



Beta Metals KE Limited v Cabinet Secretary for Mining, Blue Economy and Marine Affairs & another; Okoth (Intended Defendant) (Environment & Land Petition E006 of 2024) [2024] KEELC 13681 (KLR) (4 December 2024) (Ruling)

Neutral citation: [2024] KEELC 13681 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT MOMBASA
ENVIRONMENT & LAND PETITION E006 OF 2024
LL NAIKUNI, J
DECEMBER 4, 2024**

BETWEEN

BETA METALS KE LIMITED PETITIONER

AND

CABINET SECRETARY FOR MINING, BLUE ECONOMY AND MARINE AFFAIRS 1ST RESPONDENT

THE ATTORNEY GENERAL 2ND RESPONDENT

AND

BERNARD OTIENO OKOTH INTENDED DEFENDANT

RULING

I. Introduction

1. What is before the court is a Notice of Motion application dated 16th July 2024 by "Beta Metals Ke Limited", the Petitioner/Applicant which was brought under a Certificate of urgency. The application was under the dint of Articles 2, 3, 10, 20, 21, 22, 23, 24 and 47 of *the Constitution* of Kenya, 2010, Rules 10 and 23 of *the Constitution* of Kenya (Protection of Rights and Fundamental Freedoms) Practice and Procedure Rules, 2013 and all other enabling provisions of the Law.
2. Daniel Muliro counsel stated That the 1st Respondent had illegally cancelled the Petitioner's mineral dealer (trading) license and That the cancellation was illegal for reasons among them That there was no proper notice given and That the 1st respondent was settling scores. The court certified it urgent and "inter partes" hearing was conducted on 30th September 2024.



II. The Petitioner/Applicant's case.

3. The Petitioner/Applicant sought the following orders:
 - a. Spent.
 - b. That pending inter - partes hearing and determination of this motion or until further orders, this Honourable Court be pleased to issue a conservatory order, suspending the decision to revoke the Petitioner's mineral dealer (trading) license DTL/2024/2171 contained in a letter dated 8th of July 2024 by the Cabinet Secretary for Mining, Blue Economy and Maritime Affairs.
 - c. That pending the hearing and determination of this Petition or until further orders, this Honourable Court be pleased to issue a conservatory suspending the decision to revoke the Petitioner's mineral dealer (trading) license DTL/2024/2171 contained in a letter dated 8th of July 2024 by the Cabinet Secretary for Mining, Blue Economy and Maritime Affairs.
 - d. That any other or further interim relief or reliefs pending petition as deemed just and expedient by the court in the circumstances.
4. The said application is premised on grounds, testimonial facts and the averments made out under the 35 Paragraphed supporting Affidavit by NAOMI KURIA sworn on 16th July 2024. She averred as follows That :
 - a. She was a Director of the Petitioner/Applicant. It was incorporated under the Companies Act, 2015 dealing in the minerals trade in Mombasa, Nairobi and other towns across the country.
 - b. The Petitioner/Applicant had been issued with a mineral dealer (Trading) license DTL/2024/2171 which she annexed and marked as "NK - 2". It was a duly licensed mineral dealer within the meaning of the Mining Act Cap. 306 read together with the Mining (dealings in minerals) Regulations until 8th July 2024 when the 1st Respondent revoked the Petitioner/Applicant's license. She annexed the license and the said letter marked as "NK - 3" and "NK - 4" respectively.
 - c. She detailed how the Petitioner/Applicant's right to fair administrative action under the provision of Article 47 of the Constitution as read with the provision of Section 4 of the Fair Administrative Act, 2015 was violated. Specifically, she stated That it entailed the following:
 - i. The Petitioner/Applicant be given proper and adequate notice of the nature and reasons for the proposed administrative action.
 - ii. The Petitioner/Applicant be accorded an opportunity to be heard and to make representations on the decision.
 - iii. Be supplied with a statement of reasons as well as information, materials, and evidence to be relied upon in making the decision or taking administrative action.
 - iv. Where applicable, a notification of the right to cross -examine and legal representation.
 - d. She also stated That under the provision of Section 7 of the Fair Administrative Action Act, 2015 and act was deemed administratively unfair if:
 - i. The person making the decision was not authorized in law to do so or was acting in excess of jurisdiction or power conferred upon him.



- ii. The person who made the decision was biased or may reasonably be suspected of bias or decision was taken with ulterior motive or purpose calculated to prejudice the legal rights of applicants.
 - iii. The person who made the decision denied the person to whom the administrative action or decision relates, a reasonable opportunity to state his/her case.
 - iv. A mandatory and material procedure or condition prescribed by an empowering provision was not complied with or That the action or decision was procedurally unfair.
 - v. The action or decision was materially influenced by an error of law or That the administrator failed to take into account relevant considerations.
 - vi. The administrative action was made in bad faith.
 - vii. The administrative action was unreasonable or not rationally connected to:
 - a. The purpose for which it was taken.
 - b. The purpose of empowering provision.
 - c. The information before the administrator
 - d. The reasons given for it by the administrator.
 - viii. There was abuse of power, or the administrative action is not proportionate to the interests affected and violates the legitimate expectations of the person to whom it related.
- e. She described how the above provisions could be used or illustrated the unfair administrative action which was as follows:
- i. The *Mining Act* Cap 306 never granted the 1st Respondent express authority to revoke mineral dealer (trading) licenses and hence the decision was ultra - vires, unfair and illegal.
 - ii. The 1st Respondent never allowed the Petitioner/Applicant to make representation and defend itself.
 - iii. The Petitioner/Applicant was not given adequate and proper notice of the nature and reasons for the 1st Respondent's decision to revoke its license.
 - iv. The 1st Respondent failed to take into consideration the relevant factors and instead relied on irrelevant factors as shown below:
 - 1. The main reason by the 1st Respondent was That the license granted to Petitioner/Applicant permitted the them to deal in multiple minerals instead of a specific mineral which according to the 1st Respondent was against the government policy.
 - 2. Regulation 7 (2) (d) of the Mining (Dealings in Minerals) Regulations provides That an application for a mineral dealers (trading) license shall state the name of the mineral or category of minerals for which the license is sought.



3. Regulation 9 (1) Mining (Dealings in Minerals) Regulations further provides That a mineral dealer’s license confers on the holder the right to trade in the mineral or minerals to which the license related and conduct any ancillary or incidental activity attached to the license.
4. The regulations clearly illustrated That a minerals dealer’s license could indeed provide for trade in multiple minerals or categories of minerals.
- v. The reasons given by the 1st Respondent to justify the decision are therefore irrational and unreasonable.
- f. She stated That under the provision of Article 10 of *the Constitution*, all state organs, state officers and public officers were bound by the national values and principles of governance in the performance of their duties and That the national values include the rule of law and it was expected That state officers will follow the law in making decisions and would not act arbitrarily.
- g. The Deponent also averred That the principles of good governance, integrity, transparency and accountability is expected That decisions of state officers should be in good faith and generally above board.
- h. She stated That unless the Petition was heard and determined on a priority basis the substratum of the Petition would be rendered nugatory as the license is valid for one (1) year only.
- i. She was of the opinion That if the decision was allowed to stand, the Petitioner/Applicant risked suffering immeasurable harm with no end in sight given the current situation.

III. The replies by 1st Respondent

5. While opposing the application, the 1st Respondent filed vide a Replying Affidavit sworn and dated on 30th August 2024 by one GREGORY KITUKU, the Acting Director of Mines in the State Department for Mining, Ministry of Mining, Blue Economy and Maritime Affairs. He averred as follows That :-
 - a. The Cabinet Secretary was the General Administrator of the *Mining Act* Cap. 306 as stipulated in the provision of Section 12.
 - b. As an administrator, the Cabinet Secretary was authorized by the statute to grant, reject or revoke a mineral right and was further authorized under PART X of the *Mining Act* to award mineral dealings rights to applicant;
 - c. In line with regulation 6 (1) and 10 of the Mining (Strategic Minerals) Regulations, the 1st Respondent sought approval from the Cabinet on the declaration of some minerals as strategic which was approved vide a cabinet brief dated 3rd October 2023 and marked as “GK - 1”;
 - d. Consequently the strategic minerals were gazetted as per the gazette notice 14732 dated 3rd November 2024 marked “GK 2” and in line with regulation 8 of the Mining (Strategic Minerals) Regulations all the strategic minerals are vested in the National Mining Corporation;
 - e. The corporation functions with regards to strategic minerals include processing, refining smelting, marketing, sale, importation and exportation; That on 20th December 2023 the Petitioner/Applicant made an application for renewal of DLT/2024/2171 from a previous license DTL/2022/1410 which is exactly one month after the declaration above mentioned;



- f. In renewing the license the Cabinet Secretary ought to have considered the cabinet resolution which declared some minerals strategic, however he added That interested parties could partner with National Mining Corporation where it never had financial or technical expertise.
6. Mr. Kituku further averred That the Petitioner/Applicant proceeded to deal with copper despite it being declared as strategic which was not only illegal but unlawful as the information was highly publicized within the mining sector circles.
7. The 1st Respondent's letter dated 8th July 2024 informed the Petitioner/Applicant of the circumstances under which the license was erroneously issued and gave the Petitioner/Applicant the option to apply for minerals which had not been declared strategic; That this country stood to lose revenue as the trade would have been illegal and the Ministry risked being impartial and favouring specific applicants in the issuance of rights to deal in strategic minerals;
8. Upon receiving the revocation letter, the Petitioner/Applicant applied for DTL/2024/2648 and DTL/20242650 for beryllium and lead respectively on 10th July 2024 which showed That the provision of Section 173 of the *Mining Act* Cap. 306 conferred on the 1st Respondent the authority to revoke any dealer's license That fails to comply with the provisions and regulations and That the Petitioner/Applicant failed to file returns for the year 2021 and 2022 when they were still license holders as stipulated under in regulation 9 (f) and 23 (b) of the Mining (Dealings in Minerals) Regulations 2017;
9. The Petitioner/Applicant was mainly dealing with copper and That if the court allows this application it would be allowing the Petitioner/Applicant to continue illegally trading in copper and thus perpetrating an injustice against other dealers who complied with the regulations;
10. This application had been overtaken by events since the Petitioner/Applicant had already applied for licenses in dealing with lead and beryllium.

IV. Submissions

11. On 3rd October, 2024 when all the parties were present in Court, they were directed to have the Notice of Motion application dated 16th July, 2024 be disposed off by way of written submissions. However, despite of the said orders, by the time the Honourable Court was penning down this Ruling, it had not been able to access any written submissions by the parties hereof. Thus, the Honourable Court proceeded to deliver the Ruling on its own merit on 4th December, 2024 accordingly.

V. Analysis and Determination

12. I have keenly perused the filed pleadings being the application dated 16th July 2024 and the replying affidavit, the relevant provisions of *the Constitution* of Kenya, 2020 and the statutes. In order to arrive at an informed, reasonable and Equitable decision, the Honourable Court has condensed the subject matter into the following three (3) salient issue for its determination. These are:-
- a. Whether the Notice of Motion application dated 16th July, 2024 by the Petitioner/Applicant has any merit whatsoever.
 - b. Whether the parties herein are entitled to the reliefs sought.
 - c. Who bears the costs of the application.



ISSUE No a). Whether the Notice of Motion application dated 16th July, 2024 by the Petitioner/ Applicant has any merit whatsoever.

13. Under this sub – heading the Honourable Court will endeavor to critically examine whether the prayers for conservatory orders sought by the Petitioners/Applicants have any merit. It will be significant to critically explore all the legal parameters That govern the granting of Conservatory orders. In doing so, it is imperative first and foremost to note That this Honourable Court as a court of equal status is empowered by the provision of Article 23 (3) (c) of *the Constitution* to issue conservatory orders as a relief with the rider That the case must fall under the provisions of Article 22 of *the constitution*. Rule 23 of *the Constitution* of Kenya (Protection of Rights and Fundamental Freedoms) Practice and Procedure Rules popularly known as “Mutunga Rules” provides: -
- 1) Despite any provision to the contrary, a Judge before whom a Petition under rule 4 is presented shall hear and determine an application for conservatory or interim order.
 - 2) Service of the application in sub rule (1) may be dispensed with, with leave of the Court.
 - 3) The orders issued in sub rule (1) shall be personally served on the Respondent or the advocate on record with leave of the Court, by substituted service within such time as may be limited by the Court.”
14. The law on conservatory orders is now well settled in a number of cases which include “Centre for Rights Education and Awareness (CREAW) & another v Speaker of the National Assembly & 2 others (2017) eKLR” where the Court was emphatic That : -
- “A party who moves the court seeking conservatory orders must show to the satisfaction of the Court That his or her rights are under threat of violation; are being violated or will be violated and That such violation, or threatened violation is likely to continue unless a conservatory order is granted. This is so because the purpose of granting a conservatory order is to prevent violation of rights and fundamental freedom and preserve the subject matter pending the hearing and determination of a pending case or Petition.”
15. The conservatory order sought is meant to assist in conserving the subject matter pending the hearing and final determination of the matter on its own merit. In the instant case, the bore of contention is the already revoked mineral dealer (trading) license DTL/2024/2171 which was revoked on 8th July 2024 by the 1st Respondent.
16. Additionally, the Supreme Court in the case of “Gatirau Peter Munya – Versus - Dickson Mwendwa Kithinji & 2 others (2014) eKLR where it stated as follows:-
- ‘Conservatory orders’ bear a more decided public law connotation: for these are orders to facilitate ordered functioning within public agencies, as well as to uphold the adjudicatory authority of the Court, in the public interest. Conservatory orders, therefore, are not, unlike interlocutory injunctions, linked to such private-party issues as ‘the prospects of irreparable harm’ occurring during the pendency of a case, or ‘high probability of success’ in the applicant’s case for orders of stay. Conservatory orders, consequently, should be granted on the inherent merit of the case, bearing in mind the public interest, the constitutional values, and the proportionate magnitudes, and priority levels attributable to the relevant causes.



17. Further, the case of:- “Kenya Small Scale Farmers Forum – Versus - Cabinet Secretary Ministry of Education, Science and Technology & 5 others [2015] eKLR where the late Onguto J held as follows:

“For the grant of conservatory orders under Article 23(3) of *the Constitution* as read together with Rule 23 of *the Constitution* of Kenya (Protection of Rights and Fundamental Freedoms) Practice and Procedure Rules 2013, the Court ought to consider certain pertinent factors. A series of cases may be stated to have laid down the proper guidelines applicable. I would state the principles which govern a court considering an application for interim or conservatory relief to be the following:

- i. The Applicant ought to demonstrate a prima facie case with a likelihood of success and That he is likely to suffer prejudice as a result of the violation or threatened violation if the conservatory order is not granted: see Centre for Rights Education and Awareness & 7 Others –Versus - The Attorney General HCCP No. 16 of 2011. It is not enough to show That the prima facie case is potentially arguable but rather That there is a likelihood of success: see *Godfrey Mutahi Ngunyi –Versus - The Director of Public Prosecution & 4 Others NBI HCCP No. 428 of 2015* and also Muslims for Human Rights and Others – Versus - Attorney General & Others HCCP No. 7 of 2011.
- ii. The grant or denial of the conservatory relief ought to enhance Constitutional values and objects specific to the rights or freedoms in the Bill of Rights: see Satrose Ayuma & 11 Others –Versus - Registered Trustees of Kenya Railways Staff Benefits Scheme [2011] eKLR and also Peter Musimba – Versus - The National Land Commission & 4 Others (No. 1) [2015] eKLR.
- iii. If the conservatory order is not granted, the Petition or its substratum will be rendered nugatory: see *Martin Nyaga Wambora –Versus - Speaker of the County Assembly of Embu & 3 Others HCCP No. 7 of 2014*.
- iv. The Public interest should favour a grant of the conservatory order: see the Supreme Court of Kenya’s decision in Gatirau Peter Munya –Versus - Dickson Mwenda Githinji & 2 Others [2014] eKLR.
- v. The circumstances dictate That the discretion of the court be exercised in favour of the applicant after a consideration of all material facts and avoidance of immaterial matters: see *Centre for Human Rights and Democracy & 2 Others –v- Judges and Magistrates Vetting Board & 2 Others HCCP No. 11 of 2012* as well as Suleiman – Versus - Amboseli Resort Limited [2004] 2 KLR 589.”

ISSUE No. b). Whether the parties are entitled to the reliefs sought

18. Under this Sub – title, having spelt out the fundamental legal principles above, the Honourable Court will now consider whether the parties are entitled to the reliefs sought. In so doing, this Court while considering whether to grant or refuse the conservatory orders has been well informed by the above cited cases. For clarity sake, the court will dissect each of the stated legal principles as follows:-

- a. The grant or denial of the conservatory relief ought to enhance Constitutional values and objects specific to the rights or freedoms in the Bill of Rights
19. The Petitioner/Applicant states That the revocation offends the provisions of Article 10 and 47 of *the Constitution*. In some paragraphs the Petitioner/Applicant has illustrated the violations of the



provision of Article 10 in That the 1st Respondent's actions were not anchored in law and therefore arbitrary and illegal. Article 10 of *the constitution* states as follows:

1. The national values and principles of governance in this Article bind all State organs, State officers, public officers 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 decisions.
 - (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, equality, human rights, non-discrimination and protection of the marginalised;
 - (c) good governance, integrity, transparency and accountability; and(d)sustainable development.”
20. Additionally, the Petitioner/Applicant has attempted to demonstrate in very lengthy paragraphs how the 1st Respondent violated the provision of Article 47 of *the Constitution*. The said provision states inter alia:
- (1) Every person has the right to administrative action That is expeditious, efficient, lawful, reasonable and procedurally fair.
 - (2) If a right or fundamental freedom of a person has been or is likely to be adversely affected by administrative action, the person has the right to be given written reasons for the action.
 - (3) Parliament shall enact legislation to give effect to the rights in clause (1) and That legislation shall—
 - (a) provide for the review of administrative action by a court or, if appropriate, an independent and impartial tribunal; and
 - (b) promote efficient administration.”
21. Indeed, the Petitioner/Applicant has disputed the authority of the 1st Respondent to revoke their said license as well as the allegation That proper notices were never given and That irrelevant factors were considered. According to them, their license was not against government policy and That they did not consider That the license enabled them trade in multiple minerals. The reasons given in the letter dated 8th July 2024 is That the license was cancelled as the Petitioner/Applicant has been dealing with copper which was declared a strategic mineral and thus its trade restricted. In their defence, the Petitioner/Applicant cited regulation 9 (1) of the Mineral (Dealings in Minerals) Regulations which states That the license confers on the holder the right to trade in minerals to which the license relates to and conduct. From the annexure marked as “NK – 3” was the license which states That it was for precious and base metals generally.
22. In a rejoinder, Mr. Kituku the media brief held on 3rd October 2024 annexed and marked as “GK – 1” where copper was annexed as a strategic mineral. He further produced a report dated 15th August 2024 by Senior Superintending Inspector of Mines Paul M. Kioki in Kitui and Makueni Counties annexed and marked as “GK - 3” whereby the Petitioner was reported as having the second largest stock



of copper ores in the above stated counties. He also produced an inspection report for export of copper ore from Migori marked as “GK - 5”.

23. Based on this basic information, I wish to emphatically stated That the Honourable Court may not be aware of all the areas in the country which are rich in copper. However, from the contents of this report and export permit, in the court’s opinion are not sufficient nor empirical evidence nor ground to cause the revocation of the nationwide license held by the Petitioner/Applicant. Furthermore, the provision of Section 173 (2) of the Mining Act Cap 306 states thus:-

“Before suspending or revoking a licence or permit under subsection (1) the Cabinet Secretary shall give the holder of the licence or permit written notice requiring the holder—

- (a) to comply with the condition or obligation within a reasonable period of time;
or
- (b) where this is not possible, to show cause within That period, why the licence should not be suspended or revoked.”

24. Clearly, prior to issuing of the letter dated 8th July, 2024 no notice had been issued by the 1st Respondent to the Petitioner/Applicant as envisaged by law. It is definite That the provision was not adhered with to the letter and spirt of the law by the 1st Respondent. Thus, I discern That the first principle to be considered for granting the orders was met by the Petitioner/Applicant.

b. If the conservatory order is not granted, the Petition or its substratum will be rendered nugatory

25. The substratum of the case is the revocation of the license. This issue shall be properly determined after the hearing of the main suit. For now it is inoperative. Although, the 1st Respondent alleges That the Petitioner/Applicant has since applied for other licenses DTL/2024/2648 and DTL/2024/2650, no evidence has been produced by them as expected and guided by the principles of “the Burden of Proof” contrary to the provision of Section 109 of the Evidence Act, cap. 80.

26. Indeed, the Petitioner/Applicant stated That the license is for a period of 1 year only and as at the date of this ruling only four months are left. The court takes judicial notice That a new cabinet secretary was appointed and thus the Petitioner/Applicant will be able to renew their license if the Petition succeeds.

b. The Public interest should favour a grant of the conservatory order

27. The Petitioner/Applicant made wide and general sweeping statements to the effect That this application is of public interest without elaborating. Be That as it may, the Honourable Court in its wisdom deems That the effect of this ruling would have all other mineral traders approaching courts countrywide seeking conservatory orders of their revoked licenses. It is therefore not the courts objectives under the provision of Article 259 of the Constitution to bring country wide business of mining copper ore into chaos as this is only the interlocutory stage.

b. The circumstances dictate That the discretion of the court be exercised in favour of the applicant after a consideration of all material facts and avoidance of immaterial matters

28. In the given circumstances before the court to wit That the license has already been revoked and no evidence produced to prove That new licenses were issued to the Petitioner/Applicant to trade in beryllium and lead. In consideration That the 1st Respondent did not give sufficient time to the Petitioner/Applicant to present their case before revocation as stated under the provision of Section



173 (2) Mineral Act Cap 306, together with the declaration by the cabinet board on 3rd October 2024 and the insufficient evidence mounted by the 1st Respondent.

29. Based on all the above legal considerations and logical analysis, the Honourable Court is fully satisfied That it absolutely necessary to issue the Conservatory order as sought by the Petitioner/Applicant who is entitled to it as prayed accordingly.

ISSUE No. b). Who bears the costs of the application?

30. It is well established That the issue of costs is at the discretion of the Court. Costs mean the award That is granted to a party at the conclusion of a legal action or proceedings in any ligation process. The Black Law Dictionary defines “Cost” to means,

“ the expenses of litigation, prosecution or other legal transaction especially those allowed in favour of one party against the other”.

31. Further, the provision of Rule 26 (1) and (2) of *the Constitution* of Kenya (Protection of Rights and Fundamental Freedom) Practice and Procedure Rules 2013, the award of costs is at the discretion of the Court. In exercising its discretion to award costs, the court shall take appropriate measures to ensure That every person has access to court to determine their rights and fundamental freedoms. Further, the Proviso of the provisions of Section 27(1) of the *Civil Procedure Act* Cap 21 holds That costs follow the event. By event it means the results of the legal action or process in any litigation (see the Supreme Court Case of Jasbir Rai Singh Rai – Versus- Tarhochan Singh (2014) eKLR and Mary Wambui Munene – Versus- Ihururu Dairy Cooperative Societies eKLR (2014). The Courts held:

“ the basic rule on attribution of costs is That Costs follow the events...it is well recognized That the principles That costs follow the events is not to be used to penalize the losing party rather it is for compensating the successful party for the trouble taken in presenting or defending the case.”

32. In the case of Republic vs Rosemary Wairimu Munene, Ex-Parte Applicant – Versus - Ihururu Dairy Farmers Co-operative Society Ltd Judicial Review application no 6 of 2014 this court held as follows:

“ The issue of costs is the discretion of the court as provided under the above section. The basic rule on attribution of costs is That costs follow the event..... It is well recognized That the principle costs follow the event is not to be used to penalize the losing party; rather it is for compensating the successful party for the trouble taken in prosecuting or defending the case.”

33. Therefore, in the instant case it goes without saying That since the Petitioner/Applicant has successfully prosecuted the application, its entitled to be granted costs.

Conclusion and findings

34. In conclusion, having caused an indepth analysis of the framed issues, the Honourable Court on Preponderance of Probabilities and the balance of convenience, proceeds to directs as follows:
- a. That pending the hearing and determination of the main Constitution Petition or until further orders, this Honourable Court be pleased to issue a conservatory order suspending the decision to revoke the petitioner’s mineral dealer (trading) license DTL/2024/2171 in a letter dated 8th of July 2024 by the Cabinet contained Secretary for Mining, Blue Economy and Maritime Affairs.



- b. That for expediency sake, the suit to be heard on 6th March, 2025. There be a mention on 4th February, 2025 for purposes of taking direction on how to dispose off the main Constitution Petition.
- c. That costs of this application to be awarded to the Petitioner/Applicant.

It is so ordered accordingly.

RULING DELIVERED THROUGH THE MICRO – SOFT VIRTUAL MEANS, SIGNED AND DATED AT MOMBASA THIS.....4THDAY OFDECEMBER.....2024

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HON. MR. JUSTICE L.L. NAIKUNI

Ruling delivered in the presence of:

M/s. Firdaus, the Court Assistant.

Mr. Muliro Advocate for the Petitioner/Applicant.

No appearance for the 1st, 2nd & 3rd Respondents

