



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT GARISSA

CONSTITUTIONAL PETITION NO. E005 OF 2021

IN THE MATTER OF ARTICLE 2 (1), 3 (1), 10 (1) (C) & 10 (2) (A) (B) (C) AND (D) 22 (1), 23 (1), 27(1) (2), 28, 36 (1) (2) AND 3 (A) AND (B), 39 (1), (2) AND (3) , 40 (1) (3), 47 (1), (2), 61 (1), (2), 63 (1), 165, 258 AND 259 OF THE CONSTITUTION OF KENYA 2010

AND

IN THE MATTER OF SECTIONS 1,2,3 (1) (A) AND (C), 5 (1) (A), (B), (C), & (D) (I) (II) AND (III), 7 (1) (A), 7 (2) (A), 7 (2) (A) (I) & (V), (C), (E), (F), (G), (H), (L), (M), (N) & (O) OF THE FAIR ADMINISTRATION ACTION ACT, NO 4 OF 2015 LAWS OF KENYA

AND

IN THE MATTER OF SECTIONS 2,5 (1) & 7 (1) (2) (3) (4) (5) & (6) OF THE COMMUNITY LAND ACT, NO 27 OF 2016 LAWS OF KENYA

AND

IN THE MATTER OF SECTION 3 (1) (2) (3) (4) (5) (6) (7) AND (8), 4 (1) AND (2), 8 (1) (2) (3) & (4) OF THE COMMUNITY LAND REGULATIONS, NO 27 OF 2016 THE LAWS OF KENYA

BETWEEN

CHEUB ADAN ALI.....1ST PETITIONER

ALI ABDULLAHI ISSACK.....2ND PETITIONER

TAQIUDIN HASSAN AFEY.....3RD PETITIONER

ABDULLAHI ABASS SHEIKH.....4TH PETITIONER

VERSUS

COMMUNITY LAND REGISTRAR

NORTH EASTERN REGION- MANDERA.....1ST RESPONDENT

THE CABINET SECRETARY,

MINISTRY OF LANDS & PHYSICAL PLANNING.....2ND RESPONDENT

THE HONOURABLE ATTORNEY GENERAL.....3RD RESPONDENT

JUDGEMENT

1. The petitioners herein filed a petition dated 25th May 2021 seeking the following Orders;

- a. A declaration that the Respondents’ jointly and severally actions and decision of cancelling the Petitioners’ meeting that elected

the Community Land Management Committee members have infringed on the petitioners' legitimate expectation that as a public authority the respondent would uphold the principles of fairness, equality, good governance, natural justice and constitutionalism.

b. A declaration that the petitioner's fundamental rights and freedoms as enshrined under Articles 10 (1) (c) & 10 (2) (a) (b) (c) and (d), 36 (1), (2) (3), 40 (3), 47,56, 61 and 63 of the Constitution of Kenya 2010, have been contravened and infringed upon by the Respondents jointly and severally herein.

c. A declaration that the 1st Respondent's notice dated 26th May, 2021 purporting to cancel the petitioners' meeting that elected the Community Land Management Committee members is unconstitutional, illegal, null and void ab initio.

d. An Order of Certiorari to remove into this Honourable court and quash the 1st Respondent's cancellation notice dated 26th May 2021 purporting to cancel the Petitioners' meeting that elected the Community Land Management Committee members.

e. An Order declaring that the elections held on 26th May 2021 by the Petitioners and other members of the Murule Community and Management Committee member to be valid.

f. An Order of Mandamus directing the Respondents jointly and severally to approve and/or accept the election results of the Petitioners and Other members of the Murule Community.

g. An Order of Prohibition restraining the Respondents jointly and severally from initiating any Land Adjudication process in Mandera County before the approval of the election results of the petitioners and other members of the Murule Community by the Respondents and in the alternative before the hearing and determination of this Petition.

h. General, exemplary and aggravated damages under Article 23 (3) (e) of the Constitution of Kenya 2010 for the unconstitutional conduct of the 1st Respondent.

i. An Order for the Costs of the Petition.

j. Interest.

k. Any other relief that this honourable court may deem fit and just to grant in the interest of justice.

2. The petition is supported by the Verifying Affidavit of **Chueb Adan Ali, the 1st Petitioner** who averred that the petitioners are residents of Murule Community. That with intent to register their claim for interest in land notified the Mandera Community Land register in form CLA1.

3. That the Community land registrar subsequently invited all members of the Community with communal interest to a public meeting on 26th May 2021 at Lafey CDF Hall for the purpose of electing the member of the community Land Management Committee.

4. That the registrar through a letter dated 19th May 2021 appointed Lafey Sub County Commissioner to preside at the meeting. That the meeting was carried at 10 a.m. and in accordance with Section 7 (5) of the Community Land Act 2016.

5. That fifteen (15) members from amongst the community were elected members of the Community Land Management Committee. The members of the Committee further met on 26th May 2021 and elected four (4) members from among themselves to be executive officers.

6. That the members of the Community further met on 26th May 2021 and resolved to adopt the proposed rules and regulations of the Community and directed that the Community Land Management Committee applied for registration of the Community at the registrar.

7. That the Community Land Management Committee prepared all necessary documents needed in the application for registration of the Community.

8. That to the Community Land Committee's utter shock and disbelief, the 1st Respondent had unilaterally and without reason issued a notice on 26th May 2021 purporting to revoke their election.

9. That no one from the Murule Community is contesting either the elections or the intention to register as a community.

10. The Petition was opposed by the 1st Respondent through a Replying affidavit dated 22nd July 2021 sworn by **Joel Mwinzi, the Community Land Registrar, Garissa, Mandera and Wajir Counties**. He confirmed that the petitioners made an application for recognition of Murule Community and interest of claim on community Land on 18th May 2021. That on 19th May 2021 they invited member of the Murule Community for a meeting to be held on 26th May 2021 for the purpose of electing member of the Community Land Management Committee.

11. That following the publication of the notice of 19th May 2021, they received a letter from the County Government of Mandera dated 21st May 2021 objecting to the invitation to elect members of the Murule Community to the Community Land Management Committee.

12. That the County Government of Mandera gave various reasons including that they are the custodian of all unregistered Community land. That the County Government of Mandera had previously through a letter dated 23rd April 2019 submitted to the Ministry an inventory of all unregistered community land in compliance with Regulation 18 of the Community Land Regulations 2017
13. That after carefully reviewing the inventory of all unregistered Community land in Mandera County the land referred to by the Petitioners i.e. **Mandera Ramu Elmwak** is not listed as part of unregistered Community Land. That Mandera Ramu Elwak is unknown to the County Government of Mandera. The same made the authenticity of the Community and the petitioners herein doubtful.
14. That the letter has also alluded to the inter-clan conflict that has taken place between neighbouring communities on matters of land disputes and the same is being resolved by the National Cohesion and Integration Commissions and supported by the agencies. That the notice also prompted the filing of a petition in **High Court at Garissa Petition No. E005 OF 2021 Ali Hussein Maalim and 5 Others vs Cs Lands, County Government of Mandera and the Hon Attorney General** which alludes to the existence of several ethnic groups in Madera and that there was no public participation prior to issuance of the notice in accordance with the law.
15. He further averred that after reviewing the letter from the County Government of Mandera made a decision to cancel the purported meeting of 26th May 2021. That the Community Land Registrar has the mandate to cancel the meeting at any time as was the case herein so long as there are sufficient reasons to do so. That the cancellation was necessary, the same was done on the public interest and with utmost good faith.
16. The 1st petitioner filed Supplementary Affidavit dated 28th July 2021. He averred that Sections 7 and 8 of the Community Land Act dictates a step to step process for the registration of a community and the procedure for recognition and adjudication of community land respectively.
17. That registration of communities preceded the recognition and adjudication of community land. That the indication that they ought not to be registered due to the inventory is a misguided interpretation as they are in the registration stage and not at the recognition and adjudication of community land stage.
18. That it is after the registration of the Community that the Cabinet secretary will liaise with the county Government to document, map and develop an inventory of the community land.
19. That the inventory of all unregistered Community land submitted by Mandera County Government to the 1st and 2nd Respondent erroneously and maliciously lists the existing sub-counties/constituencies as communities contrary to Regulation 12 (3) of the Community Land Regulation 2017.
20. That they wrote to the 1st and 2nd Respondents inquiring on the reasons for the cancellation notice but to date the Respondents have neglected to provide any reasons. That the Reasons now afforded by the Respondents ate an afterthought and in breach of the provisions of Section 5 of the Fair Administration Action Act, 2015.
21. That the land referred to as Mandera-Ramu, Ramu-Elwak and Elwak- Mandera is a road landmark known to Mandera County Government traversing through various constituencies in Mandera County showing the locality of the petitioner's community.
22. That Whether the land exists is a matter to be determined at the adjudication of community land stage where the County government will be a stakeholder.
23. That it is an open historical fact that the Murule Community is one of the major communities residing in Mandera County as captured under **The Special Districts (Administration) Act, Cap 105 (now repealed)**. That the Registration of the Community was equally recommended in **Mohammed Hussein Yakub & 5 others v County Government of Mandera & 5 Others [2020] eKLR** and in Clause 7.1.1 of the Arbitration Clause. He also averred that he is not aware of the Determination in **Petition No. E005 of 2021 ALI Hussein Maalim and 5 Others vs. CS Lands, County Government of Mandera and the Hon. Attorney General**.
24. On 22/11/2021 the Court directed the parties to canvass the petition through written submissions.
25. The petitioners dispute the notice and the manner the Respondent conducted the process. They submit that the provisions of Section 7 of the Community Land Act do not grant the registrar the authority to cancel the community meetings. That the 1st Respondent in issuing the notice to cancel the meeting that sought to elect the community Land management committee members was premature and failed to adhere to **Section 5 of the Fair Administrative Action Act, 2015, Article 47 of the Constitution and Section 12 of the Community Land Act**. In this regard, the petitioners cited the following authorities i.e. **Kenya Human Rights Commission vs Non- Governmental Organizations Coordination Board [2016] eKLR, Judicial Service Commission v Mbala Mutava & Another [2014] eKLR, Attorney General v Kituo Cha Sheria & 7 Others [2017] eKLR, Kenya Human Rights Commission vs Non- Governmental Organizations Coordination Board [2018] eKLR**.
26. The petitioners submit that as per the provisions of **Section 3 and 4 of the Community Land Act** for them to stake a claim own and utilize community land they have to register. The community registration is a precursor to the adjudication of Community land; if the adjudication process is commenced by the Respondent before the registration of the petitioner's community, the petitioners stand to suffer irreparable harm.
27. The petitioners further submitted that the respondents created a legitimate expectation to the petitioners that upon presenting a notice of intention to register as a community, and the issuance of a notice inviting the petitioners to a meeting that sought to elect the community land management committee, they would present their documents and be registered as a community. That the Respondent doubting their

authenticity as a community even after being alive to their role in the arbitration process can only be construed as being a statement that is false, malicious engineered to defeat the ends of justice. That it was hypocritical for the county government of Mandera to vehemently object to their registration as a community and fervidly recommend their registration in **Mohammed Hussein Yakub & 5 others v County Government of Mandera & 5 Others [2020] eKLR**.

28. While arguing that they warrant the Orders sought, they submitted that they are a recognizable community under the **Special Districts (Administration) Act Cap 105 (repealed)**. That the intent of their registration is in line with the arbitration resolutions and to cure the perennial skirmishes in communal land boundaries. That even if adjudication in Mandera County never happens, they stand to tremendously benefit as a registered community on all other benefits stipulated under **Regulations 8 (5) (b) of the Community Land Regulations 2017**.

29. The Respondent submitted that the petitioners have not indicated to the Court the provisions of the constitution that have been violated and neither have the petitioners availed the particulars pertaining to the manner in which the articles have been violated.

30. The Respondent also relied on the provisions of **Section 7 of the Community Land Act** as read with section 48 of the Interpretation and General Provisions Act to submit that they are well within their power and mandate to call for and cancel the meeting. On legitimate expectation, the Respondent submitted that there was no express and/or clear promise by the Community land registrar to register the petitioners, that the Community Land Registrar cancelled the meeting as a result of the letter objecting to the same from the custodian of unregistered community land. The respondent relied on the following authorities i.e. **Anarita Karimi Njeru vs. Republic (1979) eKLR**, **Mumo Matemu vs Trusted Society of Human Rights Alliance and 5 Others (2013) eKLR**, **Commission on Administrative Justice vs Kenya Vision 2030 Delivery Board & 2 others [2019] eKLR**, **Kingdom Kenya 01 Limited versus the District Land Registrar, Narok & Fifteen (15) Others [2018]**, **Kenya National Examination Council versus Republic Exparte Geoffrey Gathenji Njoroge & 9 Others, Communications Commission of Kenya & 5 Others vs Royal Media Services Ltd & 5 others [2014] eKLR**.

Analysis and Determination

31. From the averment made by the parties and the submissions filed thereon, I find that the following issues have been raised for this court's determination; *Whether the petition as filed raises constitutional issues competent to be determined by this court? Whether the petitioner's rights have been violated by the actions of the Respondent? Whether the petitioners warrant the Orders sought?*

32. On the *first issue*, is now settled that if a person is seeking redress from the High Court on a matter which involves a reference to the Constitution, it is important (if only to ensure that justice is done to his case) that he should set out with a reasonable degree of precision that of which he complains, the provisions said to be infringed, and the manner in which they are alleged to be infringed. See **Anarita Karimi Njeru v Republic [1979] eKLR**

33. The same sentiments have been echoed in **Mumo Matemu v Trusted Society of Human Rights Alliance Civil APP.290/2012 (2013) e KLR** where the court held;

...the principle in Anarita Karimi Njeru (supra) underscores the importance of defining the dispute to be decided by the court... Procedure is also a handmaiden of just determination of cases. Cases cannot be dealt with justly unless the parties and the court know the issues in controversy. Pleadings assist in that regard and are a tenet of substantive justice, as they give fair notice to the other party. The principle in Anarita Karimi Njeru (supra) that established the rule that requires reasonable precision in framing of issues in constitutional petitions is an extension of this principle"

34. In the petition filed herein, the petitioner have outlined violation of the following provisions of the Constitution i.e. articles 10, 40 and 47. He simultaneously outlines the nature of the violation and specifically pleads the same in paragraphs 91, 92 and in the prayers sought. I, therefore, find that the petitioner has met the threshold as set out in **Anarita Karimi Njeru (supra) & Mumo Matemu (supra)**.

35. The petitioners are members of the Murulle Community. They sought to be registered as a community in line with the provisions of the Community Land Act. They undertook the following steps;

(i) Application for registration of interest/claim on Community Land through the filing of Form CL1 with the 1st Respondent on 18/5/2021. In the application, they identify their locality as Mandera- Ramu, Ramu- Elwak and Elwak Mandera Road.

(ii) The 1st Respondent wrote a letter dated 19/5/2021 inviting members of Murule Community to a meeting to be held in Lafey Town at the Lafey CDF Hall on 26/5/2021 whose purpose and effect are to elect members of the Community Land Management Committee.

(iii) The 1st Respondent equally did a letter appointing Eric Oronyi Getembe, Assistant County Commissioner to preside over the election of the Murulle Community Land Management Committee.

(iv) On 26th May 2021, in the presence of the Assistant County Commissioner as the returning officer, fifteen members were appointed as members of the Murulle Land Management Committee. The Assistant County Commissioner did a letter confirming the status.

(v) On the same date the fifteen members appointed four of its members (the petitioners herein) as executive officers of the Land Management Committee. They presented all the documents necessary for registration as a community and presented the same to the 1st Respondent.

(vi) On the same date (26/5/2021) the 1st Respondent advertised a notice in a daily newspaper purporting to cancel the notice dated 19/5/2021 inviting the members of Murulle Community to the election of the land Management Committee.

36. The Respondent relied on the advisory opinion dated 21st May 2021 made by Mandera County Government. In the said opinion the County opines that they do not know a Community known as Murulle Community. That they conducted comprehensive public participation where it was unanimously agreed unregistered land in the county will be based not on tribal enclaves but on pre-existing constituencies. The county government submitted that Mandera county has six unregistered Community lands namely; -

- (i) Mandera West Community Land
- (ii) Banisa Community Land
- (iii) Mandera North Community Land
- (iv) Mandera South Community Land
- (v) Mandera East County Land
- (vi) Lafey Community Land

37. The County government advised that there was an ongoing arbitration supported by the National Cohesion and Integration Commission. The arbitration sought to resolve ongoing disputes between the Garre Community and the Murulle Community owing to the Community Land Boundaries, unjust demarcation of constituencies and the Yado clashes. Amongst the recommendation made by the Arbitration Committee in clause 7.1.1. was that Community land boundaries ought to be demarcated.

38. From the above set of facts one cannot dissuade the notion that there are persons who recognize themselves as Murrulle Community, any averment to the contrary is misguided. The petitioners herein recognize themselves as member of such a community and seek to be recognized as such for purposes of land acquisition as set out in the Community Land Act, 2016.

39. For the purposes of the Community Land Act, 2016, Section 2 of the Act defines a Community as follows;

“community” means a consciously distinct and organized group of users of community land who are citizens of Kenya and share any of the following attributes—

- (a) common ancestry;**
- (b) similar culture or unique mode of livelihood;**
- (c) socio-economic or other similar common interest;**
- (d) geographical space;**
- (e) ecological space; or**
- (f) ethnicity.**

40. From the above definition, a distinction of what is a Community amongst other attributes stems from the use of Community land. The communal use of land is defined as *holding or using land in undivided shares by a community*.

41. **Section 7 of the Act** provides the procedure in registration of Communities. The same provides as follows;

Procedure for registration of communities;

(1) A community claiming an interest in or right over community land shall be registered in accordance with the provisions of this section.

(2) The community land registrar shall by notice in at least one newspaper of nationwide circulation and a radio station of nationwide coverage, invite all members of the community with some communal interest to a public meeting for the purpose of electing the members of the community land management committee.

(3) The notice shall also be given to the national county administrators and county government administrators in the area where the community land is located.

(4) The community land registrar may use all available means of communication including electronic media to reach the community members.

(5) The community shall elect between seven and fifteen members from among themselves to be the members of the community land management committee as provided in section 15, who shall come up with a comprehensive register of communal interest holders.

(6) The community land management committee shall come up with the name of the community and shall submit the name, register of members, minutes of the meeting and the rules and regulations of the committee to the Registrar for registration.

42. **Section 6 of the Act** Vests Community land on the County Government. **Section 8** however provides for land recognition and adjudication. The same provides as follows;

Procedure for recognition and adjudication of community land

(1) Subject to this Act and any law relating to the adjudication of titles to land, the Cabinet Secretary shall, in consultation with the respective county governments, develop and publish in the Gazette a comprehensive adjudication programme for purposes of registration of community land.

(2) The Cabinet Secretary shall, in consultation with the county governments ensure that the process of documenting, mapping and developing of the inventory of community land shall be transparent, cost effective and participatory.

(3) The inventory of community land referred to in subsection (2) may be accessed by the county governments for ease of access by members of the community.

(4) The Cabinet Secretary shall issue a public notice of intention to survey, demarcate and register community land.

(5) The notice shall—

(a) contain the name of the community;

(b) state which land is to be adjudicated;

(c) invite all interested person's interests or any other claim on their claims;

(d) specify an area or areas of land to be a community land registration unit; and

(e) be for a period of sixty days.

(6) The Cabinet Secretary shall cause the land to be adequately surveyed but such survey shall exclude—

(a) all parcels already in use for public purposes; and

(b) adjudicated private land.

(7) A cadastral map of the land shall then be produced and presented to the Registrar for registration.

43. From the provisions of Sections 7 and 8 of the Act, the process is two-tier. First is the registration of the Community then the setting apart of land for purpose of the same being relinquished to the registered community. In this case, what the petitioners have commenced is in line with Section 7 of the Act. The process of recognition and adjudication as outlined in Section 8 is yet to be canvassed.

44. *Were the petitioner's rights violated by the actions of the Respondent?* I have considered the steps taken by the 1st Respondent and the reasons afforded for the cancellation of the notice. The 1st Respondent was present during the process that invited the members of the public and appointed fifteen (15) members as the Land Management Committee. All this while the 1st Respondent did not raise the issue of the community and/or the land not being identifiable. The notice itself did not give reasons why the meeting was being cancelled. The notice was advertised on the same date the meeting was being held.

45. The petitioners have submitted that the provisions of Article 47 of the Constitution have been violated. In **Kenya Human Rights Commission & another v Non-Governmental Organizations Co-ordination Board & another [2018] eKLR** the Court held as follows;

Article 47(1) of the Constitution is in mandatory terms that every person has a right to administrative action that is expeditious, efficient, lawful, reasonable and procedurally fair. Sub Article 2 makes it even more forceful that 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 that action.

34. **Article 260 of the Constitution defines a "Person" to include a company, association or other body of persons whether incorporated or not. In that regard, the 1st petitioner is a person for purposes of Article 47 of the Constitution in that its right as an entity was adversely affected by the respondent's impugned decision and was therefore entitled to an administrative action that was not only procedurally fair and lawful but also reasonable. It was equally entitled to a hearing before the adverse action was taken against it.**

35. The Constitution is the Supreme law of the Republic and decrees as such in Article 2(1). It binds all persons and all state organs in the course of performing their duties. The provisions in Article 47 to the extent that they require that an administrative action to be expeditious, fair, lawful and reasonable, and that where such an action adversely affect a person's right or fundamental freedom, the affected person is entitled to be given written reasons for the action, is a constitutional control over administrative bodies to ensure that they do not abuse their power and that individuals concerned receive fair treatment when actions are taken against them. Failure to observe this constitutional decree, for all intent and purposes, undermines the rule of law and the value of Article `19(1) of the Constitution which states that the Bill of Rights is an integral part of Kenya's democratic state as the framework for social, economic and cultural policies.

46. *First*, the 1st Respondent has not provided proof to show that he communicated the decision to cancel the meeting to the petitioners prior to the advertisement. The reasons have only been presented in court, in what the petitioners describe as an afterthought.

47. *Secondly*, I have considered the reasons presented by the Respondents. Whereas I appreciate the commitment of the Respondents to build cohesion within the community and the need to break tribal enclaves, their mandate in the Community Land Act has been well defined. The procedure has been equally set out. It is not for the Respondents to decide of their own volition and distribute land into constituencies as opposed to communities. Constituencies are administrative entities and do not meet the definition of community as set out in section 2 of the Community Land Act. The Respondents have also not provided evidence as to how/when/where such process of recognition into constituencies was conducted. No minutes, notices, advertisements, cadastral maps have been presented. If constituencies are enclaves that are in cognizance of the Community Land Act due procedure ought to be adhered to.

48. As provided in Section 6 of the Act, the County Government is a custodian for the benefit of the Community. It is upon such community being registered, recognized and land adjudicated that an interest in land can be transferred.

49. *Thirdly*, a community is identifiable with reference to the land they occupy. It was upon the 1st Respondent to conduct due diligence whether the community resides communally within the land they seek to ascertain their rights. This ought to be the first point of call for the 1st Respondent. It is a logical presumption that for the 1st Respondent to have allowed the meeting presupposed under Section 7 of the Act, he had conducted due diligence by issuing notices and seeking opinion from the member of the public and identifying the would-be community as being resident in the land sought after. In this case, the petitioners identified all that land encompassing Mandera Elwak road as their communal land.

50. Have the petitioners satisfied their entitlement to all that land encompassing Mandera Elwak Road? At this stage, I find, not. Recognition and adjudication set out in Section 8 signify an identification process that involves the issuance of notices to persons affected, Survey and the issuance of a cadastral map. This process is to be conducted by the 1st Respondent in conjunction with the County Government. It will therefore be premature to make Orders that presumably grant them an interest in the land at this stage.

51. Does the petitioner warrant the Orders sought? I have highlighted above that due procedure was not followed in the issuance of the notice for cancellation of the meeting. I have taken due regard that at the time of issuing the notice no reasons were afforded. I have nevertheless considered the reasons granted by the 1st Respondent and raised my doubts as to its correctness and legitimacy.

52. The order for general damages was not canvassed by the petitioner. The prayers for mandamus and prohibition cannot be issued at this stage. The appropriate remedy would be judicial review proceedings upon disobedience and/or non-adherence of this courts determination, a remedy that cannot issue at this stage.

53. That being said and done, I find that the petitioner herein is entitled to the following Orders;

a. A declaration is hereby issued that the Respondents' jointly and severally actions and decision of cancelling the Petitioners' meeting that elected the Community Land Management Committee members infringed on the petitioners' legitimate expectation that as a public authority the respondent would uphold the principles of fairness, equality, good governance, natural justice and constitutionalism.

b. A declaration is hereby issued that the petitioner's fundamental rights and freedoms as enshrined under Articles 10 (1) (c) & 10 (2) (a) (b) (c) and (d), 36 (1), (2) (3), 40 (3), 47,56, 61 and 63 of the Constitution of Kenya 2010, have been contravened and infringed upon by the Respondents jointly and severally herein.

c. A declaration is hereby issued that the 1st Respondent's notice dated 26th May 2021 purporting to cancel the petitioners' meeting that elected the Community Land Management Committee members is unconstitutional, illegal, null and void ab initio.

d. An Order of Certiorari is hereby issued quashing the 1st Respondent's cancellation notice dated 26th May 2021 purporting to cancel the Petitioners' meeting that elected the Community Land Management Committee members.

e. An Order be and is hereby issued declaring the elections held on 26th May 2021 by the Petitioners and other members of the Murule Community and Management Committee member to be valid.

f. Cost of the Petition shall be borne by the 1st Respondent.

READ, DELIVERED AND SIGNED VIRTUALLY AT GARISSA THIS 25TH FEBRUARY, 2022

.....

HON. E.C. CHERONO

ELC JUDGE

IN THE PRESENCE OF:

- 1. PETITIONERS/ADVOCATE: ABSENT**
- 2. RESPONDENTS/ADVOCATE: ABSENT**
- 3. IJABO: COURT ASSISTANT**