



**Mokua v Central Kenya Conference of the Seventh Day Adventist & another; Nairobi
Cosmopolitan Conference Limited (Interested Party) (Petition E252 of 2021)
[2025] KEHC 13176 (KLR) (Constitutional and Human Rights) (25 September 2025) (Judgment)**

Neutral citation: [2025] KEHC 13176 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
CONSTITUTIONAL AND HUMAN RIGHTS
PETITION E252 OF 2021
LN MUGAMBI, J
SEPTEMBER 25, 2025**

BETWEEN

WILFRED BURNSEN MOKUA PETITIONER

AND

**CENTRAL KENYA CONFERENCE OF THE SEVENTH DAY
ADVENTIST 1ST RESPONDENT**

EAST AFRICA UNION THE SEVENTH DAY ADVENTIST 2ND RESPONDENT

AND

NAIROBI COSMOPOLITAN CONFERENCE LIMITED .. INTERESTED PARTY

JUDGMENT

Introduction

1. The Petition dated 2nd July 2021 is supported by the Petitioner's affidavit in support of similar date and further affidavits dated 6th July 2021 and 13th July 2021.
2. The Petitioner's chief grievance is that the Respondents are illegitimately and forcefully trying to take over the leadership and management of Mountain View Seventh Day Adventist (SDA) Church from the Interested Party. The Petitioner asserts that the Respondents actions are in violation of their rights under Articles 32, 36, and 47 of *the Constitution*.
3. Accordingly, the Petitioner seeks the following relief against the Respondents:
 - a. A declaration that the purported take-over of the administration of Mountain View Seventh Day Adventist Church by the Respondents in the place of the Interested Party absent



following the Church's rules and regulations is unconstitutional, illegal, irregular, unlawful and consequently null and void.

- b. An order of prohibition directed to the 1st and 2nd Respondents restraining them from interfering with the affairs of Mountain View Seventh Day Adventist Church unless in strict adherence to.
- c. Any other relief that the Court may deem fit and necessary in upholding *the Constitution* and the rule of law.

Petitioner's Case

4. The Petitioner informs that the Respondents and Interested Party are Local Conferences affiliated to the SDA Church. He stated that the Interested Party is the leadership of the Mountain View SDA Church since 25th June 2019. He notes that this branch became affiliated to the SDA Church on 25th August 2019. He informs that the Interested Party is governed by a Corporate Governance Charter of the SDA Church which stipulates the rules and regulations.
5. The Petitioner avers that he has been a member of this church since July 2017. He adds that the membership of this church voluntarily joined it in line with its policies. He alleges that the Interested Party has run the affairs of this church smoothly since its inception without any interference.
6. The Petitioner asserts that the Respondent irregularly and illegally organized a coup to take over the peaceful worship at Mountain View SDA church on 5th June 2021. This was with the intention to install their leadership without paying regard to the set rules and principles of the overall SDA church. He claims that this was not the first time this had occurred. He notes that the Respondents also acted in a similar fashion on 5th May 2021.
7. He avers that the Respondents' disruptions to the church services occurred yet again on 3rd July 2021. He avers that the police present were unable to restore order. He alleges that the Respondents had invited members from other conferences and further indicated that they would invite more people to disrupt the service on 10th July 2021 and organize a church camp on 18th July 2021 on the church premises.
8. He depones that as a result of the Respondents actions, the services have been conducted in a chaotic manner with both sides having loud speakers in the church compound. He claims that the Respondents had hired goons who stood strategically in the church and provoked violence so that the church could be closed. The chaos caused the police to threaten that the church would be closed if the two parallel services were not conducted. He notes that videos of this chaotic interaction were also circulated on social media.
9. The Petitioner contends that the Respondents will continue to breach the peace of Mountain View SDA church to the detriment of the Petitioner and other worshippers. In view of this, he avers that the Respondents actions are in offensive as each member is at liberty to decide which local conference they want to be affiliated with. Further that this has to be done by the Church Board and presented to the members for approval. He avers that no such proposals were brought to the membership.
10. Equally, the Respondents actions are said to have been conducted contrary to the rules of a fair administrative action and rules and charter of the SDA church. Accordingly, the Petitioner argues that the Respondents actions are in violation of Articles 32, 36, and 47 of *the Constitution*.
11. The Petitioner further added that he has locus standi to institute this suit being a member of the Mountain View SDA Church and as empowered under Article 22 and 23 of *the Constitution*. Likewise,



the Petitioner deponed that he is not part of any pending suit including HCC.COMM E294/2019 and Milimani CMCC Case No. E8753 of 2021 which revolve around a claim of intellectual property rights. As such, he argues that this Petition neither invokes the doctrine of sub judice or res judicata as alluded by the Respondents.

Respondents' Case

12. In response to the Petition, the Respondents filed their replying affidavit by Robert Ng'wono Obonyo sworn on 9th July, 2021. The Respondents filed a further affidavit to the Petition sworn on 12th July 2021 by Pastor Samuel Makori.
13. The Respondents in their Replying affidavit confirm that the Petitioner is a member of the Mountain View SDA church alongside other members. He states that the SDA church in Kenya was registered on 27th March 1969 as the SDA Church East African Union which is part of the SDA global Church. He notes that each SDA Church is supposed to carry out its responsibilities in the territory assigned to it. The administrative Units in the Church, in order of the highest rank are, Divisions, Unions and Conferences.
14. He asserts that contrary to the Petitioner's assertions, the 1st Respondent is a Local Conference operating under the 2nd Respondent which is a Union. He claims that the Interested Party is not a local conference of the SDA church as guided under the General Conference Working Policy (2018-2019 Edition) and East Central Africa Division Working Policy (2019-2020 Edition) and documented in the General Conference Working Policy (2018-2019 Edition) and East Central Africa Division Working Policy (2019-2020 Edition). As such, he avers that the Interested Party herein was not initiated through the mandatory process provided in the Seventh Day Adventist Church Working Policy. He states that instead the Interested Party was incorporated as a Company Limited by Guarantee on 15th March 2019. Considering this, he argues that the Interested Party was not registered to operate as a religious organization.
15. He avers further that the SDA church is governed through operating documents known as the Church Manual and Working Policy, not Corporate Governance Charter as alleged. For these reasons, it is contended that the Interested Party is unlawfully operating a religious organization under the pretense that it is associated with the SDA church. He adds that this ruse was confirmed by the Registrar of Societies in its correspondence. He maintains that Mountain View SDA Church is an asset of the SDA church and at no time was its management handed over to the Interested Party as purported. He contends that this includes the allegation that parallel services were conducted at the premise.
16. He depones that Mountain View SDA Church has been under the administration of the SDA Church since 2012 when members of the church sought to be allocated the ground which is presently in dispute with the Director of Veterinary Services, a department within the Ministry of Livestock Development.
17. He informs as well that the Respondents are not responsible for the day to day running operations of Mountain View SDA Church. Theirs is an oversight role as the Church has its own church pastors, leaders and elders. It is stated that contrary to the Petitioners' allegations, the 2nd Respondent's officers have never come to Mountain View SDA church thus no cause of action exists against it.
18. Moreover, he states that the officers of the 1st Respondent have only come to the church with the invitation of the church members. He claims that the 1st Respondent has indeed made attempts to bring peace and harmony in the Church, but the Interested Party and its followers have refused and persistently remained hostile to the leadership of the SDA Church.



19. It is contended that the question of whether the Interested Party can manage or run the affairs of Mountain View SDA church is under consideration in Milimani High Court Commercial Case No. E294 of 2019 which is currently pending.
20. On this premise he argues that the claim of alleged constitutional violations is baseless as there is no right or fundamental freedom that is exercisable between the Interested Party and the Respondents that is capable of infringement or likely to be adversely affected by administrative action, warranting the giving of any written reasons for the action as is provided under Article 47 of *the Constitution*. That said, it is argued that the purported violation has not been proved by the Petitioner.

Interested Party's Case

21. The Interested Party through George Simi filed a Replying Affidavit sworn on 11th July 2021. He informs that he is a Pastor at Mountain View SDA Church. He as well confirms that the Petitioner is a baptized member of the church. He depones that currently, the Interested Party runs and manages around 33 churches of the SDA church countrywide.
22. He depones that since 25th August 2019, Mountain View SDA church has been managed by the Interested Party which is a decision that was made by its members and the Church Board. This peaceful existence is said to have gone on up until 3rd and 10th July 2021 when the Respondents commenced the illegal parallel church services outside the church compound.
23. He states that the Interested Party is not a church as supposed and neither are the Respondents. He informs that the SDA church has a single registration as a church in Kenya. He avers that the Interested Party is a local conference of the SDA church. He informs that the purpose of a local conference is to provide leadership and administration. He states that the Respondents operate in a similar fashion and are also registered as a limited company.
24. He asserts that if the Respondents have an issue with the existence of the Interested Party, the *Companies Act* provides an avenue for them to raise the issue and seek to have the Interested Party struck from the Register of Companies. He notes that the SDA church in Kenya which is the one registered at the Register of Companies is not a party in this suit.
25. He argues that the Respondents herein are attempting to convolute the issues in this Petition with the issues raised in other suits which have different parties, causes of action and are separate and distinct. He avers that the suit in Nairobi High Court Commercial Case No. E294 of 2019 concerns a dispute of the trademarks particularly the use of church logos and symbols. On the other hand, the cause of action in Magistrates Court Milimani Commercial Civil Suit No. E8753 of 2021 sought to prevent disruption of the Interested Party's Service on 5th June 2021.
26. He posits that the present Petition concerns the violation of the rights of the membership of the Mountain View SDA church by the Respondents who have intruded, threatened the peace and disrupted church services. He avers that the Magistrates Court does not have jurisdiction to entertain violation of constitutional rights.
27. In closing, he decries that the Respondents actions have seriously grieved the membership and leadership of Mountain View SDA church and also that their actions are provoking acts of violence so that the church can be closed.



Petitioner's Submissions

28. The Petitioner's submissions are not in the Court file and ones availed in the Court Online Platform (CTS) were not accessible.

Respondents' Submissions

29. The Respondents available submissions are dated 10th August 2023 and were filed by Rachuonyo and Rachuonyo Advocates.
30. Following issuance of the conservatory orders dated 23rd September 2021 granting control of Mountain View SDA church to the Interested Party, Counsel argued that despite these orders being temporary in nature, the Petitioner and Interested Party's conduct had been deceptive and misleading as they have continued to act in a manner to suggest that they were vested absolute ownership and administration of Mountain View SDA church. Counsel submitted that the Petitioner and Interested Party had wrongfully misled the public and members of the SDA Church that the Conservatory Orders were permanent and final. Counsel stated that the Respondents had even sought a review of the said Ruling.
31. Discussing the legal status of the Interested Party, the respondent reiterated the Respondents averment that the Interested Party is not a Conference of the SDA church as alleged. Counsel stated that the establishment of a Conference as can be gleaned from the Respondents' affidavit stems from the SDA's church organized structure as guided by the documents cited in the affidavit.
32. For this reason, Counsel emphasized that it is evident that no one can register a company and affiliate it to the SDA Church as alleged by the Interested Party and the Petitioner. Counsel contended that it is the Respondents who are by law supposed to be responsible for the management and administration of all SDA Churches within their geographical jurisdiction including Mountain View.
33. Counsel asserted that the Interested Party is a company limited by guarantee which deliberately and deceitfully included the word Conference as part of its name during registration. This is said to have been intentional so as to attract the attention of Christians in the SDA denomination and operate as a religious entity and an affiliate of the SDA church.
34. Counsel submitted that the Respondents had clearly, deponed on the process of creation of a legitimate internal administrative unit of the SDA Church being a Conference and so it was apparent that this Unit has never been achieved through the incorporation of a company.
35. Moreover, Counsel submitted that whereas the Interested Party purports to be a religious organization, it was incorporated in 2019 at a time when the moratorium imposed by the Attorney General on 12th November 2014 was still in force and still is. Equally, Counsel submitted that the Respondents provided further evidence in the form of letters by the Registrar of Companies dated 30th April 2019 and 2nd July 2019 in which the Registrar of Companies denounced the legitimacy of the Interested Party as an affiliate of the SDA church.
36. In light of the foregoing Counsel submitted that the Interested Party had relied on false and misleading information which led this Court to issue the impugned Orders dated 23rd September 2021.
37. Counsel emphasized that the entire Petition is a disguise by the Petitioner and Interested Party that their constitutional rights have been violated. Counsel stated that the highlighted provisions cannot be read and construed in isolation of the rest of the other provisions of the law. Additionally, Counsel



submitted that there are laws that govern the registration of Companies, Societies and Organizations namely, the *Companies Act* and the *Societies Act*.

38. For this reason, Counsel submitted that the substantive reliefs sought by the Petitioner and supported by the Interested Party are coated in constitutional language but in reality, the Petition seeks an indirect takeover of a religious organization/church of the SDA Church by the Interested Party who is masquerading as its affiliate. As a consequence, Counsel submitted that the Petitioner is not entitled to the reliefs sought.

Interested Party's Submissions

39. In support of the Petition, the Interested Party through Chimei and Company Advocates filed submissions dated 14th July 2023 and highlighted the issue for discussion as: whether the purported takeover of Mountain View SDA Church by the Respondents in the place of the Interested party was in contravention of *the Constitution* and the law.
40. Counsel on the onset submitted that affiliation to any local Conference should be left to the members who are at liberty to choose the Conference which they wish to be affiliated with. Consequently, Counsel submitted that by the Respondents forcefully seeking to take over the administration of Mountain View SDA Church, contrary to the wishes of members and leadership of the church, the same contravenes Articles 32, 36 and 47 of *the Constitution*.
41. On Article 32 of *the Constitution*, Counsel submitted that the Respondents actions of intruding, threatening and breach of peace and in fact holding parallel and disruptive church services outside the church premises on the 3rd July 2021 and 10th July 2021 have limited this right.
42. Reliance was placed in Seventh Day Adventist Church (East Africa) Limited v Minister for Education & 3 others [2017] eKLR where the Court observed as follows:
- “Because religion is essentially a matter of personal faith and belief, the court can only embark on a limited inquiry into the genuineness of a person’s professed belief. Freedom of religion protects the subjective belief of the individual as Lord Nicholls of Birkenhead observed in the decision of the House of Lords in Regina Williamson & Others V Secretary of State for Education & Employment (2005) AC 245;
- “Typically, religion involves belief in the supernatural. It is not always susceptible to lucid exposition or, still less, rational justification. The language used is often the language of allegory, symbol and metaphor. Depending on the subject matter, individuals cannot always be expected to express themselves with cogency or precision. Nor are an individual’s beliefs fixed and static. The beliefs of every individual are prone to change over his lifetime. Overall, these threshold requirements should not be set at a level which would deprive minority beliefs of the protection they are intended to have under the Convention.”
43. Like dependence was placed in Nyakamba Gekara v Attorney General and 2 others (2013) eKLR.
44. On Article 36 of *the Constitution*, Counsel submitted that the right to freedom of association is an essential component of democracy, providing individuals with invaluable opportunities to, inter alia, express their political opinions, engage in literary and artistic pursuits and form social bonds with others in an association, which the Respondents had violated. Reliance was placed in NGOs Co-



ordination Board v EG and 4 others; Katiba Institute (Amicus Curiae) (Petition 16 of 2019) [2023] KESC 17 (KLR) where it was held that:

“Given that the right to freedom of association is a human right, vital to the functioning of any democratic society as well as an essential prerequisite enjoyment of other fundamental rights and freedoms, we hold that this right is inherent in everyone irrespective of whether the views they are seeking are popular or not’ The right is guaranteed to every person regardless of race, sex, nationality, ethnicity, language, religion, or any other status and the right cannot be limited unless as provided for under *the constitution*.”

45. Comparable dependence was placed in Kivumbi v Attorney General (2008) 1 EA 174.
46. To this end, Counsel submitted that being that the decision by Mountain View SDA Church to be under the management of the Interested Party was arrived at by its elders, church board and members including the Petitioner, then the same should be upheld and Petition allowed as prayed.

Analysis and Determination

47. It is my considered take that the issues that arise for determination in this matter are as follows:
- i. Whether this Petition is camouflaged as a constitutional Petition while concealing the real issues in controversy.
 - ii. Whether the Petitioner’s rights under Articles 32, 36, 37 and 47 of *the Constitution* were violated by the Respondents.
 - iii. Whether the Petitioner is entitled to the relief sought.

Whether this Petition is camouflaged as a constitutional Petition while concealing the real issues in controversy.

48. A constitutional question compels the Court to resort to *the Constitution* in order to resolve it. If the question can be resolved by application of the statute or the general legal principles, the Court will invoke the doctrine of constitutional avoidance and decline to deal with it as a Constitutional matter. If a court is convinced that the alleged infringements of rights can be settled by filing a claim or complaint under the substantive legislation, the Court will not have recourse to *the Constitution* for a resolution. This is because *the Constitution* is a basic framework for general principles and fundamental concepts of justice and right hence acts as a pivotal reference that other laws stem from thus cannot be a general substitute for the normal procedures.
49. In Hakizimana Abdoul Abdulkarim v Arrow Motors (EA) Ltd & another [2017] KEHC 9674 (KLR) the Court explained thus:

“37. A constitutional question is an issue whose resolution requires the interpretation of a constitution...”

40. The question of what constitutes a constitutional question was ably illuminated in the South African case of Fredericks & Others vs MEC for Education and Training, Eastern Cape & Others in which Justice O’Regan recalling the Constitutional Court’s observations in S vs. Boesak notes that:-

“*The Constitution* provides no definition of “constitutional matter.”
What is a constitutional matter must be gleaned from a reading of



the Constitution itself: If regard is had to the provisions ofthe Constitution, constitutional matters must include disputes as to whether any law or conduct is inconsistent with the Constitution, as well as issues concerning the status, powers and functions of an organ of State....., the interpretation, application and upholding of the Constitution are also constitutional matters. So too,....is the question whether the interpretation of any legislation or the development of the common law promotes the spirit, purport and objects of the Bill of Rights. If regard is had to this and to the wide scope and application of the Bill of Rights, and to the other detailed provisions of the Constitution, such as the allocation of powers to various legislatures and structures of government, the jurisdiction vested in the Constitutional Court to determine constitutional matters and issues connected with decisions on constitutional matters is clearly an extensive jurisdiction...

42. The Petition before me does not raise any constitutional questions at all. This court abhors the practice of parties converting every issue into a constitutional question and filing suits disguised as constitutional Petitions when in fact they do not fall anywhere close to violation to constitutional Rights.”
50. Correspondingly, in *Munene vs Director of Public Prosecutions & 3 others* (Constitutional Petition 5 of 2022) [2023] KEHC 25900 (KLR) (30 November 2023) (Judgment), the Court referring to the judicial authorities from comparative jurisdictions stated:
- “ 37. In the United States of America, a constitutional issue refers to any political, legal, or social issue that in some way confronts the protections laid out in the US Constitution.
38. Taking cue from the foregoing, and broadly speaking, a constitutional issue is, therefore, one which confronts the various protections laid out in a Constitution. Such protections may be in respect to the Bill of Rights or the rest of the Constitution. In any case, the issue in dispute must demonstrate the link between the aggrieved party, the provisions of the Constitution alleged to have been contravened or threatened and the manifestation of contravention or infringement.
39. The words of Learned Judge Langa, J in *Minister of Safety & Security vs. Luiters*, (2007) 28 ILJ 133 (CC) captured the essence of a constitutional issue. The Judge had the following to say: -
- When determining whether an argument raises a constitutional issue, the Court is not strictly concerned with whether the argument will be successful. The question is whether the argument forces the Court to consider constitutional rights and values...”
51. Where the Court determines that the issue before it does not raise a Constitutional question, the doctrine of Constitutional avoidance sets in. The doctrine was elaborated by the Supreme Court in



Communications Commission of Kenya & 5 others v. Royal Media Services Limited & 5 Others [2015] KESC 15 (KLR) as follows:

“(256) The appellants in this case are seeking to invoke the “principle of avoidance”, also known as “constitutional avoidance”. The principle of avoidance entails that a Court will not determine a constitutional issue, when a matter may properly be decided on another basis. In South Africa, in *S v. Mhlungu*, 1995 (3) SA 867 (CC) the Constitutional Court Ketrtridge AJ, articulated the principle of avoidance in his minority Judgment as follows [at paragraph 59]:

“I would lay it down as a general principle that where it is possible to decide any case, civil or criminal, without reaching a constitutional issue, that is the course which should be followed.”

(257) Similarly the U.S. Supreme Court has held that it would not decide a constitutional question which was properly before it, if there was also some other basis upon which the case could have been disposed of (*Ashwander v. Tennessee Valley Authority*, 297 U.S. 288, 347 (1936)).”

The Court then went on to state as follows:

“14... To my mind therefore, not every litigant ought to come to court by way of a constitutional petition even where there are no constitutional issue arising and where there are adequate remedies provided in other laws to determine such situations... The mere allegation that a human right has been contravened is not itself sufficient to entitle the applicant to invoke the jurisdiction of the High Court under Article 165 of *the Constitution*: See *Harrikissoon v A-G* [1979] 3 WLR 62. Where it is possible to decide any case or dispute, civil or criminal, without reading a constitutional issue then that is the course that should be followed. The court sitting as a constitutional court must through the doctrine of avoidance steer clear of determining such disputes as if there were constitutional questions being raised: see *S v Mhlungu*[1995] 3 SA 867 (CC) and also *Ashwander v Tennessee* 297 US 288.”

52. The Petitioner in this suit came to this Court alleging that his rights under Article 32, 36 and 47 of *the Constitution* were being violated by the Respondents unauthorized interference with the operations of the Mountain View SDA Church which led to different factions that threatens the peace of Church members by preventing the church membership from enjoying peaceful worship. Further, violated the membership of the Seventh Day Adventist Church Mountain View Estate rights to voluntarily join SDA Church local conference of their choice and also, that the attempted take-over was being orchestrated by the Respondent in violation of Article 47 of *the Constitution* and the Charter of the Seventh Day Adventist Church.

53. While agreeing that the membership of the Seventh Day Adventist Church is free to join any Local Conference of the Church of choice, the Respondent contended that the Interested Party (Nairobi Cosmopolitan Conference of Seventh Day Adventist) , to which the Mountain View SDA church seeks to be affiliate is an illegitimate organizations/structure that is not recognized with Internal Organizational structure of Seventh Day Adventist Church hence is an intruder and/or trespasser under the Seventh Day Adventist Church administrative structure. Further, that it was the Petitioner



and interested Party that were/are responsible for breach of peace at Mountain View SDA Church for purporting to conduct parallel church services.

54. The Respondents denied violation of Articles 32, 36 and 47 of *the Constitution* or that there exists any exercisable right to administrative action by the Respondents as against the Interested Party that are capable of infringement in view of the facts of this case since even the Registrar of Societies in a letter confirmed that his office was unaware of any splinter association of the Seventh-day Adventist Church that is registered by the office.
55. It is apparent given the above facts that the overriding issue that best describes the instant dispute is which body, as between the Respondents and the Interested Party, should assume the lawful supervisory control of the Mountain View SDA Church? That is the ultimate question that underlies the present dispute. And to specifically illustrate this point, the Petitioner in support of his case exhibited the Nairobi Cosmopolitan Conference Limited Corporate Governance Charter contending that it is the rightful body to which the Seventh Day Adventist Mountain View Church is affiliated, while the Respondent disputed, insisted that body is a stranger within the SDA formal Church structures and claimed that the said document establishes a Company limited by a guarantee yet the registration of Churches is done under the *Societies Act*. Further disclosing that the Registrar of Societies had even written a letter affirming that the Interested Party is not authorized to run any religious organization.
56. It is thus evident that the issue of violation of rights of the Church members right to worship within the premises of Mountain View SDA Church cannot be determined independent of the question of which body as between the Respondent and the Interested Party has legal mandate to administer the operational affairs of the Mountain View SDA Church. That is therefore the fundamental question which must take the centre stage hence the alleged violations can only arise when this question is determined. That is not an issue that would requires this Court to invoke *the Constitution* to determine.
57. The question of which body has legal capacity to administer the Mountain View SDA Church rightfully, as between the Respondents and the interested Party, will end the wrangles and restore the peaceful worship of the members. The issues of alleged violations are but consequences of these unresolved leadership wrangles. The leadership wrangles are not constitutional disputes, to resolve them it would take the scrutiny of registration documents, the Church Constitution and the Provisions of the relevant Statutes. This dispute is therefore is civil in nature though coached as a Constitutional Petition. The alleged violations by the by the Petitioner are peripheral as they are incapable of being determined independently while the actual dispute remains unresolved.
58. Fortunately, this Court noted through the pleadings and the supporting affidavits that the dispute is under consideration in two other civil litigations being the HC. Comm/E294/2019 and Milimani CMCC Case No. E8753 of 2021 which should hopefully settle the real controversy by determining which body should lawfully exercise supervisory control over Mountain View SDA Church as between the Respondents and the Interested Party. As already stated, this is not a Constitutional question as the resolution of that question would require only examination of the various registration documents lodged with the relevant public offices, the Church constitution and the applicable statutory provisions. As was held in C O D & another vs Nairobi City Water & Sewerage Co. Ltd [2015] KEHC 7762 (KLR)

“... *the constitution* is a solemn document, and should not be a substitute for remedying emotional personal questions or mere control of excesses within administrative processes... I must add the following; Our Bill of Rights is robust. It has been hailed as one of the best in any Constitution in the World. Our Courts must interpret it [with] all the liberalism



they can marshal. However, not every pain can be addressed through the Bill of Rights and alleged violation thereof.”

59. In view of the foregoing, the Court finds that this Petition offends the doctrine of Constitutional avoidance. This being a jurisdictional issue, I need not consider any other issue. I must now down my tools.

60. I dismiss the petition with costs to the respondents.

DATED, SIGNED AND DELIVERED VIRTUALLY AT NAIROBI THIS 25TH DAY OF SEPTEMBER, 2025.

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L N MUGAMBI

JUDGE

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