



Ndambiri & another v Nairobi Metropolitan Services & 6 others; Harambee Sacco & Co-operative Society Limited & 6 others (Interested Parties) (Environment & Land Petition E026 of 2022) [2024] KEELC 3629 (KLR) (2 May 2024) (Ruling)

Neutral citation: [2024] KEELC 3629 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NAIROBI
ENVIRONMENT & LAND PETITION E026 OF 2022**

OA ANGOTE, J

MAY 2, 2024

BETWEEN

DAVID ALFRED NJERU NDAMBIRI 1ST PETITIONER

TITUS KITONGA 2ND PETITIONER

AND

NAIROBI METROPOLITAN SERVICES 1ST RESPONDENT

MOHAMED BADI 2ND RESPONDENT

STEPHEN GATHUITA MWANGI 3RD RESPONDENT

STEPHEN MWADIME 4TH RESPONDENT

RICHARD MUMO 5TH RESPONDENT

FREDRICK OCHANDA 6TH RESPONDENT

ATTORNEY GENERAL 7TH RESPONDENT

AND

HARAMBEE SACCO & CO-OPERATIVE SOCIETY LIMITED INTERESTED PARTY

SUSTAINABLE DEVELOPMENT SOLUTIONS LIMITED INTERESTED PARTY

ALI IBRAHIM HAMAMED INTERESTED PARTY

AMEEY HOMES LIMITED INTERESTED PARTY

SALIM KOMORA INTERESTED PARTY

WILSON LEPARTOBIKO INTERESTED PARTY



RULING

1. Three applications for review are up for this court's determination. These applications all relate to the ruling of this court delivered on 25th January 2024.

The Petitioners' Application

2. The first application dated 8th February 2024, was filed by the Petitioners, who have sought for the following orders:
 - a. Spent
 - b. That the typed and printed copy of the ruling made and delivered on 25th January 2024 by Hon. Justice O.A. Angote be reviewed and amended at Paragraphs 1a, b, c, and d and at Paragraphs 82a to include Stephen Mwadime (4th Respondent).
 - c. That the typed printed and certified copy of the order given on 25th January 2024 by Hon. Justice O.A. Angote and issued on 1st February 2024 be reviewed and amended at Paragraph a to include Stephen Mwadime (4th Respondent).
 - d. That costs be in the cause.
3. The 1st Petitioner deponed that in the ruling dated 25th January 2024, the name of Stephen Mwadime (4th Respondent) is left out at Paragraphs 1a, b, c and d and also at Paragraphs 82a. Further, that in the typed, printed and certified order resultant from the said ruling, the name of the 4th Respondent is left out as one of the contemnors who are to appear before court on 19th February 2024 for mitigation and sentencing.
4. The 1st Petitioner deponed that this is a clerical mistake arising from the omission of Stephen Mwadime in the typed and certified Ruling and Order delivered, which is apparent on the face of the record; that the mistake and error goes to the root of the Petitioners' application and will unjustly and unfairly benefit the 4th Respondent in the application and that the mistake and error does not prejudice any of the other contemnors named in the ruling and order.

The 2nd- 5th Interested Parties' Application

5. The second application dated 31st January 2024 was filed by the 2nd, 3rd, 4th and 5th Interested Parties, who have sought the following orders:
 - a. This Honourable Court be pleased to review and set aside its ruling dated 25th January 2024 and the ensuing orders.
 - b. The application dated 14th June 2023 be dismissed with costs.
 - c. This honourable court be pleased to grant such other directions as it may deem fit and necessary.
6. The grounds of this second application are that there are apparent errors on the face of the record; that there is new and compelling evidence and that there are sufficient reasons to warrant a review.



7. The 2nd- 5th Interested Parties averred that there has been no construction on the site; that the Interested Parties have produced photographs which were taken as late as 30th January 2024 showing that indeed there is no construction; that reliance on the affidavits and photographs commissioned by the Petitioners led to an error on the record; and that as liberties are at stake, the court would rather err on the right side of caution and set aside the orders.
8. The Petitioners have opposed this application through a Replying Affidavit dated 5th March 2024. They assert that the application is frivolous and vexatious; that the Interested Parties have failed to state whether they want the orders stayed, reviewed or set aside and that the Applicants' failure to annex a certified copy of the subject matter orders, renders the application defective, null and void.
9. The Petitioners assert that the grounds on which the application is based and the supporting affidavit sworn by Yusuf Asker do not raise any apparent errors on the face of the record, any new or compelling evidence or any sufficient reasons to warrant a review of the ruling dated 25th January 2024.
10. The Petitioners deponed that the Interested Parties are seeking review of the said ruling yet the Respondents and the 6th and 7th Interested Parties have already filed Notices of Appeal against the said ruling.
11. Further, the Petitioners stated that Yusuf Asker has admitted that the 2nd, 3rd, 4th and 5th Interested Parties participated in the contempt proceedings by filing Replying Affidavits sworn on 20th July 2023 by Ali Ibrahim Hamamed and Yussuf Asker Mohamed and that the court record and the ruling delivered on 25th January 2024 show that the evidence in the responses by the 2nd to 5th Interested Parties was fully considered by this court in the ruling.
12. The Petitioners argued that the photograph annexed to the Supporting Affidavit marked YA-2 is misleading and is calculated to divert the court from the true and actual position on what has been happening on the suit property since 26th May 2023.

The 6th and 7th Interested Parties' Application

13. The third application dated 22nd February 2024 was filed by the 6th and 7th Interested Parties, who have sought for the following reliefs:
 - a. This honourable court be pleased to review and set aside its ruling of 25th January 2024 and ensuing orders therein.
 - b. This honourable court be pleased to grant such as other directions as it may deem fit and necessary.
 - c. The costs of this application be provided for.
14. It is their case that there is an apparent error and there is sufficient reason to warrant the orders sought in the application. They deponed that the 6th and 7th Interested Parties have never participated in this suit and were not served with the court orders of 25th May 2023, neither were they served with the Petitioners' application dated 16th June 2023.
15. According to the 6th and 7th Interested Parties, they only became aware of the contempt proceedings upon receipt of the orders requiring their physical attendance before the court for mitigation and sentencing. They deponed that under Article 50 of the Constitution, parties have the right to appoint a counsel where incarceration is threatened.



16. Accordingly, they deposed, should the mitigation and sentencing proceed, it would be tantamount to condemning them without being heard.
17. In a Replying Affidavit dated 5th March 2024, the 1st Petitioner opposed the application on the grounds that the application is incurably defective in law and is an abuse of court process. According to the 1st Petitioner, the Applicants have failed to annex a certified copy of the orders resultant of the ruling, rendering the application irregular, illegal, null and void.
18. The Petitioners averred that the 6th and 7th Interested Parties were very much aware of the orders made on 25th May 2023 and the contempt of court application dated 14th June 2023; that the Notice of Motion application dated 14th June 2023 was duly served on the two applicants on 16th June 2023 vide Whatsapp, as confirmed in the Affidavit of Service sworn by Roy Kamau on 23rd June 2023 and that the 7th Interested Party even acknowledged receipt of the application and orders and responded vide Whatsapp message sent on 16th June 2023 at 13.31pm.
19. They urge that even with the full knowledge of the orders, and although the 6th and 7th Interested Parties were found guilty of contempt, their contempt for the authority of the court is pronounced by their continued and sustained participation in more illegal and irregular construction activities.
20. The 1st Petitioner referred the court to his affidavit sworn on 13th February 2024 and the supporting affidavits sworn by Patrick Analo Akivaga, Stephen Gathuita, Richard Mumo and Fredrick Ochanda on 12th February 2024. All the parties filed submissions and authorities which I have considered.

Analysis and Determination

21. There are three applications before this court, all seeking for orders of review against the ruling of this court delivered on 25th January 2024 and its consequent orders.
22. While the Petitioners have argued that the Interested Parties have erroneously relied on the review provisions in the *Civil Procedure Act* and Rules, it is notable that the *Constitution of Kenya (Protection of Rights and Fundamental Freedoms) Practice and Procedure Rules* 2013 (Mutunga Rules) is silent with respect to the issue of review.
23. There is ample jurisprudence that where rules lack specific provisions on an issue, parties may rely on the *Civil Procedure Rules*. The Court of Appeal in *Karl Webner Claasen vs Commissioner of Lands & 4 others* [2019] eKLR upheld this position, in which case the trial court had found that the Employment and Labour Relations Rules lacked express provisions on substitution.
24. In the above case, the Court of Appeal held that Rule 3(8) of the *Practice and Procedure Rules* gives the court inherent power to make such orders as may be necessary for the ends of justice and that Article 159(2) (d) and (e) respectively obliges a court to administer justice without undue regard to procedural technicalities and to protect and promote the purpose and principles of the *Constitution*.
25. This court is guided accordingly and shall rely on the rules and tests for review set out in Section 80 of the *Civil Procedure Act* and Order 45 Rule 1 of the *Civil Procedure Rules*.
26. The remedy of review is provided in Section 80 of the *Civil Procedure Act* as follows:

“ Any person who considers himself aggrieved—

 - a. by a decree or order from which an appeal is allowed by this Act, but from which no appeal has been preferred; or



- b. by a decree or order from which no appeal is allowed by this Act, may apply for a review of judgment to the court which passed the decree or made the order, and the court may make such order thereon as it thinks fit.”

27. Order 45 Rule 1 of the *Civil Procedure Rules*, 2010 similarly provides as follows:

- “1. Any person considering himself aggrieved—
- (1) a. by a decree or order from which an appeal is allowed, but from which no appeal has been preferred; or
 - b. by a decree or order from which no appeal is hereby allowed, and who from the discovery of new and important matter or evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the decree was passed or the order made, or on account of some mistake or error apparent on the face of the record, or for any other sufficient reason, desires to obtain a review of the decree or order, may apply for a review of judgment to the court which passed the decree or made the order without unreasonable delay.”

28. From these provisions, the grounds for review which a party must prove are three: (a) discovery of new and important evidence which was not within the knowledge of the applicant or could not be produced at the time the orders were passed; (b) on account of a mistake or error apparent on the face of the record or (c) for any other sufficient reason. This position was upheld in *Republic vs Public Procurement Administrative Review Board & 2 Others* [2018] eKLR as follows:

“Section 80 gives the power of review and Order 45 sets out the rules. The rules restrict the grounds for review. The rules lay down the jurisdiction and scope of review limiting it to the following grounds; (a) discovery of new and important matter or evidence which after the exercise of due diligence, was not within the knowledge of the applicant or could not be produced by him at the time when the decree was passed or the order made or; (b) on account of some mistake or error apparent on the face of the record, or (c) for any other sufficient reason and whatever the ground there is a requirement that the application has to be made without unreasonable delay.”

29. The Petitioners have opposed the two applications filed by the Interested Parties on the grounds that they have filed notices of appeal against the decision of this court dated 25th January 2024. Indeed, the courts have held that the remedies of appeal and review are mutually exclusive and can neither be pursued concurrently or sequentially. The Court of Appeal in *Multichoice (Kenya) Ltd vs Wananchi Group (Kenya) Limited & 2 Others* [2020] eKLR addressing itself on the provisions of review under Order 45 of the *Civil Procedure Act* stated that:

“It has to be stressed that the legal policy of Order 45 is to prevent a party, against whom judgment has been passed, from availing himself of two remedies at one and the same time; to apply for a review in the court below while his appeal (not notice of appeal) is pending in the Court of Appeal. It is now an accepted view that both the Civil Procedure Rules and the Court of Appeal Rules did not contemplate the simultaneous proceedings of review and appeal before two different courts at the same time. Where a party has filed an appeal



but subsequently wishes to apply to the court from which the appeal came to review the decision impugned, that party must, in the first place withdraw the appeal.”

30. The Court of Appeal in *William Karani & 47 Others vs Wamalwa Kijana & 2 Others* [1987] eKLR reached a similar finding, and stated that:

“Both section 80 and order XLIV commence by explaining the fundamental nature of review. It is to be a means of curing gross or obvious errors when an appeal is allowed by the Act, from a decree or order, but no appeal has been preferred; and secondly in cases where no appeal is allowed at all. The broad division then is between the appeal procedure as the general method of curing errors, with its scope to deal with errors of evidential fact or law, or mixed fact and law, and the review procedure, to cure a narrower compass of defects, which cannot be allowed to stand in justice, simply because there is no appeal. From the nature of section 80 and order XLIV both procedures cannot be adopted at once. Hence, supposing that an appeal is allowed by the Act but has not been preferred, review may be taken, if appropriate. Once an appeal is taken, review is ousted and the matter to be remedied by review must merge in the appeal.”

31. The Respondents and the 6th and 7th Interested Parties have filed two Notices of Appeal, both dated 7th February 2024. As it stands, the Court of Appeal is divided as to whether a court can consider a review application after a notice of appeal has been filed. One school of thought is that a review application may not be heard if filed after a Notice of Appeal. The other school of thought opines that a court may consider a review application even though a party has filed a Notice of Appeal.

32. The first school of thought is espoused in the Court of Appeal case of *Kisya Investments Ltd. vs Attorney General and R.L. Odupoy* Civil Appeal No. 31 of 1995, as quoted by the Court of Appeal in *Francis Origo & Another vs Jacob Kumali Mungala* [2005] eKLR. In this case, the court held that a court may not consider an application for review which is filed after a Notice of Appeal has been filed: -

“The principal and the only ground of appeal urged before us was that the first defendant having filed a Notice of Appeal which was struck out it cannot by a subsequent application made thereafter proceed by way of a review. We accept this is a sound proposition of law. The correct position appears to us to be as set out by Sarkar on the Law of Civil Procedure, 8th Edition, where at page 1592 it is stated as follows: The crucial date for determining whether or not the term of 0.47 r. 1 are satisfied is the date when the application for review is filed. If on that date no appeal has been filed, it is competent for the Court to dispose of the application for review on the merits notwithstanding of the pendency of the appeal subject only to this that if before the application for review is finally decided, the appeal itself has been disposed of, the jurisdiction of the court hearing the review would come to an end Review application should be filed before the appeal is lodged. It is presented before the appeal is preferred, court has jurisdiction to hear it although the appeal is pending. Jurisdiction of court to hear review is not taken away if after the review petition, an appeal is filed by any party. An appeal may be filed after an application for review, but once the appeal is heard, the review cannot be proceeded with...A review application is incompetent after appeal is preferred.”



33. Conversely, the Court of Appeal in *Yani Haryanto vs. E. D. & F. Man. (Sugar) Limited* Civil Appeal No. 122 of 1992 held that where a Notice of Appeal has been filed, the court has jurisdiction to consider an application for review. The above case was quoted in *HA vs LB* [2022] eKLR as follows:

“The facility of review under Order 44 of the *Civil Procedure Rules* is available to a person who is aggrieved by an order or decree which is appealable but from which no appeal has been preferred or from which no appeal is allowed, and who from the discovery of new and important matter or evidence or error apparent on the face of the record or for any other sufficient reason, desires to obtain a review. A notice of appeal apart from manifesting a desire to appeal, appears to have a two-fold purpose; one of the purposes is apparent from the rules that follow up to and including rule 79. The other purpose is to enable the High Court to entertain an application for stay of execution before the appeal is filed...What rule 4(1) of Order 41 of the *Civil Procedure Rules* prescribes for is an exception to the rule relating to the actual filing of the appeal which is rule 81(1) of the Court of Appeal Rules. The exception is the deeming of the appeal to be filed for the purposes of rule 4 of Order 41 only on the giving of the notice of appeal. Therefore, despite the lodging of a notice of appeal the court has jurisdiction to entertain an application for review... An appeal is not instituted in the Court of Appeal until the record of appeal is lodged in its registry, fees paid and security lodged as provided in rule 58 and the inclusion of a memorandum of appeal.”

34. In appreciating the conflict of opinion of the Court of Appeal on this issue, Odunga J in *Christopher Musyoka Musau vs Daly & Figgis*, Nairobi High Court Civil Division Civil Case No. 1100 of 2003 aligned with the decision in *Yani Haryanto vs E. D. & F. Man. (Sugar) Limited* Civil Appeal No. 122 of 1992, on the following basis:

“In light of the two decisions emanating from the same Court of Appeal, this Court is entitled to adopt either of the two decisions. In my view the Haryanto Case reflects the true legal position. A Notice of Appeal is not an appeal but just a formal notification of an intended appeal. In fact under Rule 77(1) of the Court of Appeal Rules it is provided that an intended appellant shall, before or within seven days after lodging notice of appeal, serve copies thereof on all persons directly affected by the appeal. Clearly, a strict reading of this rule contemplates a situation where a Notice of Appeal may even be served before the same is lodged. Where that happens, I cannot see how such a Notice which has not even been lodged can by any stretch of imagination be equated to an appeal. Accordingly, the mere fact that a party has given a Notice of intention to appeal does not amount to an appeal for the purposes of review...”

35. This court is persuaded by the above dicta by Odunga J. It shall therefore proceed to consider the three applications for review on their merits.
36. The review application by the 2nd-5th Interested Parties is based on the grounds that there are apparent errors on the face of the record; that there is new and compelling evidence and that there are sufficient reasons to warrant a review.
37. The 2nd- 5th Interested Parties submit that there has been no construction on the site; that they have produced photographs which were taken as late as 30th January 2024 showing that indeed there is no construction; that reliance on the affidavits and photographs commissioned by the Petitioners led to an error on the face of the record; and that as liberties are at stake, the court would rather err on the right side of caution and set aside the orders.



38. It is trite that a review application does not operate as an appeal, and that the focus of the court is not on the merit of the decision, but on how the decision of the court was arrived at. This was set out by the Supreme Court in *Parliamentary Service Commission vs Martin Nyaga Wambora & Others* [2018] eKLR, as follows:

“A review of exercise of discretion is not as a matter of course to be undertaken in all decisions, review of exercise of discretion is not a right; but an equitable remedy which calls for a basis to be laid by the Applicant to the satisfaction of the Court; an Application for review of exercise of discretion is not an appeal or a chance for the applicant to re-argue his/her application, in an application for review of exercise of discretion, the applicant has to demonstrate, to the satisfaction of the Court, how the Court erred in the exercise of its discretion or exercised it whimsically. During such review application, in focus is the decision of the Court and not the merit of the substantive motion subject of the decision under review, the Applicant has to satisfactorily demonstrate that the judge(s) misdirected themselves in exercise discretion and as a result a wrong decision was arrived at; or it is manifest from the decision as a whole that the judge has been clearly wrong and as a result, there has been an apparent injustice.”

39. The Interested Parties have asserted that the error on the face of the record is that contrary to the court’s finding, construction has not been ongoing. The Interested Parties have annexed a photo dated 30th January 2024 as proof that construction has not been continuing, in breach of the orders of this court dated 25th May 2023.

40. In *Muyodi vs Industrial and Commercial Development Corporation & Another* [2006] 1 EA 243, the Court of Appeal described an error apparent on the face of the record as follows:

“In *Nyamogo & Nyamogo v Kogo* (2001) EA 174 this Court said that an error apparent on the face of the record cannot be defined precisely or exhaustively, there being an element of indefiniteness inherent in its very nature, and it must be left to be determined judicially on the facts of each case. There is real distinction between a mere erroneous decision and an error apparent on the face of record. Where an error on a substantial point of law stares one in the face, and there could reasonably be no two opinions, a clear case of error apparent on the face of the record would be made out. An error which has to be established by long drawn process of reasoning or on points where there may conceivably be two opinions, can hardly be said to be an error apparent on the face of the record. Again, if a view adopted by the court in the original record is a possible one, it cannot be an error or wrong view is certainly no ground for a review although it may be for an appeal. This laid down principle of law is indeed applicable in the matter before us.”

41. The courts have held that a mistake or error apparent on the face of the record is not the mistake of a party or counsel but the inadvertent mistake of the Court. This was aptly stated in *Wanjiru Gikonyo & 2 Others vs National Assembly of Kenya & 4 Others* [2016] eKLR:

“When on a review application a party invokes the ground of a mistake or error apparent on the face of the record, it is not the mistake of the party or Counsel that is being referred to, it is the inadvertent error or mistake of the Court that is being alluded to....The Court made that determination based on the facts before it and on the basis of submissions by counsel.

I find it untenable and flawed when it is argued that where counsel has made a mistake, the Court too must be taken to have made a mistake in its findings. That is an argument that



I am unable to accede to. Where counsel makes a mistake and on the basis of such mistake and oblivious of the mistake the court makes a finding it cannot then be said that there is an error on the face of the record.”

42. The court in *Alvin Mbae & 2 Others vs Edwin Nyaga Mukatha & 2 Others* [2022] eKLR made a similar finding:

“The term “mistake or error apparent” by its very connotation signifies an error which is evident per se from the record of the case and does not require detailed examination, scrutiny and elucidation either of the facts or the legal position. If an error is not self-evident and detection thereof requires long debate and process of reasoning, it cannot be treated as an error apparent on the face of the record for the purpose of Order 45 Rule 1 of the *Civil Procedure Rules* and Section 80 of the Act. Put differently, an order, decision, or judgment cannot be corrected merely because it is erroneous in law or on the ground that a different view could have been taken by the court/tribunal on a point of fact or law. In any case, while exercising the power of review, the court/tribunal concerned cannot sit in appeal over its judgment/decision.”

43. The court has considered the photograph annexed by the 2nd to 5th Interested Parties dated 31st January 2024. The photograph is, however, blurry and unclear and offers no insight to this court as to the status of the suit property. The Interested Parties have therefore failed to produce new and compelling evidence that requires the review of this court’s decision.
44. In any event, the Interested Parties’ assertions goes to the merits of this court’s determination and would be tantamount to an appeal of the said ruling. This court therefore declines such invitation as it is not within its mandate to reconsider the merits of its determination.
45. This court finds that the 2nd, 3rd, 4th and 5th Interested Parties have failed to show that there was an error on the record of the court; have not produced new and compelling evidence, neither have they showed sufficient reasons to warrant a review of this court’s orders. The application therefore lacks merit and is hereby dismissed.
46. The 6th and 7th Interested Parties’ case is similarly grounded on the assertion that there is an apparent error on record. They depone that they have never participated in this suit and were not served with the court orders of 25th May 2023 nor were they served with the Petitioners’ application dated 16th June 2023.
47. According to the 6th and 7th Interested Parties they only became aware of the contempt proceedings upon receipt of the orders requiring their physical attendance before the court for mitigation and sentencing.
48. The Petitioners averred that the 6th and 7th Interested Parties were very much aware of the orders made on 25th May 2023 and the contempt of court application dated 14th June 2023. They assert that the Notice of Motion application dated 14th June 2023 was duly served on the two applicants on 16th June 2023 vide Whatsapp, as confirmed in the Affidavit of Service sworn by Roy Kamau on 23rd June 2023. They claim that the 7th Interested Party even acknowledged receipt of the application and orders and responded vide Whatsapp message sent on 16th June 2023 at 13.31pm.
49. This court duly takes notice that neither the 6th nor the 7th Interested Parties have entered appearance in this suit. These parties were enjoined by the Petitioners upon the institution of this suit. The court also notes that the orders of this court dated 25th May 2023, which orders were the basis of the contempt



proceedings, were sought against the 1st, 2nd, 3rd, 4th and 5th Interested Parties and were granted against the said parties. The injunction orders were not issued against the 6th and 7th Interested Parties.

50. This court also notes that in the body of its ruling dated 25th January 2024, it did not make any finding of contempt against the 6th and 7th Interested Parties. The inclusion of the 6th and 7th Interested Parties in the ultimate list of parties found to be guilty of contempt under paragraph 82(a) was therefore in error.
51. The 6th and 7th Interested Parties' application is therefore successful. The names of these parties should therefore be expunged from the ruling dated 25th January 2024 and the consequent orders.
52. In the third application, the Petitioners have asserted that there is an error on the face of the record of the court by the exclusion of the name of the 4th Interested Party, Stephen Mwadime.
53. This court notes that there is an error in the failure to include the name of the 4th Respondent in paragraphs 1a, 1b, 1c and 1d in its ruling dated 25th January 2024, wherein it laid out the reliefs sought by the Petitioners in their application. The exclusion of the 4th Respondents name from the final orders of this court was also in error.
54. Having found the application by the 6th and 7th Interested Parties and that by the Petitioners to be merited, and that the application by the 2nd-5th Interested Parties lacks merit, the ruling of this court dated 25th January 2024 and its consequent orders are reviewed and varied as follows:
 - a. The name of the 4th Respondent, Stephen Mwadime is hereby included in paragraphs 1a, b, c, and d and at Paragraphs 82a of the ruling dated 25th January 2024.
 - b. The name of the 4th Respondent shall also be included as a contemnor in the orders, directions and notices of this court issued pursuant to its ruling dated 25th January 2024.
 - c. The names of the 6th and 7th Interested Parties are hereby excluded and expunged from Paragraph 82(a) of the ruling of this court dated 25th January 2024.
 - d. The names of the 6th and 7th Interested Parties are hereby excluded and expunged from the orders of this court dated 25th January 2024.
 - e. The 2nd – 5th Interested Parties' application dated 31st January, 2014 is dismissed.
 - f. Each party to bear its/his own costs.

DATED, SIGNED AND DELIVERED VIRTUALLY IN NAIROBI THIS 2ND DAY OF MAY, 2024.

O. A. ANGOTE

JUDGE

In the presence of;

Mr. Wageni for Petitioners

Ms Omwamba holding brief for Baka for 1st Respondent

Mr. Bashir for 2nd, 3rd, 4th and 5th Interested Parties

Mr. Jamal holding brief for Njenga for 6th and 7th Interested Parties.

Court Assistant - Tracy

