



**Osiari v SMEP Microfinance Bank Limited (Petition E062 of 2022)
[2024] KEHC 5626 (KLR) (Constitutional and Human Rights) (23 May 2024) (Judgment)**

Neutral citation: [2024] KEHC 5626 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
CONSTITUTIONAL AND HUMAN RIGHTS**

PETITION E062 OF 2022

LN MUGAMBI, J

MAY 23, 2024

BETWEEN

JAMES SIANGANI OSIARI PETITIONER

AND

SMEP MICROFINANCE BANK LIMITED RESPONDENT

JUDGMENT

1. In the Petition dated 12th January 2022 the Petitioner sued the Respondent for unlawfully procuring and using his image for commercial purpose without his consent. The Petition is supported by the Petitioner's affidavit in support of similar date and a supplementary affidavit dated 17th April 2023.
2. Accordingly, the Petitioner seeks the following relief:
 - i. A declaration that the Respondent violated the Petitioner's fundamental rights to privacy and human dignity under Articles 28 and 31 by publishing the petitioner's image and/or likeness for promotional and commercial advertisement purposes.
 - ii. A declaration that the Respondent violated the Petitioner's fundamental rights to not be subjected to psychological torture under Articles 29 (d) by publishing the Petitioner's image and/or likeness, which exposed him to harassment, laughter and ridicule from select portions of the public.
 - iii. A declaration that the Respondent violated the Petitioner's fundamental consumer rights under Article 46 of *the Constitution* by publishing the petitioner's image and/or likeness, which exposed him to harassment, laughter and ridicule from select portions of the public.
 - iv. An order of permanent injunction restraining the Respondent from publishing and/or using the Petitioner's image and/or likeness in any way in its advertisements or promotions in any



way without the Petitioner's consent and compelling the respondent to stop any further advertisement or promotions featuring the petitioner's image or likeness in their videos.

- v. An order for compensation for violations of fundamental rights under Prayer i, ii and or iii.
- vi. Costs of the Petition.

Petitioner's case

3. In the year 2019, the Petitioner visited the Respondent's branch at Tumaini House along Moi Avenue where he holds a business account. In August 2021, he realized that the Respondent had used his image in its advertising and marketing videos. These videos had been published in the Respondent's YouTube Channel on varied dates as specified on the Petition. He particularly identified his image in three videos, namely:
 - a. SMEP Documentary 1
(<https://www.youtube.com/watch?app=desktop&v=h4grocxNFyO>)
 - b) The Possibilities Are Limitless With SMEP!
(<https://www.youtube.com/watch?v=3JbYoAOZiU4&t=11s>)
 - c) SMEP 2020 AGM
(<https://www.youtube.com/watch?v=C9310gpI8A>)
4. The Petitioner avers that the Respondent plays its advertisements and promotional videos in its branches throughout the day where persons who walk into its branches are able to see these videos and also on the Television screens.
5. He asserts that the impugned videos that contained his image had been run for over 20 months before he discovered. Equally, that the Respondent was still utilizing them. He alleges that in an attempt to cover up its actions, the Respondent took down the said videos from its YouTube channel after this Petition was filed.
6. The Petitioner is aggrieved that the Respondent has been using his image without his consent. That the same was not sought prior to publishing the images either. He contends that the unauthorized use of his image is illegal and an unjustified invasion of his right to privacy and human dignity. Moreover, he stated that he has never received any payment or compensation from the Respondent for use of his image.
7. In an attempt to have the Respondent cease use of his image, the Petitioner wrote a letter dated 2nd September 2021. His concerns were however not responded to and neither was an apology issued. He states that as a result of this unlawful intrusion, he has suffered stress, psychological torture and loss. This is because he was not informed by the Respondent that he was being recorded and that he was not informed his image would be used for their advertisements and promotions.
8. Further, he adds that he has had to suffer ridicule from his peers who refer to him as the poster boy and model for the bank thus his reputation has been injured. He has also been harassed by creditors and his family who assume that he received compensation from the Respondent for use of his image. He as well states that he has lost business opportunities and clients who believe that he is an employee of the Respondent not a business man. For these reasons, the Petitioner brings this Petition against the Respondent for the alleged violation of his rights under Articles 28, 29(d), 31 and 46 of *the Constitution*.



Respondent's Case

9. In the Respondent's replying affidavit sworn by Ruth Njuguna on 20th February 2023, the Respondent denies publishing the Petitioner's image and states that it is a stranger to the video links shared by the Petitioner. It went on to state that the video links are not operational and that the said videos are not listed in its YouTube channel as alleged.
10. The Respondent further denied the Petitioner's allegation that the advertising and promotional videos are broadcasted nationally in its branches insisting that the Petitioner must provide evidence to establish this allegation.
11. Likewise, the Respondent denies use and appearance of the Petitioner's image in its 2020 Annual General Meeting (AGM). To this end, the Respondent contends that the Petitioner has failed to show how the Respondent violated its rights and as such the Petition should be dismissed with costs.

Petitioner's Submissions

12. Mwiti and Partners Advocates for the Petitioner filed submissions dated 25th August 2022 where Counsel highlighted the issues for discussion as whether the Petitioner's constitutional rights were violated and if so whether the Petitioner is entitled to relief sought.
13. Counsel submitted that the Respondent used the Petitioner's image without his consent for marketing its business in breach of his right to privacy and dignity. Similarly, that the Petitioner was not compensated for use of his image. To ascertain this breach Counsel citing the case of *Jessicar Clarise Wanjiru v Davinci Aesthetics & Reconstruction Centre & 2 others* (2017) eKLR submitted that the Petitioner is required to establish three principles. First that the image was used for the purpose of advertising to the public, second, for an exploitative purpose either commercial or otherwise and lastly that the image was used without the Petitioner's consent.
14. This was equally echoed in *Mutuku Ndambuki Matingi v Rafiki Microfinance Bank Limited* (2021) eKLR and *Ann Njoki Kumena v KTDA Agency Ltd* (2019) eKLR which were cited.
15. In this matter, Counsel submitted that the Petitioner adduced evidence of the illegal use of his image in the annexed CD containing the video footage and attached photographs. Further that the videos were published in the Respondent's YouTube channel for commercial purposes. It was argued hence that the Petitioner established the three elements of illegal use of a person's image.
16. Correspondingly, Counsel submitted that the publication of the Petitioner's image without his consent robbed him of his autonomy to control use of his own image thus violating his right to human dignity. Further that violation of these two rights in turn infringed on his freedom from psychological torture. Reliance was placed in *Ahmed Isaack Hassan vs. Auditor General* (2015) eKLR where it was observed that:

“The right to human dignity is the foundation of all other rights and together with the right to life, forms the basis for the enjoyment of all other rights...put differently thereof, if a person enjoys the other rights in the Bill of rights, the right to human dignity will automatically be promoted and protected and it will be violated if the other rights are violated”.
17. Like dependence was also placed in *Mayelane vs. Ngwenyama and Another-* (CCT 57/12) [2013] ZACC 14 and *Coalition for Reform and Democracy (CORD) & 2 Others vs. Republic & 10 Others* (2015) eKLR.



18. Counsel further noted that the Petitioner being the Respondent's customer had a legitimate expectation that his right to privacy especially in an industry that prioritizes commerce confidentiality would be upheld. Essentially failing to do so was argued to be in breach of his consumer rights. Reliance was placed in *Lyomoki and Others vs. Attorney General* [2005] 2 EA 127 where it was held that:
- “The principles of constitutional interpretation in Uganda are as follows: - (i). The onus is on the petitioners to show a prima facie case of violation of their constitutional rights. Thereafter the burden shifts to the respondent to justify that the limitations to the rights contained in the impugned statute is justified within the meaning of Article 43 of *the Constitution...*”
19. On this premise, Counsel was certain that the Petitioner is entitled to the relief sought. Counsel as well submitted that the Petitioner at Paragraph 15 of his supporting affidavit had set out the particulars of the harm and injury caused by the Respondent's action. In light of this, Counsel relied in *Ann Njoki Kumena v KTDA Agency Ltd* (2019) eKLR where it was held that:
- “The award of damages is an exercise of judicial discretion which must be based on sound reason and principle.... where a right is violated and the culprit has gained from that violation, the person is entitled to damages.”
20. To that end, Counsel submitted that in the circumstances of this case, the Petitioner is entitled to an award of Ksh.5,000,000 for violation of his constitutional rights. This submission was supported by the award of damages in similar matters. In *GSN v Nairobi Hospital & 2 Others* (2020) eKLR the Court awarded Ksh.2,000,000 whilst the Court in *Civil Appeal No. E083 of 2021, Dhabiti Sacco Limited v Sharon Nyaga* awarded Ksh.1,500,000.
21. Furthermore, Counsel stated that the Respondent a financial institution, according to its Annual Report and Financial Statements for the year 2021 had made profits of over 100 million from the year 2016. This included the years the Petitioner's image had been utilized to advertise and market their products.

Respondent's Submissions

22. The Respondent in the submissions dated 19th April 2023 filed by Chege Kibathi and Company Advocates LLP avers that the issues for determination are whether the Petition satisfies the constitutional threshold and whether the Petitioner has proved its case on violation of rights to warrant grant of reliefs.
23. Counsel submitted that the Petitioner had not met the threshold for constitutional petitions as set out in *Anarita Karimi Njeru v Republic* (1979) 1 KLR 154 and *Mumo Matemu v Trusted Society of Human Rights alliance* (2014) eKLR. This argument is premised on the fact that constitutional rights cannot be grounded on an unsupported inference. It is stated that the Petitioner although alleged violation of his rights failed to demonstrate the violation by adducing the requisite evidence to support the claims. Considering this, Counsel contended that there is no demonstrable injury or harm suffered by the Petitioner. Accordingly, it is contended that the Petitioner has failed to discharge his burden of proof as set out under Section 107 of the *Evidence Act*.
24. On the second issue, Counsel submitted that in order to determine whether a person's image had been used illegally, the Court ought to be guided by the threshold set out in *Jessica Clarise Wanjiru* (Supra). It is the Respondent's case that the Petitioner failed to establish this threshold. Counsel in conclusion submitted that the Petitioner was not entitled to the relief sought.



Analysis and Determination

25. Given the pleadings and submissions reviewed in the foregoing, I find the following to be issues that arise for determination in this Petition:
- i. Whether the Petitioner’s rights under Articles 28, 29(d), 31 and 46 of *the Constitution* were violated; and
 - ii. Whether the Petitioner is entitled to the reliefs sought.
26. It is important to point out at the onset that Kenya has enacted the Data Protection Act No. 24 of 2019 that governs matters of personal data protection. The preamble to the Act states that it is: -
- “... AN Act of Parliament to give effect to Article 31(c) and (d) of *the Constitution*; to establish the Office of Data Protection Commissioner, to make provision for the regulation of processing of personal data, to provide for the rights of data subjects and obligations of data controllers and processors; and for connected purposes...”
27. Section 2 of the Act defines personal data as:
- “ Any information relating to an identified or identifiable natural person.”
28. In dealing with personal data the Act under Section 25 provides the following principles:
- Principles of data protection
- Every data controller or data processor shall ensure that personal data is: -
- a. processed in accordance with the right to privacy of the data subject;
 - b. processed lawfully, fairly and in a transparent manner in relation to any data subject;
 - c. collected for explicit, specified and legitimate purposes and not further processed in a manner incompatible with those purposes;
 - d. adequate, relevant, limited to what is necessary in relation to the purposes for which it is processed;
 - e. collected only where a valid explanation is provided whenever information relating to family or private affairs is required;
 - f. accurate and, where necessary, kept up to date, with every reasonable step being taken to ensure that any inaccurate personal data is erased or rectified without delay;
 - g. kept in a form which identifies the data subjects for no longer than is necessary for the purposes which it was collected; and
 - h. not transferred outside Kenya, unless there is proof of adequate data protection safeguards or consent from the data subject.
29. Equally the Act outlines the rights of a person referred to as a data subject as follows under Section 26:
- A data subject has a right—
- a. to be informed of the use to which their personal data is to be put;
 - b. to access their personal data in custody of data controller or data processor;



- c. to object to the processing of all or part of their personal data;
 - d. to correction of false or misleading data; and
 - e. to deletion of false or misleading data about them.
30. The Court in *Wanjiru v Machakos University (Petition E021 of 2021)* [2022] KEHC 10599 (KLR) (3 August 2022) (Judgment) stated as follows while considering the question of breach of privacy:
- “...43. The factors to consider when determining whether the right to privacy has been violated are whether the information was obtained in an intrusive manner; whether it was about intimate aspects of the applicants’ personal life; whether it involved data provided by the applicant for one purpose which was then used for another; whether it was disseminated to the press or the general public or persons from whom the applicant could reasonably expect such private information would be withheld. - *Mistry v Interim National Medical and Dental Council of South Africa* (1998) (4) SA 1127 (CC),
44. In *T.O.S v Maseno University & 3 Others* [2016] eKLR to the extent that publication or use of the images of an individual without her consent violates the Petitioner right to privacy. The extent to which the right to privacy may be invaded or exposed is upon a person. The Petitioner contends that she is a private person and to that extent I find that her right to privacy has been infringed by the Respondent who ought to have known and sought consent. The practice the Respondent claims to have pictures taken of its graduates and using it without consent is unlawful. The Petitioner as a data subject has rights that must be protected. She has a right to know what her image is to be used for. This is clearly spelt out under Section 29 of the Data Protection Act...”
31. In the case of *Jessica Clarise Wanjiru* (supra) the issue was the violation of one privacy by use of a person’s image without prior authorization. The Court stated:
- “17. In simple terms, image rights refer to a person’s right to commercialize aspects of his personality such as physical appearance, pictures or caricatures, signature, personal logos and slogans, and also the right to prevent other people from commercially making use of them. In a claim of this nature, the plaintiff raises wrongful infringement of three inter-related, but distinct, personality interests, namely identity, privacy and dignity.
18. Identity is defined as a person’s uniqueness which individualizes such person, and is manifested in various facets of personality (or indicia) which include, among other things, one’s physical appearance or image and is considered a separate right of personality.”
32. In England and Wales, The High Court in the case of *Proactive Sports Management Ltd v Wayne Rooney & 3 Others*’ [2010] EWHC 1807 (QB) defined image rights broadly at paragraph 187 of the judgment as follows:
- “...The definition of Image Rights is comprehensive and it may be helpful to set it out in full. It is in these terms:
- “Image rights means the right for any commercial or promotional purpose to use the Player’s name, nickname, slogan and signatures developed from time to time, image, likeness,



voice, logos, get-ups, initials, team or squad number(as may be allocated to the player from time to time), reputation, video or film portrayal, biographical information, graphical representation, electronic, animated or computer-generated representation and /or any other right or quasi-right anywhere in the world of the player in relation to his name, reputation, image, promotional services, and/or his performances together with the right to apply for registration of any such rights.”

33. In the Southern part of this continent, in the South African case of *Wells v Atoll Media (Pty) Ltd and Another* (11961/2006) [2009] ZAWCHC 173; [2010] 4 All SA 548 (WCC), the Court opined:

(49) the appropriation of a person's image or likeness for the commercial benefit or advantage of another may well call for legal intervention in order to protect the individual concerned. That may not apply to the kinds of photographs or television images of crowd scenes which contain images of individuals therein. However, when the photograph is employed, as in this case, for the benefit of a magazine sold to make profit, it constitutes an unjustifiable invasion of the personal rights of the individual, including the person's dignity and privacy. In this dispute, no care was exercised in respecting these core rights...”

34. A person's inherent dignity and privacy are protected under Articles 28 and 31(c) of *the Constitution* which state thus:

28. Every person has inherent dignity and the right to have that dignity respected and protected.

31. Every person has the right to privacy, which includes the right not to have-

c) information relating to their family or private affairs unnecessarily required or revealed

35. The Court in the Coalition for Reform and Democracy (CORD) case (*supra*) discussed the right to privacy and elaborated thus:

“285 The right to privacy is guaranteed under Article 31 of *the Constitution* ...

286. The right to privacy has also been expressly acknowledged in international and regional covenants on fundamental rights and freedoms. It is provided for under Article 12 of the UDHR, Article 17 of the ICCPR, Article 8 of the European Convention on Human Rights (ECHR) and Article 14 of the African Charter on Human and Peoples' Rights.

287. B. Rössler in his book, *The Value of Privacy* (Polity, 2005) p. 72, explains the right to privacy as follows:

“The concept of right to privacy demarcates for the individual realms or dimensions that he needs in order to be able to enjoy individual freedom exacted and legally safeguarded in modern societies. Such realms or dimensions of privacy substantialize the liberties that are secured because the mere securing of freedom does not in itself necessarily entail that the conditions are secured for us to be able to enjoy these liberties as we really want to”.

288. As to whether there is need to protect privacy, he goes on to write that:

“Protecting privacy is necessary if an individual is to lead an autonomous, independent life, enjoy mental happiness, develop a variety of diverse interpersonal relationships, formulate unique ideas, opinions, beliefs and ways of living and participate in a democratic, pluralistic society. The importance of privacy to the individual and society certainly justifies the conclusion that it is a fundamental social value, and should be vigorously protected in law.



Each intrusion upon private life is demeaning not only to the dignity and spirit of the individual, but also to the integrity of the society of which the individual is part”.

36. The European Court of Human Rights in *Von Hannover v. Germany* (no. 2) (nos. 40660/08 and 60641/08) opined as follows:

“(i) Concerning private life

95. The Court reiterates that the concept of private life extends to aspects relating to personal identity, such as a person’s name, photo, or physical and moral integrity; the guarantee afforded by Article 8 of the Convention is primarily intended to ensure the development, without outside interference, of the personality of each individual in his relations with other human beings. There is thus a zone of interaction of a person with others, even in a public context, which may fall within the scope of private life. Publication of a photo may thus intrude upon a person’s private life even where that person is a public figure (see *Schüssel v. Austria* (dec.), no. 42409/98, 21 February 2002.

96. Regarding photos, the Court has stated that a person’s image constitutes one of the chief attributes of his or her personality, as it reveals the person’s unique characteristics and distinguishes the person from his or her peers. The right to the protection of one’s image is thus one of the essential components of personal development. It mainly presupposes the individual’s right to control the use of that image, including the right to refuse publication thereof (see *Reklos and Davourlis v. Greece*, cited above, § 40).”

37. Concerning dignity, the court in *Mutuku Ndambuki Matingi* (supra) explained:

“

“50. As regards the right to dignity, in *Ahmed Issack Hassan vs. Auditor General* [2015] the Court held that:

“...the right to human dignity is the foundation of all other right and together with the right to life, forms the basis for the enjoyment of all other rights...put differently thereof, if a person enjoys the other rights in the Bill of rights, the right to human dignity will automatically be promoted and protected and it will be violated if the other rights are violated”. See *Francis Coralie Mullin v Administrator, Union Territory of Delhi* (1981) SCR (2) 516.”

38. Turning to Article 29(d) of *the Constitution*, this provision states that:

29. Every person has the right to freedom and security of the person, which includes the right not to be-

(d) subjected to torture in any manner, whether physical or psychological.

39. The Court of Appeal examined what constitutes torture in *Michael Maina Kamami & another v Attorney General* [2019] eKLR by observing thus:

“The European Court of Human Rights has defined torture and inhuman treatment in the Greek Case 1969 Y.B. Eur. Conv. on H.R. 186 (Eur. Comm’n on H.R in the following terms;



“The notion of inhuman treatment covers at least such treatment as deliberately causes suffering, mental or physical, which, in the particular situation is unjustifiable. The word ‘torture’ is often used to describe inhuman treatment, which has a purpose, such as the obtaining of information or confessions, or the infliction of punishment, and it is generally an aggravated form of inhuman treatment. Treatment or punishment of an individual may be said to be de-grading if it grossly humiliates him before others, or drives him to an act against his will or conscience.”

40. The above constitutional provisions and judicial pronouncements affirm the need to protect one’s unique personality attributes such as image, voice and name to ensure that a person’s dignity and privacy is respected and safeguarded from exploitation for commercial purposes without one’s consent.
41. The petitioner claimed that his right to privacy and dignity was violated when his image was uploaded by Respondent on YouTube page and the subsequent display of those images at the Respondent branches without his consent. The Petitioner provided the URL identification of the said pages but went on to state that after this Petition was filed, the 1st Respondent pulled down video clips.
42. The 1st Respondent denied that it owned the You Tube pages that the petitioner had cited and went on to assert that when it tried to search for them using the details the Petitioner had provided, it did not get the images that the Petitioner complained were displayed.
43. Section 107 of the *Evidence Act* Cap 80 squarely the burden on a party that asserts existence of a fact. It states: -

“Section 107: Burden of Proof

107(1) Whoever desires any court to give judgment as to any legal right or liability dependent to existence of facts which he asserts must prove that those facts exist.”

44. The question thus becomes, did the Petitioner prove that the Respondent displayed his images as alleged in view of the Respondent’s denial?
45. It was the responsibility of the Petitioner to provide sufficient evidence of every essential fact he was relying on to succeed in this Petition. One of the essential fact is the proof of publication of his image by the Respondent without his prior consent.
46. A careful perusal of the Petitioner’s affidavit detailing the alleged violations reveals the location where the publication of the image was done or when uploaded it. In a documentary titled Smep Documentary 1, it was at;

<https://www.youtube.com/watch?v=h4grocxNFYQ> and the exact time that the Petitioner’s image is appearing in the documentary is provided, namely from 1.09 to 1.2 mins, 2.05 mins to 2.06 mins, and 3.55 mins to 3.57 mins. The date when the video was posted is also provided being 19th February, 2020. The video was 4.26 minutes long and had gathered 424 views. The second one is titled, “The Possibilities Are Limitless With Smep” whose location was indicated to be <https://www.youtube.com/watch?v=3jbYoAOZIU4&t=11s> in which the Petitioner indicated that his images appear from 0.09 to 0.11 mins, 3.22 to 3.27 mins, 4.24 to 4.30 mins, and 5.06 to 5.08 mins. The clip was posted on 25th February, 2021, was 5.23 minutes long and gathered 146 views. The third video clip related to SMEP 2020 Annual General meeting which was at <https://www.youtube.com/watch?v=C9310gp18A> under the title ‘SMEP 2020 AGM’ in which the Petitioner appears at 0.19s. The video was posted on the 8th July, 2020 and generated 118 views.



47. The evidence points with exactitude when the publication was done and where. The particulars of the various adverts referred to were provided in his affidavit and the dates when they were published. The specific URL code (uniform resource locator) of the YouTube videos where he appeared and the exact duration is provided.
48. The images were published under an endorsement with the brand name of the respondent.
49. The Court is satisfied with the proof tendered by the petitioner of the publication of his image by the Respondent.
50. The respondent did not tender any evidence it sought the consent of the Petitioner prior to publication of those images which were used for advertising its services on YouTube and in its business premises. The Petitioner right to the exclusive use of his image was violated by exploiting it commercially without his consent. This breach violated his right to privacy under Article 31 (c) of *the Constitution*.
51. Concerning the violation of his right to dignity, I find that the Respondent did not accord the Petitioner the dignity and respect as a person by displaying images in you tube and in its business without any caring to know about his feelings or views. That is a display of patronizing attitude that is against the tenets of Article 28 that provides that every person's dignity must be respected and protected. I thus find that her rights under Article 28 were violated by the actions of the respondents in the circumstances.
52. When the Petitioner tried to reach out to the Respondent after discovery, the Respondent stonewalled and declined to respond to his concerns. The manner that the Respondent treated the Petitioner when the Petitioner raised the matter upon discovery was also, it was as though he did not deserve the Respondent's attention.
53. Having found that the Petitioner's rights were violated, it is my finding that the Petitioner is entitled to compensation for the violation. For the petitioner, the following decisions were relied upon: -
 - a. Gsn V Nairobi Hospital & 2 Others (2020) eKLR where Kshs. 2,000,0000 was awarded for breach of right to privacy.
 - b. High Court at Meru, Civil Appeal No. E083 of 2021 Dhabiti Sacco Limited v Sharon Nyaga where Ksh.1,500,000/- was awarded for publication of Petitioner's picture in the annual calender.
54. The petitioner submitted that an award of Ksh.5,000,000/ is appropriate given the inflation and profits made by the Respondent.
55. The Respondent did not submit on the issue of damages.
56. Despite the claim for the huge amount in compensation, the video clips published in the YouTube did not attract large viewership as the highest video only attracted 426 views. Indeed, it was the evidence of the Petitioner when the Petition was filed, the videos were pulled down from the you tube. The Petitioner did not provide evidence of the profits he claims were made let alone linking the profits to this particular advert that featured him. That allegation could thus not sway this court in determining the assessment of damages.
57. Consequently, doing the best that I can going by precedents, it is my considered view that an award of Six Hundred and Fifty Thousand (Ksh.650,000/-) should adequately compensate the petitioner for the proved violation of his right to privacy and dignity arising from the unauthorized use of his image for promotional purposes.



58. I also award costs of this petition.

DATED, SIGNED AND DELIVERED IN NAIROBI THIS 23RD DAY OF MAY, 2024.

.....

L N MUGAMBI

JUDGE

