



REPUBLIC OF KENYA



KENYA LAW
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Opiyo & 2 others v Kenya Revenue Authority & 2 others; Institute of Certified Public Accountants & another (Interested Parties) (Constitutional Petition E010 of 2025) [2025] KEHC 10248 (KLR) (16 July 2025) (Ruling)

Neutral citation: [2025] KEHC 10248 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT BOMET
CONSTITUTIONAL PETITION E010 OF 2025**

JK NG'ARNG'AR, J

JULY 16, 2025

**IN THE MATTER OF ARTICLE 2,10,19,20,22,23,25(C), 27,35,47,50,159
AND 258 OF THE CONSTITUTION OF KENYA, 2010**

AND

**IN THE MATTER OF THE ALLEGED CONTRAVENTION OF
RIGHTS AND FUNDAMENTAL FREEDOMS UNDER ARTICLES
25,27,35,47 AND 50 OF THE CONSTITUTION OF KENYA,2010**

AND

IN THE MATTER OF KENYA REVENUE AUTHORITY ACT NO. 2 OF 1995

AND

IN THE MATTER OF TAX PROCEDURES ACT NO. 29 OF 2015

AND

IN THE MATTER OF PROCEDURES ACT 2015 (AMENDED 2023) SECTION 23A

AND

IN THE MATTER OF VALUE ADDED TAX ACT NO. 35 OF 2013

AND

IN THE MATTER OF INCOME TAX ACT CAP 470, REVISED EDITION, MAY 2024

AND

IN THE MATTER OF THE ACCESS TO INFORMATION ACT NO. 31 OF 2016

AND

IN THE MATTER OF FAIR ADMINISTRATIVE ACTION ACT NO. 4 OF 2015

AND



IN THE MATTER OF THE CONSTITUTION OF KENYA (PROTECTION OF RIGHTS AND FUNDAMENTAL FREEDOMS) PRACTICE AND PROCEDURE RULES, 2013

AND

IN THE MATTER OF VAT SPECIAL TABLES GUIDELINES

BETWEEN

PETER OPIYO 1ST PETITIONER

CPA PETER GACHERU 2ND PETITIONER

CPA DENIS NYAMBATI 3RD PETITIONER

AND

THE KENYA REVENUE AUTHORITY 1ST RESPONDENT

COMMERCIAL GENERAL, KENYA REVENUE AUTHORITY 2ND RESPONDENT

THE ATTORNEY GENERAL 3RD RESPONDENT

AND

INSTITUTE OF CERTIFIED PUBLIC ACCOUNTANTS .. INTERESTED PARTY

LAW SOCIETY OF KENYA INTERESTED PARTY

RULING

1. This is a ruling to the Preliminary Objection dated 2nd July, 2025 herein. When this matter came up for directions on 3rd July, 2025 the above objection was raised by the respondents but the petitioner herein had filed Milimani HCC Petition No. E013 of 2025 raising the same reliefs and bearing the same parties and therefore violation of section 6 of the *Civil Procedure Act*.
2. The petitioner on their part submitted vide a replying affidavit a summon by Peter Opiyo on 7th July, 2025 contend that the Nairobi Petition No. E013 of 2025 was withdrawn and this is within the knowledge of the respondents' advocates. He therefore opposes the Preliminary Objection dated 2nd July, 2025. That this matter has already been handled and directions given.
3. This state of scenario made me to take judicial notice of the fact that the current position can be ascertained via the CTS (court tracking system).
4. I have checked vide the system and indeed find that there is a matter in Nairobi Milimani Commercial petition No. E013 of 2025 that the system shows to be slated for ruling on 23rd October, 2025 before Justice Gikonyo. It was filed on 23rd May, 2025 before this matter and the application for withdrawal seems not to have been effected.
5. As it is, I am not able to proceed unless the petitioners regularizes their position.



6. If indeed they went to have the other matter withdrawn they supply this court with a formal order to that effect otherwise proceeding in the present state will violate the provisions of Section 6 of the Civil Procedure Act.
7. I therefore place the ball on the feet of the petitioners.
8. This matter may be mentioned later for the petitioner to consider how they intend to proceed. I have invoked the provisions of Article 159 of the Constitution.

RULING DELIVERED, DATED AND SIGNED AT BOMET THIS 16TH DAY OF JULY, 2025.

HON. JULIUS K. NG'ARNG'AR

JUDGE

16/7/2025

Representation:-

Kathengo for the petitioners

Nyaga and Isutse for the 1st and 2nd Respondents

Moraga for the 2nd interested party

