwansa, counsel for the petitioners submitted and singled out the particular facts that constituted to lack of proper participation. Learned counsel contended that the 2nd respondent deliberately skewed the meetings intended for public participation so as to circumvent the provisions of the constitution. Learned counsel further submitted that the 2nd respondent in its news paper notices invited stakeholders instead of members of the public and further alleged that minutes produced are a forgery. Further, counsel for the petitioners submitted that the 2nd respondent advertised for meetings on particular dates and in certain venues but held them on completely different dates and venues other than the ones advertised. Learned counsel further contended that the evidence produced by the 2nd respondent stating the dates advertised in the newspapers do not tally with the dates in which the public forums were held and the venues where those forums were actually held.

2nd Respondent Submissions:

Mr. Koin Counsel for the 2nd respondent submitted that the Finance Act 2014 is constitutional and that the petitioners' allegations do not raise legitimate concerns within the constitutional provisions. In his contention counsel submitted that the major dissatisfaction with the petitioners' has the element of the reviewed taxes and levies relating to liquor licences and not the process of legislating of the Finance Act. Learned counsel further submitted that a reasonable opportunity was given to the members of the public and all interested parties to know about the provisions in the bill. It was counsel's contention that in seeking views, the 2nd respondent does not go about holding personal hearings for every individual or resident of the county. In this regard, counsel relied on the decision in **Petition No. 3 of 2014 John Kinyua Munyaka & 11 Others v County Government of Kiambu & 3 Others [2014] eKLR** for the proposition that the common denominator is what matters in the ultimate is that a reasonable opportunity has been given to the members of the public and all interested parties to know about the issue and to have an adequate say.

The learned counsel also submitted that the petitioners did not controvert the contents of the replying affidavit. In that regard, counsel contended that the public consultations meetings took place and that the petitioners did not assert. That members of the public who attended were denied participation.

Counsel relied on the decision in the **Petition No. 32 of 2014 Meru Bar Wines and Spirits Owners of Self Help Group v County Government of Meru [2014] eKLR** on the proposition that the fact the respondent produced evidence that published public meetings consultative meeting between the respondents assembly and public took place over the subject Bill 2014 is enough proof that public participation took place. Learned counsel further relied on the following two more authorities; **Petition No. 79 of 2014 Milly Glass Works Ltd & 3 Others v County Government of Mombasa & 2 Others [2016] eKLR** and **Petition No. 42 of 2014 Metropolitan PSV Saccos Union Ltd v 25 Others v County of Nairobi Government & 3 Others [2014] eKLR** both of which bring out the principle of degree of participation.

In summary counsel argued that it is not expected that personal hearings are given to every individual who claims to be affected by the legislation, but what matters is that a reasonable opportunity is offered to the residents and stakeholders to participate for input to the Bill before enactment into law.

The issue for determination therefore is whether the Kajiado Finance Act 2014 was passed with sufficient public participation as required by the Constitution of Kenya 2010.

ANALYSIS AND DETERMINATION

What provisions of the law will I rely on in order to determine this petition? I will start with the constitutional provisions and County Government Act.

Article 22:

“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.”

Article 23 (1):

“The High Court has jurisdiction in accordance to 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.”

Article 10 of the Constitution of Kenya provides:

“(1) The national values and principles of governance in this Article bind all state organs, state officers, public and all persons whenever any of them:

- (a) Applies or interprets this constitution.**
- (b) Enacts, applies or interprets any law or**
- (c) Makes or implements public policy decision.**

(2) The national values and principles of governance include:

- (a) Patriotism, national unity, sharing and devolution of power, the rule of law, democracy and participation of the people.**
- (b) Human dignity, equity, social justice, inclusiveness equity.**
- (c) Good governance, integrity, transparency and accountability and sustainable development.**

Article 174 of the Constitution; the objects of devolution of governance are:

- (a) To promote democratic and accountable exercise of power.**
- (b) To foster national unity by recognizing diversity.**
- (c) To give powers of self-governance to the people and enhance the participation of the people in the exercise of the powers of the state and in making decisions affecting them;**
- (d) To recognize the right of communities to manage their own affairs and to further their development.**
- (e) To protect and promote the interests and rights of minorities and marginalized communities.**
- (f) To promote social and economic development and the provision of proximate, easily accessible services throughout Kenya.**
- (g) To ensure equitable sharing of natural local resources throughout Kenya.**
- (h) To facilitate the decentralization of state organs, their functions and services, from the capital of Kenya and**
- (i) To enhance checks and balances and the separation of powers.”**

Article 196 on the other hand provides:

(1) A County Assembly shall:

(a) Conduct its business in an open manner, and hold its sittings and those of its committees, in public and

(b) Facilitate public participation and involvement in the legislative and other business of the Assembly and its committees.

(2) A County Assembly may not exclude the public, or any media from any sitting unless in exceptional circumstances. The speaker has determined that there is a justifiable reason for doing so.”

Article 201 (a) of the Constitutions provides interalia:

“The following principles shall guide all aspects of public finance in the Republic:

(a) There shall be openness and accountability, including public participation in finance matters.”

Section 87 of the County Government Act 2012 provides:

“Citizen participation in county governments shall be based upon the following principles:

(a) Timely access to information, data, documents, and either information relevant to policy formulation and implementation.

(b) Reasonable access to the process of formulating and implementing policies, laws, and regulations including the approval of development proposals, projects and budgets, the granting of permits and the establishment of specific performance.

(c) Protection and promotion of the interest and rights of minorities, marginalized groups and communities and that access to relevant information.

(d) Legal stating to interested or affected persons, organizations and where pertinent, communities to appeal form or review decisions, or redress grievances, with particular emphasis on persons and traditionally marginalized communities, including women, the youth and disadvantaged communities.

(e) Reasonable balance in the roles and obligations of county governments and non-state actors in decision making process to promote shared responsibility, and to provide complementary authority and oversight.

(f) Promotion of public – private partnerships such as joint committees, technical teams, and citizen commissions, to encourage direct dialogue and concerted action on sustainable development and

(g) Recognition and promotion of the reciprocal roles of non-state actors’ participation and government facilitation and oversight.”

Section 115 of the same Act provides:

“(a) Public participation in the county planning processes shall be mandatory and be facilitated through mechanisms provided form part VIII of this Act.

(2) Such county assembly shall develop laws and regulations giving effect to the requirement for effective citizen participation in development planning and performance management and

within the county and such laws and guidelines shall adhere to minimum national requirements.”

From the above constitutional and statutory provisions, it is evident that the weight placed on public participation in both legislation and policy functions of the government whether at the national or county level cannot be gain said. Specifically Article 196 (b) requires the county assembly to facilitate public participation and involvement in the legislation and other business of the assembly and its committees. The County Assembly therefore have a constitutional obligation to facilitate public participation on policy formulation, legislative process and any other decision affecting residents of the county.

What amounts to public participation? This issue has arisen in other jurisdictions with transformative and progressive constitutions like the Republic Constitution 2010. The right to information is an entitlement in our constitution under Article 35 (1). In india the Supreme Court deal with the right to information as one of the pillars of governance held as follows in the case of *Secretary, Ministry of Information and Broadcasting Government of India & Others v Cricket Association of Bengal & Another*[1995] 2 SCC 161:

“The democracy cannot exist unless all citizens have a right to participate in the affairs of the policy of the country. The right to participate in the affairs of the country is meaningless unless the citizens are well informed on all sides of the issues in respect of which they are called upon to express their views. One sided information, misinformation and non-information, all equally create an uninformed citizenry which makes democracy a farce when medium of information is monopolized either by a partisan central authority or by private individuals or oligarchy organizations. This is particularly so in a country like ours where about 65% of the population is illiterate and hardly 1½ percent of the population has an access to the point media which is not subject to pre-censorship.”

The petitioners contended that the 2nd respondent process of disseminating information on the Bill on question through the various forums did not reach the intended public. The legitimate concern by the petitioners in respect of how many of the citizens would access information through the print media that a meeting of the county on a pending bill in the assembly has been tabled for debate.

The issue of public participation in a democracy like ours with a large population with low literacy levels particularly in rural areas is still a growth area. Prior to 2010 there was no public participation in legislative process. Parliament enacted laws affecting citizens under the banner (the members of parliament were acting on behalf of their constituents). Consequently, the Kenyan people had to negotiate and develop a pragmatic approach on issues of governance following promulgation of the Constitution 2010. The values and principles of governance under Article 10 were given life.

What was not achieved is the standard on proper threshold of public participation as a principle of governance in managing the affairs of state and county government affairs. The interest jurisdiction of the courts through case law would continue enhancing the pigeon on public participation by coming up with new tools to guide both state and county governments in this area.

In a further attempt to understand the meaning of public participation, I made a comparative evaluation of South African. I bear in mind that the country has one of the most progressive constitution and that our constitution has similarities with theirs. The country also has devolved units of governance like Kenya where public participation is a key. In the South African case of *Borbet South Africa Ply Ltd & Others v Nelson Mandela Bay Municipality* 3751 of 2011 [2014] ZA EA PEHC 35 [2014] 5 SA 256 the court held:

“The obligation to encourage public participation at local government level goes beyond a mere formulation in which public meetings are convened and information shared. The concept of participating democracy as envisaged by the constitution requires that the interplay between the affected representatives’ structures and the participating community is addressed by means of appropriate mechanisms.

It is this relationship to which the constitution court speaks when it states that there must not only be meaningful opportunities for participation, but that steps must be taken to ensure that people have the ability and capacity to take advantage of those opportunities.”

The learned judge proceeded to state:

“In the contexts of local government, more is required than public meetings and the publication of information. A local council is required to put in place mechanisms that create conditions for public participation and that build the capacity of communities to participate. It is required to allocate resources to the task and to ensure that the political and other structures established by the legislation are employed to meet the objectives of effective participation.”

The case of *King v Attorneys Fidelity Fund Board of Control & Another [2006] 1 SA 474* the Supreme Court expressed the following view:

“Public involvement is necessary on in exact concept with many possible facets, and the duty to facilitate it can be fulfilled not in one, but in many different ways: public involvement might include public participation through the submission of commentary and representations; but that is neither definitive nor exhaustive of its content. The public may become involved in the business of the national assembly as much by understanding and being informed what it is doing as by participating directly in those processes. It is plain that by imposing on parliament the obligation to facilitate public involvement in its processes, the constitution sets of base standard, but then leaves parliamentarians significant leeway in fulfilling it. Whether or not the national assembly has fulfilled its obligation cannot be assessed by examining only one aspect of public involvement in isolation of others, as the appellants have sought to do here? Nor are the various obligations Section 59 (1) imposes to be viewed as if they are independent of one another, with the result that the failure of one necessarily divests the national assembly of its legislative authority.”

In the case of *Doctors for Life International v The Speaker of the National Assembly & Others CCT 12 of 2005 [2006] ZACC 11* the court held that there are at least two aspects of the duty for facilitate public participation and stated thus:

“What is intimately important is that the legislature has taken steps to afford the public a reasonable opportunity to participate effectively in the law making process. Thus construed there are at least two aspects of the duty to facilitate public involvement. The first is the duty to provide meaningful opportunities for public participation in the law making process. The second is the duty to take measures to ensure that people have the ability to take advantage of the opportunities provided. In this sense, public involvement may be seen as a continuum that ranges from providing information and building awareness to partnering in decision making. This construction of the duty to facilitate public involvement is not only consistent with our participatory democracy, but it is consistent with the international law right to political participation. As pointed out that right not only guarantees the positive right to participate in the public affairs, but it simultaneously imposes a duty on the state to facilitate public participation in the conduct of public affairs by ensuring that this right can be realized it will be convenient here to consider each of these aspects beginning with the broader duty to take steps to ensure that people have the capacity to participate.”

Having looked at these precedents, I wish to move closer home. Our Kenyan Constitution 2010 envisages a democracy that is representative; but most importantly the sovereignty of the people and their aspirations for a government based on essential values of human rights, equity, freedom, democracy, social justice and the rule of law.

The other key element being the principle of inclusiveness and public participation in the affairs of governance, the provisions of Article 10 on values and principles of governance must through the

institutions of state and county government. I wish to refer to the case of *Kenya Small Scale Farmers Forum & 6 Others v Republic of Kenya & 2 Others [2013] eKLR*. The court held as follows:

“One of the golden threads running through the current constitutional regime is public participation in governance and conduct of public affairs. The preamble to the constitution recognizes the aspirations of all Kenyans based on the essential values of human rights, equity, freedom, democracy, social justice and the rule of law.

It also acknowledges the peoples sovereign and inalienable right to determine the form of governance of our country. Article 1 bestows all the sovereign power on the people to be exercised only in accordance with the constitution. One of the national values and principles of governance is that of inclusiveness and participation of the people.”

In *Nairobi Metropolitan PSV Saccos Union Ltd & 25 Others v County Government of Nairobi & 3 Others [2014] Supra* public participation does not imply that each of the county residents must give their oral views in the public forums or otherwise write their memoranda, respecting that views on a Bill. But simple acts of say conducting random public forums posting programmes, on popular radio stations and publishing the bill in the dailies with wide circulation would do.”

If therefore particulars views of certain business person/or people of the county were not taken into consideration, that alone does not make the Financial Act 2014 unconstitutional. The persuasive authorities from South Africa and our own jurisdiction is a test to this proposition. The persuasive authority in the case of *Minister of Health v New clicks South Africa Ltd* succinctly stated thus:

“It cannot be expected of the law maker that a personal hearing will be given to every individual who claims to be affected by regulations that are being made.”

The petitioners argued that the forums advertised in the news papers were in certain instances changed on the actual day. The change of venue cannot invalidate public participation. The petitioners tendered no evidence that the change of venue was not communicated to the residents. It was also the submissions by the petitioners that the minutes annexed as evidence of the deliberations was a forgery, but failed to controvert that assertion with cogent evidence.

At this point, I wish to make reference to a Supreme Court of India in the persuasive authority *Harnbarda Wakhana v Union of India AIR [1960] 554* where the judges observed as follows:

“In examining the constitutionality of a statute it must be assumed. The legislative understands and appreciates the needs of the people and the law it enacts are directed to problems which are made manifest by experience and the elected representatives assembled in a legislature enacts laws which they consider to be reasonable for the purpose for which they are enacted. Presumption is therefore in favour of the constitutionality of an enactment.”

I do appreciate that counsel for the 2nd respondent adduced evidence to the effect that a notice was issued in the daily nation on 11/6/2014 notifying and inviting the members of the public for meetings at various venues to present their proposals, views and memoranda. Following issuance of the notice, evidence of scheduled events and attendance list was attached to confirm public engagement in the process of legislation.

I am not in doubt that the 2nd respondent made an effort to collect views from the public in addition to issuance of an advance notice. However, I must caution taking the quote from the persuasive authority from India which denotes our literacy level particularly in the rural areas, the constitution call us to do more on public participation. Indeed I agree and associate myself with the holding in the case of *Robert Ngakuru & Others v Governor of Kiambu County & 3 Others [2014] eKLR*. My brother Odunga J stated thus:

“In my view public participation ought to be real and not illusory and ought not to be treated

as a mere formality for the purposes of fulfillment of the constitutional dictates. It is my view, that it behooves the County Assembly in enacting legislation to ensure that the spirit of public participation is attained quantitatively and qualitatively.

It is my view to sample tweet messages as it were and leave it to those who care to scavenge for it. The County Assemblies ought to do whatever is reasonable to ensure that as many of their constituents in particular and the Kenyans in general are aware of the intention to pass legislation and where the legislation in question involves such important aspect as payment of taxes and levies. The duty is even more onerous.

I hold that it is the duty of the County Assembly in such circumstances to exhort its constituents to participate in the process of the enactment of such legislation by making use of as (sic) may for as possible such as churches, mosques, temples, public barazas, national and vernacular radio broadcasting stations and other avenues where the public are known to converge to disseminate information with respect to the intended action.

Article 196 (1) (b) just like the South African position requires just that.”

Applying the above principles to the facts of the case before me the right to public participation and inclusivity may be viewed as a pragmatic right to be realized progressively overtime. Both the national and county governments will have to put in place mechanisms including embracing new tools to enhance public participation in both policy formulation and legal process.

The importance of this right in a functioning representative democracy like ours cannot be under estimated. In this process, people are given an opportunity to add their voice to the formation of polices and legislature process so that they are aware in advance.

In this regard, evaluating the affidavits by the petitioners and submissions by both counsels, I cannot help but question whether the 2nd respondent outreach programme on public participation on this Act was well planned in order to ensure the quality outcome. I have in mind whether the contention of the Bill for discussion was circulated to the residents well in advance as opposed to them being ambushed on the day of the public forum? Whether the Bill was translated in other languages, say Kiswahili to accommodate those not conversant with English language? Did the forums provide services of an interpreter to those not literate in either English or Swahili? Whether the report of public participation as evidenced by the minutes was to inform or to receive input to enrich the legislation? Whether there were measures taken into account to reach out to the vulnerable groups and or other persons with disabilities? These and many more are areas public participation enhancement is required. As stated in the *Doctors for Life Case* above (*supra*):

“All parties interested in legislation should feel that they have been given a real opportunity to have their say, that they are taken seriously as citizens and their views will receive due consideration at the moments when they could possibly influence in a meaningful fashion.”

The Kenyan constitution has gotten us this far and as a tool through public participation it can maximize leadership for the common good because the same constitution asserts itself that all public power is derived from the people.

The applicants asked this court to declare that the Kajiado County Finance Act 2014 had failed to comply with its obligation in terms of Article 196 of the constitution to facilitate public involvement in its legislative processes leading up to the enactment and assent of the Act by the Governor. The legal proposition in *Mumo Matemu v Trusted Society of Human Rights Alliance & 5 Others [2015] eKLR* provide the answer on how this issue of concern to the applicants should be dealt with. In this case, the court held:

“A party who invokes Article 22 and 23 of the Constitution of Kenya 2010 must set out clearly sections or provisions he claims have been infringed or violated and show how these

sections are infringed in relations to him.”

According to the petitioners, the 2nd respondent failed to conduct any meaningful public involvement. They contended that while the 2nd respondent purported to seek views from the community at various forums, the manner in which they organized them was a breach of the constitution. That in view of lack of appropriate plans of engaging, the public it made the enactment of the Financial Act a product of a flawed process.

The 2nd respondent on their part contended that through the newspaper advert, proper notices of scheduled meetings to take place at each of the subdivisions was a measure to solicit public input and involvement in the legislation process and therefore no breach of the constitution was occasioned as alleged by the applicants.

On consideration from the evidence placed before me, the 2nd respondent through the media published a timetable with dates and venues to engage the public and stakeholders. The 2nd respondent also provided a list of the participants and the minutes of the meetings that took place as evidence on the nature of the deliberations. This controverted the assertion by the applicants on the constitutionality of the process by the 2nd respondent.

I am therefore persuaded that reasonable steps were taken by the 2nd respondent in giving the public and stakeholders an opportunity to give views on the Finance Act 2014 before it was finally passed by the County Assembly. I find that the 2nd respondent complied with Articles 174 (c), Article 196 (1) (a) (b) and 21, Article 201 (a) of the Constitution with its obligations to facilitate public involvement.

DECISION

In the circumstances and drawing from the constitutional provisions, the legal principles in the authorities cited both persuasive and also the jurisprudence emanating from our own superior courts on public participation. I am satisfied that the petitioners have not demonstrated that the 2nd respondent failed to involve the public in the legislative process of the Finance Act 2014. There is evidence that the 2nd respondent took positive steps to give the public and stakeholders an opportunity to input and deliberate on the provisions of the Finance Bill before it was passed by the County Assembly.

The upshot of all these, I find nothing unconstitutional with the Kajiado Finance Act 2014. The petition is hereby dismissed with no orders as to costs.

It is so ordered.

Dated and delivered in open court at Kajiado on 14th day of October, 2016.

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R. NYAKUNDI

JUDGE

Representation:

Mr. Koin Advocate for the 2nd respondent present

Mr. Omwasa Advocate absent though notified of the ruling

Mr. Mateli Court Assistant