



Republic v Director of Public Prosecutions & another; Patala Distillers Limited & 2 others (Interested Parties) (Judicial Review E004 of 2023) [2024] KEHC 7361 (KLR) (13 June 2024) (Judgment)

Neutral citation: [2024] KEHC 7361 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KABARNET
JUDICIAL REVIEW E004 OF 2023**

RB NGETICH, J

JUNE 13, 2024

IN THE MATTER OF: SECTIONS 8, 64, & SECTION 21 AS READ WITH SCHEDULE 2 OF THE BARINGO COUNTY {{>/AKN/KE/ACT/2010/4 ALCOHOLIC DRINKS CONTROL ACT}}, NO. 1 OF 2014

AND

IN THE MATTER OF: THE MACHAKOS COUNTY LIQUOR LICENSING ACT, NO 7 OF 2014

AND

IN THE MATTER OF: SECTION 17 AND THE FIRST SCHEDULE OF THE {{>/AKN/KE/ACT/2010/4 ALCOHOLIC DRINKS CONTROL ACT}}, NO 4 OF 2010

AND

IN THE MATTER OF: KABARNET SENIOR PRINCIPAL MAGISTRATES COURT CRIMINAL CASES NO. E479/2023 REPUBLIC VS RAY MURIUKI AND E490/2023 REPUBLIC VS HENRY KARANJA KIMANI

BETWEEN

REPUBLIC APPLICANT

AND

**THE DIRECTOR OF PUBLIC PROSECUTIONS 1ST RESPONDENT
SENIOR PRINCIPAL MAGISTRATE, KABARNET LAW COURTS 2ND RESPONDENT**

AND



PATALA DISTILLERS LIMITED INTERESTED PARTY
HENRY KARANJA KIMANI INTERESTED PARTY
RAY MURIUKI INTERESTED PARTY

JUDGMENT

1. The Exparte Applicants filed substantive Notice of motion dated 6th November 2023 Pursuant to leave granted on 26th October 2023, Article 47 of *the Constitution*, the Fair Administrative Actions Act, Section 8 of the *Law Reform Act*, Order 53 Rule 3(1), Rule 4 and of the Civil Procedure Rules seeking the following orders: -
 - a. An order of certiorari to bring to this Court and quash the decision by the 1st Respondent to charge the 2nd and 3rd Ex-parte Applicants in Kabarnet SPMCC criminal cases No. E479/2023 Republic vs. Ray Muriuki and E480/2023 Republic vs. Henry Karanja Kimani expressed vide the Charge sheets dated 17th August 2023 and presented before the Kabarnet Senior Principal Magistrates Court.
 - b. An order of prohibition restraining the 1st and 2nd Respondent from approving, entertaining, or trying the charges against the 2nd and 3rd Applicants in Kabarnet SPMCC criminal cases No. E479/2023 Republic vs. Ray Muriuki and E480/2023 Republic vs. Henry Karanja Kimani.
 - c. An order of prohibition restraining the 1st Respondent from preferring, approving, registering, or entertaining any other criminal complaint(s) against the 1st ex-parte Applicant or its employees, servants, agents or assigns under Section 8(1) b of the Baringo County *Alcoholic Drinks Control Act*, No. 1 of 2014 or any other provision of the Baringo County *Alcoholic Drinks Control Act* imposing sanctions on sale and distribution of the 1st Applicants alcoholic beverage within Baringo County where the 1st Applicant has a valid manufacturer's license issued by the Machakos County Government under the provisions of The Machakos County Liquor Licensing Act. No 7, 2014;
 - d. Spent
 - e. Costs and;
 - f. Such other relief as the Court may deem fit to grant.
2. The Application is grounded upon the Verifying Affidavit of Mary Waigwe Muthoni sworn and filed in court on 14th September 2023 and the Statutory Statement also dated and filed on 14th September 2023.
3. She avers that the 1st Applicant has a duly incorporated company carrying on the business of manufacture, sale and distribution of excisable and dutiable alcoholic beverage across the Republic of Kenya.
4. That the 1st applicant has a duly licensed manufacturing and logistic premise located along Mombasa road at Mlolongo within Machakos County where it manufactures and packages its product for distribution throughout the territory of the Republic of Kenya.
5. That by dint of its physical location, the 1st Applicant has a valid alcoholic drinks 'Manufacturer's Licence' issued by the County government of Machakos under the Machakos County Liquor



- Licensing Act, No 7 of 2014 and a 'Manufacturer's Licence' issued under the Machakos County Liquor Licensing Act entitles the holder of the licence to manufacture its product at the licensed premise and distribute it anywhere within the territory of the Republic of Kenya.
6. That the 1st Applicant distributes and sells its product through a well-established and controlled distribution network consisting of its servants, employees and agents throughout the territory of the Republic of Kenya and the 2nd and 3rd Applicants are employees of the 1st Applicant employed as driver and loader respectively and were arrested on 16th August 2023 at Kabartonjo township within Baringo County while distributing the 1st Applicants product to the 1st applicant's customer located in Kabartonjo town while using the 1st Applicants motor vehicle registration No. KCZ 285 L Isuzu FRR truck.
 7. That the 2nd and 3rd Applicants were thereafter arraigned and charged before the Kabarnet Senior Principal Magistrates Court in SPMCC criminal case No. E479/2023 and SPMCC Criminal Case No. E480/ 2023 for distributing alcoholic drinks within Baringo County without a valid liquor license issued under the Baringo County *Alcoholic Drinks Control Act*, 2014 and the 1st applicants motor vehicle and a consignment of 62 cartons containing the 1st Applicant's products were also seized.
 8. That the decision to seize the 1st applicant's products and charge its employees for trading without the local licence is an error of the law and out of misapprehension or ignorance of the relevant law to wit the Articles 189 & 191 of *the Constitution*, the Baringo County Alcoholic Drinks Act, 2014, The *Alcoholic Drinks Control Act*, 2010 and the Machakos County Liquor Licensing Act, 2014.
 9. That Article 189 of *the Constitution* prescribes principles of law making and enforcement that foster co-operation between the national government and county governments and between different county governments; that the 1st applicant is duly licensed by the county government of Machakos to manufacture and distribute alcoholic drinks within the territory of the' Republic of Kenya which licence is issued under Section 23 of the Machakos County Liquor Licensing Act, 2014.
 10. That the type of licence issued by the Machakos County is a 'Manufacturer Alcohol Licence' provided for under Section 17 of the *Alcoholic Drinks Control Act* which is operationalized under Section 39 of the Machakos liquor law which provides that the provisions of the *Alcoholic Drinks Control Act* shall continue to apply unless specifically ousted by the Machakos law.
 11. That Section 17 of the *Alcoholic Drinks Control Act* provides that the types of licence that may issue under the Act shall be those specified under the 1st Schedule and that the 1st Schedule of the *Alcoholic Drinks Control Act* provides for a manufacturers liquor licence which entitles the holder to brew his product and distribute it by wholesale throughout the Republic of Kenya.
 12. That Section 21 of the Baringo County *Alcoholic Drinks Control Act* also provides for the types of licences that may be issued under that Act which are as particularized under Schedule 2.
 13. That Schedule 2 of the Baringo law also provides for a Manufacturers Licence which entitles the holder to brew his product and sell it by wholesale throughout the Republic of Kenya in accordance with the provisions of the *Alcoholic Drinks Control Act*,2010.
 14. It is therefore the contention of the Applicants that the 1st applicant does not require a licence under the Baringo County *Alcoholic Drinks Control Act* to distribute its product within Baringo County because it holds a valid manufacturer liquor licence issued under the Machakos County Liquor Licensing Act.



15. And the seizure of the 1st applicant's motor vehicle and product coupled with the arrest and prosecution of the 2nd and 3rd Applicant is in violation of their rights and therefore the Court is enjoined to quash the decision to charge which it is not in line with the law and stop the trial.
16. That the Respondents stand to suffer no prejudice should the orders sought be granted and on the contrary, the Applicant stands to suffer, as it is continuing to suffer prejudice and loss as a result of the Respondent's actions; and unless the orders of stay sought herein are granted, the Applicant will suffer irreparable loss and damage.

1st Respondent's Response

17. The 1st Respondent filed replying affidavit sworn by Ms. Vivian Ratemo an advocate of the high court of Kenya and the prosecution counsel in this matter duly gazetted and authorized to respond in the matter.
18. She avers that the office of the director of public prosecutions is mandated by *the constitution* of Kenya, 2010 under article 157 {6} (a) to institute and undertake criminal proceedings against any person before any court (other than a court martial) in respect of any offence alleged to have been committed.
19. She argues that Article 157 (10) provides that the Director of Public Prosecutions shall not require the consent of any person or authority for the commencement of criminal proceedings and in the exercise of his or her powers or functions, shall not be under the direction or control of any person or authority.
20. That by virtue of the said provisions, the 1st respondent did institute criminal proceedings against the 2nd and 3rd Applicants herein, namely, Henry Karanja Kimani and Ray Muriuki vide KABARNET CRIMINAL CASES E479 AND 490 of 2023.
21. That the Office of the Director of Public Prosecutions is an independent constitutional office and is only subject to the control of the court in appropriate instances where illegality, irrationality and procedural impropriety has demonstrated.
22. She avers that there are instances where a court ought to exercise its discretion and stop a prosecution and such instances include where it has been demonstrated that the institution/continuance of criminal proceedings against an accused could amount to the abuse of the process of the court, Where the quashing of the impugned proceedings would secure the ends of justice, Where it manifestly appeared that there was a legal bar against the institution or continuance of the proceedings, e.g. want of sanction, Where the allegations in the First Information Report or the complaints taken at their face value and accepted in their entirety, did not constitute the offence alleged, Where the allegations constituted an offence alleged but there was either no legal evidence adduced or the evidence adduced clearly or manifestly failed to prove the charge, the prosecution was not in public interest, the prosecution was not in the interests of the administration of justice, the prosecution was oppressive, vexatious and an abuse of the court process, the prosecution amounted to a breach of rights and fundamental freedoms, the investigation and prosecution amounted to abuse of power and discretion and was aimed at achieving an ulterior or improper motive, the investigation and the prosecution were tainted with illegality, irrationality and procedural impropriety and the investigation and prosecution were in gross contravention of *the Constitution* and the law.
23. That by virtue of the foregoing, the applicants have not demonstrated that the above instances exist to warrant the court to interfere with the 1st respondent's mandate to institute and undertake criminal proceedings. Further, that the applicants herein Henry Karanja Kimani and Ray Muriuki will be afforded an opportunity to defend themselves during the trial.



24. She further avers that the applicants herein have not demonstrated their relationship with Patiala distillers and documents to show that they are employees of Patiala distillers have not been attached.
25. She avers that Section 17 of the Alcoholic Drinks Act provided for types of licences as rightly put in the application and in this particular case, there is no depot of Patiala distillers within Baringo County and that the particulars of the charge sheet are quite clear that the applicants herein were found distributing or selling liquor using Motor vehicle KCZ 285L which does not conform the description of a depot as per the P Schedule of the *Alcoholic Drinks Control Act*.
26. That according to the said licence, Patialla distillers ltd can either distribute through a depot or by wholesale in accordance with the conditions that are for the time being, applicable to a holder of a wholesale licence and paragraph 14 of the application is worth noting where the applicant admits that they can distribute by wholesale.
27. That the said act further provides that a wholesale licence authorizes the licensee to sell an alcoholic drink at the premises specified in the licence, subject to such conditions as may be prescribed and by virtue of the above provisions, Patialla distillers ltd have not shown that they own any premises either as a depot or wholesale from which they conduct their business within Baringo County.
28. She avers that no evidence has been adduced to show that the Motor vehicle KCZ 285L is property owned by Patiala distillers and the license annexed in the application is worth noting since it is in respect of Premises situated at Mavoko Patialla Distillers LTD which for all intents and purposes is the depot.
29. Counsel argues that the third schedule of the *alcoholic drinks control Act* on Licence fees is worth considering as it provides for the different licence fees to be paid in particular and the clear intention of the Act is for manufacturers to sell and distribute alcohol through depot that could be spread out throughout the country, or have wholesale premises countrywide. Selling or distributing by way of vehicles would ordinarily require a distributor alcoholic drinks licence.
30. That the applicants herein intend to mislead the court as to the laws applicable. The 1st applicant is licenced to only conduct business through their depot within Machakos County and not throughout Kenya as indicated in their application and the regulations in Baringo County should be followed and it is noteworthy to state that the 2nd and 3rd applicants had initially pleaded guilty to the charges when they were first arraigned in court.
31. The Application was canvassed by way of written submission.

Applicant's Submissions

32. In submissions dated 4th March, 2024 the applicants identify 3 issues for court's determination: -
 - a. Whether this court should be pleased to issue orders for judicial review.
 - b. Whether this court should be pleased to issue a conservatory order staying the prosecution of the 2nd and 3rd ex-parte Applicants.
 - c. Who bears the cost of the Application?
33. The Applicants restated reliefs sought and submit that the arrest of 2nd and 3rd Respondents constitute misuse of the court's criminal process, given that the 1st Applicant holds a valid manufacturing licence under the Machakos County Liquor licensing Act, No. 7 of 2014 as well as the *Alcoholic Drinks Control Act*, 2010 which grants the holder the right to produce goods at the licensed location and distribute them anywhere within the Republic of Kenya; and there is no necessity for a license issued under the



Baringo County *Alcoholic Drinks Control Act* for the distribution of their products within Baringo County and there is therefore no legal ground for criminal process herein and the same is illegal as the 1st Applicant distributes its products countrywide.

34. The applicants further restated averments in the affidavit already captured above and submit that Article 189 of *the Constitution* of Kenya calls for co-operation and coordination of different county government policies. That similar to Machakos County, Baringo County has an identical law whereby, under the Baringo County *Alcoholic Drinks Control Act*, Schedule 2 outlines the provisions for a Manufacturer's License which license allows the holder to brew their product and engage in wholesale sales countrywide in compliance with the stipulations of the *Alcoholic Drinks Control Act*, 2010.
35. And the respondents' actions therefore amount to an abuse of the court process, serving only to unfairly prejudice and/or embarrass the Applicants; that the Director of Public Prosecutions is in violation of Article 157(11) of *the Constitution*, which mandates consideration of the public interest, the administration of justice, and the prevention of legal process abuse. That the charges filed go against the legitimate expectations of the Applicants and they seek orders to ensure protection of 2nd and 3rd Applicants' right to a fair trial as outlined in Article 50 of *the Constitution*.
36. That the 1st respondent is exercising his discretion oppressively, vexatious and for an improper purpose manner, thereby violating his obligation to act fairly toward the Applicants.
37. And subjecting the 2nd and 3rd Applicants to a full trial based on unfounded allegations would result in profound injustice throughout the trial period, violating the principles of fairness outlined in Articles 47 and 50 of *the Constitution* of Kenya and would impose unwarranted financial burdens and inflict physical and mental torture on them, contravening the provisions of Article 25 and 29 of *the Constitution*; that prosecution of the 2nd and 3rd Applicants is malicious and an abuse of the court process.
38. In conclusion, the applicants submit that in view of the provision of the Machakos County Liquor Licensing Act, that allows the holder of a Manufacturing Licence to manufacture its products at the licenced premise and distribute it anywhere within the territory of the Republic of Kenya, the respondents lack cause of action.
39. The Applicants pray the Application dated 6th November 2023 be allowed as prayed with costs.

Analysis And Determination

40. The applicants herein are challenging the decision by the 1st Respondent to charge them for distributing liquor within Baringo County. I have considered the grounds in support of the application, averments herein and submissions filed. What I consider to be in issue is whether the application has made threshold for grant of reliefs sought.
41. The Director of Public Prosecutions derives his powers from Article 157 of *the constitution* which provides as follows: -

“ 157

- (4) The Director of Public Prosecutions shall have power to direct the Inspector-General of the National Police Service to investigate any information or allegation of criminal conduct and the Inspector-General shall comply with any such direction.
- (5)



- (6) The Director of Public Prosecutions shall exercise State powers of prosecution and may—
 - (a) Institute and undertake criminal proceedings against any person before any court (other than a court martial) in respect of any offence alleged to have been committed;
 - (b) take over and continue any criminal proceedings commenced in any court (other than a court martial) that have been instituted or undertaken by another person or authority, with the permission of the person or authority; and
 - (c) Subject to clause (7) and (8), discontinue at any stage before judgment is delivered any criminal proceedings instituted by the Director of Public Prosecutions or taken over by the Director of Public Prosecutions under paragraph (b).
- (10) The Director of Public Prosecutions shall not require the consent of any person or authority for the commencement of criminal proceedings and in the exercise of his or her powers or functions, shall not be under the direction or control of any person or authority.
- (11) In exercising the powers conferred by this Article, the Director of Public Prosecutions shall have regard to the public interest, the interests of the administration of justice and the need to prevent and avoid abuse of the legal process.”

42. Section 6 of the [Office of the Director of Public Prosecutions Act](#) provide as follows:

- “6. Pursuant to Article 157(10) of [the Constitution](#), the Director shall—
- (a) not require the consent of any person or authority for the commencement of criminal proceedings;
 - (b) not be under the direction or control of any person or authority in the exercise of his or her powers or functions under [the Constitution](#), this Act or any other written law; and
 - (c) be subject only to [the Constitution](#) and the law.”

43. In *Justus Mwenda Kathenge vs. Director of Public Prosecutions & 2 Others* [2014] eKLR, the court stated as follows: -

- “It is now trite that Courts cannot interfere with the exercise of the above mandate unless it can be shown that under Article 157(11):
- i. he has acted without due regard to public interest
 - (ii) he has acted against the interests of the administration of justice,



- ii. he has not taken account of the need to prevent and avoid abuse of Court process.

These considerations are not new and have over time been taken as the only bar to the exercise of discretion on the part of the 1st Respondent. I say so considering the following decisions where the issue has been addressed;”

44. Further, Odunga J in *Agnes Ngenesi Kinyua aka Agnes Kinywa vs. Director of Public in respect to prosecution* stated as follows:

“it must be emphasized that a constitutional petition challenging prosecution does not deal with the merits of the case but only with the process. The Court in such proceedings is mainly concerned with the question of fairness to the petitioner in the institution and continuation of the criminal proceedings and once the Court is satisfied that the same are bona fides and that the same are being conducted in a fair manner, the High Court ought not to usurp the jurisdiction of the trial Court and trespass onto the arena of trial by determining the sufficiency or otherwise of the evidence to be presented against the applicant. Where, however, it is clear that there is no evidence at all or that the prosecution’s evidence even if were to be correct would not disclose any offence known to law, to allow the criminal proceedings to continue would amount to the Court abetting abuse of the Court process by the prosecution.”

45. In *George Joshua Okungu & another vs. Chief Magistrate’s Court Anti-Corruption Court at Nairobi* this Court cited with approval the holding in *Republic vs. Minister for Home Affairs and Others Ex Parte Sitamze Nairobi HCCC No. 1652 of 2004 [2008] 2 EA 323* and stated as follows: -

“Whereas we appreciate the fact that the decision whether or not to prosecute the petitioners is an exercise of discretion this Court is empowered to interfere with the exercise of discretion in the following situations: (1) where there is an abuse of discretion; (2) where the decision-maker exercises discretion for an improper purpose; (3) where the decision-maker is in breach of the duty to act fairly; (4) where the decision-maker has failed to exercise statutory discretion reasonably; (5) where the decision-maker acts in a manner to frustrate the purpose of the Act donating the power; (6) where the decision-maker fetters the discretion given; (7) where the decision-maker fails to exercise discretion; (8) where the decision-maker is irrational and unreasonable...”

46. Judicial review jurisdiction, it has been held, is a special jurisdiction which is neither civil nor criminal and the *Civil Procedure Act* does not apply. It is governed by Sections 8 and 9 of the *Law Reform Act* being the substantive law and Order 53 of the Civil Procedure Rules being the procedural law. Section 8 of the *Law Reform Act* specifically sets out the orders that the High Court can issue in judicial review proceedings and the orders are, mandamus, certiorari and prohibition.

47. Judicial review is only concerned with the reviewing of the decision-making process and the evidence is found in the affidavits filed in support of the application. Several decisions have been handed down which in my view correctly set out the law relating to circumstances under which the Court would be entitled to prohibit, bring to a halt or quash criminal proceedings. It is however always important to remember that in these types of proceedings the Court ought to be extremely cautious in its findings so as not to prejudice the intended or pending criminal proceedings.



48. As judicial review proceedings are concerned with the process rather than merits of the challenged decision or proceedings, the court is not entitled to make definitive findings on matters which go to the merit of the impugned proceedings. In determining the issues raised herein, the Court ought therefore to avoid the temptation to unnecessarily stray into the arena exclusively reserved for the criminal or trial Court.
49. Further, the Court in determining judicial review proceedings ought not to usurp the Constitutional and statutory mandate of the 1st Respondent to investigate and undertake prosecution in the exercise of the discretion conferred by *the constitution* and ODDP Act. It was in recognition of this fact that the House of Lords in *Director of Public Prosecutions vs. Humphreys* [1976] 2 All ER 497 at 511 cautioned that:
- “A judge must keep out of the arena. He should not have or appear to have any responsibility for the institution of a prosecution. The functions of prosecutors and of judges must not be blurred. If a judge has power to decline to hear a case because he does not think it should be brought, then it soon may be thought that the cases he allows to proceed are cases brought with his consent or approval...If there is a power...to stop a prosecution on indictment in limine, it is in my view a power that should only be exercised in the most exceptional circumstances.”
50. Further, the Court of Appeal in *Municipal Council of Mombasa vs. Republic & Umoja Consultants Ltd* Civil Appeal No. 185 of 2001 stated as follows: -
- “Judicial review is concerned with the decision making process, not with the merits of the decision itself: the Court would concern itself with such issues as to whether the decision makers had the jurisdiction, whether the persons affected by the decision were heard before it was made and whether in making the decision the decision maker took into account relevant matters or did take into account irrelevant matters...The court should not act as a Court of Appeal over the decider which would involve going into the merits of the decision itself- such as whether there was or there was not sufficient evidence to support the decision...”
51. Therefore, the mere fact that the intended or ongoing criminal proceedings are in all likelihood bound to fail, it has been held time and again, is not a ground for halting those proceedings by way of judicial review since judicial review proceedings are not concerned with the merits but with the decision making process. That an applicant has a good defence in the criminal process is a ground that ought not to be relied upon by a Court in order to halt criminal process undertaken bona fides since that defence is open to the applicant in those proceedings. However, if the applicant demonstrates that the criminal proceedings that the police intend to carry out constitute an abuse of process, the Court will not hesitate in putting a halt to such proceedings.
52. As was aptly put in *Republic vs. Commissioner of Police and Another ex parte Michael Monari & Another* [2012] eKLR:
- “the police have a duty to investigate on any complaint once a complaint is made. Indeed, the police would be failing in their constitutional mandate to detect and prevent crime. The police only need to establish reasonable suspicion before preferring charges. The rest is left to the trial court...As long as the prosecution and those charged with the responsibility of making the decisions to charge act in a reasonable manner, the High Court would be reluctant to intervene.”



53. In view of the fact that judicial review don not deal with merit but process, where an applicant brings judicial review proceedings raises contested matters of facts and in effect urges the Court to determine the merits of two or more different versions presented by the parties, the Court would not have jurisdiction in a judicial review proceeding to determine such a matter and will leave the parties to resort to the normal forums where such matters ought to be resolved.
54. Therefore, judicial review proceedings are not the proper forum in which the innocence or otherwise of the applicant is to be determined and a party ought not to institute judicial review proceedings with a view to having the Court determine his innocence or otherwise. To do so in my view amounts to abuse of the judicial process. The Court in judicial review proceedings is mainly concerned with the question of fairness to the applicant in the institution and continuation of the criminal proceedings and once the Court is satisfied that the same are bona fides and that the same are being conducted in a fair manner, the High Court ought not to usurp the jurisdiction of the trial Court and trespass onto the arena of trial by determining the sufficiency or otherwise of the evidence to be presented against the applicant.
55. The applicants have argued that the 1st applicant has licence to manufacture and distribute countrywide under the Machakos County Liquor licensing Act, No. 7 of 2014 and has attached licence for depot in Mavoko in Machokos country. On the other hand, the 1st Respondent's argument is that the 1st applicant is required to have a depot for distribution of its product in Baringo county and have a licence issued under the Baringo County *Alcoholic Drinks Control Act* imminently threatening their liberty. In my view this are issues which ought to be conversed before the trial court. Considering these issues under this judicial review matter in my view will go into the merits of the matter. The 1st and 2nd applicant have been arraigned before court, the charges have been disclosed to them and they will have an opportunity to demonstrate that they have not breached any law. The applicants have not faulted the respondents process so far. I will not go into the merits of this matter.
56. Final Orders:
1. The Notice of motion dated 6th November 2023 is hereby dismissed
 2. Costs to the 1st Respondent.

JUDGMENT DELIVERED, DATED AND SIGNED VIRTUALLY AT ELDAMA RAVINE HIGH COURT (SUB-REGISTRY) THIS 13TH DAY OF JUNE 2024.

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RACHEL NGETICH
JUDGE

In the presence of:

* Court Assistant: Elvis.

* Ms.Ratemo for the Respondents.

* Ms. Wairimu holding brief for Mr. Kabugu for the Applicants.

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