



Ethics & Anti Corruption Commission v Mohammed (Anti-Corruption and Economic Crimes Appeal 10 of 2019) [2023] KEHC 18663 (KLR) (Anti-Corruption and Economic Crimes) (12 May 2023) (Judgment)

Neutral citation: [2023] KEHC 18663 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
ANTI-CORRUPTION AND ECONOMIC CRIMES
ANTI-CORRUPTION AND ECONOMIC CRIMES APPEAL 10 OF 2019**

PM NYAUNDI, J

MAY 12, 2023

BETWEEN

ETHICS & ANTI CORRUPTION COMMISSION APPELLANT

AND

HASSAN MOHAMMED RESPONDENT

(Being an appeal against the Ruling and Order delivered by Hon. Cheruiyot Senior Principal Magistrate on 7th March 2019 at Milimani Chief Magistrates Court in Anti-Corruption Misc. Application No. 3966 of 2018)

JUDGMENT

Background

1. Vide Petition of Appeal dated 26th March 2019, the Petitioner appeal against the decision of the Learned Magistrate delivered on 7th March 2019 on the following grounds: -
 - a. The learned Magistrate erred in law and fact by setting aside the search warrants it issued on 24th October 2018 which had already been executed and returns filed in court.
 - b. The learned Magistrate erred in law and fact by finding that the search warrants were unreasonable and malicious.
 - c. The learned Magistrate erred in law and fact by finding that the Applicant did not prefer any charges against the respondent after the search and seizure, yet the investigations are still ongoing.



- d. The learned Magistrate erred in law and fact by failing to have regard to the provisions of section 55 of the *Anti-Corruption and Economic Crimes Act*.
 - e. The learned Magistrate erred in law and fact by finding that it is not a crime to be wealthy, without giving due consideration to the manner in which the wealth was acquired.
 - f. The learned Magistrate erred in law and fact in failing to have regard to the laws relating to illicit enrichment, corruption, and economic crimes.
 - g. The learned Magistrate erred in law and fact by finding that the orders of search and seizure were obtained on the basis of speculation and subjective grounds.
 - h. The learned Magistrate erred in law and fact by failing to find that the Applicant had demonstrated reasonable suspicion before the court granted orders for search and seizure.
 - i. The learned Magistrate erred in law and fact by failing to find that the High Court had on 8th November 2018 declined an application for review of the search warrants.
 - j. The learned Magistrate erred in law and fact by failing to find that the file had only been referred to him for delimitation of time in which to execute the search warrants.
2. Parties were directed to canvass the Appeal by way of written submissions and also highlighted their submissions.
 3. Mr. Litoro learned counsel for EACC submitted that setting aside the warrants by the learned magistrate was erroneous since the warrants had already been executed and the returns were filed in court.
 4. Counsel argued that the moment the court granted the search warrants, the court became functus officio. To buttress his claim, counsel cited the case of Raila Odinga & 2 others vs. IEBC & 3 others (2013) eKLR, the case of John Gilbert Ouma vs. Kenya Ferry Services Limited (2021) eKLR, and Section 99 of the *Civil Procedure Act*.
 5. Counsel further submitted that the warrants once granted can only be set aside if there is evidence that there was abuse of power or gross violation of the rights of persons being searched. Counsel further cited the case of Omwanza Ombati t/a Nchogu, Omwanza & Nyasimi Advocates vs. Director of Criminal Investigations Department Emmanuel Kanyungu & 3 others (2017) eKLR.
 6. Counsel submitted that to demonstrate suspicion before the trial court, the EACC investigator Mr. James Kariuki swore an affidavit dated 22nd October 2018 and deposed that the respondent was being investigated for misappropriation of funds, illegal acquisition of wealth and fraud. Further to this, Mr. Kariuki deposed that the respondent as an accountant with KRA had acquired wealth beyond his known legitimate sources of income.
 7. According to the EACC, this was suspicious. Counsel submitted that the respondent had fraudulently acquired public funds entrusted to him as an accountant. Counsel relied on section 57(1) of the Anti-corruption and Economics Act and submitted that possession of unexplained assets/wealth may be taken to court as corroboration that a person accused of corruption or economic crimes received a benefit. To further put emphasis on his claim, counsel relied on the case of Emmanuel Suipanu Siyanga vs. Republic, Criminal Appeal No. 124 of 2009 (2013) eKLR, and the case of Okiya Omtatah vs. AG and 4 Others (supra).
 8. Counsel submitted that the trial court set aside the search warrants on two major grounds; That no charges were preferred against the respondent hence, EACC had no reason to oppose the setting aside



of the said warrants and the search having been premised on the accused person's status vis-à-vis his wealth was unreasonable and malicious. He argued that warrants to search is an investigative tool provided by the law and as such the said tool is not invalidated by the absence of criminal proceedings. The result of the investigation can either be criminal or civil proceedings as provided under section 193A of the Criminal Procedure Act.

9. According to counsel, even if the result of the investigation was a criminal prosecution, it would not have been possible to complete the said investigation and forward the file to the Director of Public Prosecution (DPP) between 24th October 2018 and 7th November 2018 when the application to set aside was filed. Counsel submitted that section 35 of the ACEC Act contemplates a situation where the evidence collected is submitted to the DPP for analysis and concurrence before criminal proceedings are commenced.
10. He added that section 35 of the Act requires EACC to submit a report to the DPP on the result of the investigation and whether the person investigated should be prosecuted for corruption and economic crimes or not. Counsel submitted that what was before the trial court was on the validity of the warrants and not the result of the investigation.
11. Counsel submitted that whereas it is not a crime to be wealthy, section 55 of the ACEC Act mandated EACC to interrogate the source of a person's wealth where it suspects the person's wealth is disproportionate to his known legitimate source of income. He added that EACC is empowered to investigate and institute proceedings to recover unexplained assets. To put emphasis on this point, counsel relied on the case of Kenya Anti-Corruption Commission vs. James Mwathethe Mulwa & Anor. (2017) eKLR. Counsel submitted that the learned magistrate failed to consider the respondent's unexplained wealth.
12. Counsel submitted that the respondent on 7th November 2018 sought orders from the High Court to examine and review the record of the trial court and to further set aside the search warrant. Counsel submitted that the High Court on 8th November 2018 ruled that it was satisfied that the trial court had properly exercised its discretion and thus declined the prayer for review.
13. Consequently, the respondent filed the setting aside application in the trial court. According to counsel, the learned magistrate erred in law and fact in failing to find that what was referred to the trial court was for the respondent to raise any complaints in the execution of the warrant and not the canvassing of a fresh application before it.
14. Mr. Waudo learned counsel for the respondent submitted that the trial court did not become functus officio after issuing the search warrant and therefore, it had jurisdiction to hear the application for setting aside. Counsel submitted that EACC's submission that once a search warrant has been issued it can never be set aside is false and unsupported by law. Counsel relied on the case of Manfred Walter Schmitt & Another vs. Republic & Another (2013) eKLR.
15. Further to this, counsel submitted that this appeal is fatally defective having been filed out of time and without leave of court.
16. Counsel argued that EACC did not comply with Section 118 of the Criminal Procedure Code when they applied for a search warrant. Counsel argued that amassing a lot of wealth is not an offence under the law therefore, investigation cannot be conducted in respect of a non-existing criminal offence. Counsel further submitted that EACC had not determined the respondent's legitimate sources of income before it applied for the search warrant. Also, EACC did not place evidence before the trial court as proof that the respondent was an employee of KRA. Counsel submitted that the respondent is not an accountant in KRA.



17. Counsel submitted that the respondent's right to privacy under Article 31 of *the Constitution* was not considered and thereby, was violated. He added that there were other less intrusive ways that could be used by EACC to examine the respondent's wealth. These methods include assessing the respondent's Declaration of Income and Assets.
18. Counsel argued that the affidavit of EACC's investigator, Mr. Kariuki is full of general and unsupported allegations as there was no evidence of a complaint that the respondent had committed acts of fraud and there was no proof of reasonable suspicion. Counsel submitted that according to the case of *Vitu Limited vs. The Chief Magistrate Nairobi & two others H.C. Misc. Criminal Application No. 475 of 2004* and the case of *Emmanuel Suipanu Sioyanga vs. Republic (2013) eKLR*, suspicion must be based on existent of facts.
19. As regards the validity of the search warrant, counsel submitted that the trial court did not in its Ruling give reasons as to why the ex parte application was meritorious. This renders the ruling arbitrary and indefensible in law. Counsel further cited the South African case of *Minister of Safety and Security vs. Van der Merwe & others 2011 (5) 61 (C.C)* where the court listed the conditions that make a search warrant valid. Counsel submitted that the search warrant issued was overly broad as the residential and business premises to be searched were not specified in the relevant search warrant and the Articles to be searched and seized were not specified in the said warrant. Furthermore, counsel argued that EACC was not entitled to the search warrant as they failed to meet the requirements of Section 118 of CPC.

Analysis and Determination

20. I have considered the Appeal, the trial court's record, the rival submissions of counsel and the authorities cited. I frame the following issues for determination
 - i. Whether the Appeal is competent before Court
 - ii. Whether the Learned Magistrate was functus officio post 22nd October 2018
 - iii. Whether the learned Magistrate erred in law and in fact by setting aside the search warrants it issued on 24th October 2018, which had already been executed and returns filed in Court
21. Whether the Appeal is competent before Court

It is contended by the Respondent that the Appeal is incompetent as it was filed out of time and without leave. The impugned ruling was delivered by the learned magistrate on 7th March 2019.
22. I will cut to the chase on this issue, Certificate of Delay issued on 3rd November 2022 shows that the Appellant requested the proceedings on 11th March 2019 and lodged the request in Court on the same date. The Applicant was notified that the certified typed copies of the proceedings and ruling were ready on 4th November 2022. The Appeal was filed on 7th November 2022. On 8th November 2022, Hon. Lady Justice Maina granted leave to the Appellant to appeal out of time, thereby deeming the Appeal lodged on 7th November 2022 duly filed.
23. On this account, I find that the Appeal is properly before this Court.
24. Whether the Learned Magistrate was functus officio post 22nd October 2018

On this point I am inclined to concur with the reasoning of Hon. Majanja J. in *Manfred Walter Schmitt & Another v Republic & Anor (Supra)* where he stated

‘[23] As an ex-parte order for search and seizure cannot be challenged before it is conducted, the party affected is entitled to challenge the action afterwards and the court is entitled to



declare the warrant invalid. In my view, the affected party may make an application before the court that issued the warrant or in a case such as this apply for revision of the order. The Court's duty in such a case is to assess independently and objectively the evidence present at the time the warrant was issued and determine whether there were reasonable grounds placed before the court to establish the applicant's entitlement to an order of search and seizure. This inquiry is to be conducted on the basis of the facts as presented before the court at the time the application was made....'

25. I find therefore that the Learned Magistrate was not functus officio as the Respondent was entitled to challenge the order.
26. Whether the learned Magistrate erred in law and in fact by setting aside the search warrants it issued on 24th October 2018, which had already been executed and returns filed in Court
The Appeal is challenging the learned Magistrate's ruling that set aside the order that issued the search warrant. According to EACC, the search warrants were validly issued and therefore, there was no reason to set them aside.
27. The Respondent argues that the Application did not satisfy the requirements of Section 118 of the CPC regarding the issuance of search warrants. The Appellant on the other hand is of the Contrary view.
28. Section 29 of the ACECA, which is headed 'Search of Premises' states:-
 - (1) The Commission may, with a warrant, enter upon and search any premises for any record, property or other thing reasonably suspected to be in or on the premises and that has not been produced by a person pursuant to a requirement under the foregoing provisions of this Part.
 - (2) The power conferred by this section is in addition to, and does not limit or restrict, a power conferred by section 23(3) or by any other provision of this part.
29. A reading of this section shows that it does not provide a process for obtaining the search warrant contemplated. It only permits EACC to enter premises 'with a warrant', without providing how such warrant is to be obtained. Section 23(4) of the Act, provides as follows:-
 - "(4) The provisions of the Criminal Procedure Code (Cap. 75), the *Evidence Act* (Cap. 80), the Police Act (Cap. 84) and any other law conferring on the police the powers, privileges and immunities necessary for the detection, prevention and investigation of offences relating to corruption and economic crime shall, so far as they are not inconsistent with the provisions of this Act or any other law, apply to the Director and an investigator as if reference in those provisions to a police officer included reference to the Director or an investigator.
30. Therefore section 23 of ACECA read together with section 118A of the Criminal Procedure Code and section 180 of the *Evidence Act* enables EACC to obtain search warrants to carry out investigations and criminal proceedings if the evidence discloses criminal culpability. Section 118 of the CPC stipulates that:-

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 - "118. Where it is proved on oath to a court or a magistrate that anything upon, with or in respect of which an offence has been committed, or anything which is necessary for the conduct of an investigation into an offence, is, or is reasonably



suspected to be, in any place, building, ship, aircraft, vehicle, box or receptacle, the court or a magistrate may by written warrant (called a search warrant) authorize a police officer or a person named in the search warrant to search the place, building, ship, aircraft, vehicle, box or receptacle (which shall be named or described in the warrant) for that thing and, if the thing be found, to seize it and take it before a court having jurisdiction to be dealt with according to law.”

“118A. Ex-parte application for search warrant

An application for a search warrant under section 118 shall be made ex-parte to a magistrate.”

31. Section 180 of the *Evidence Act* is drawn as follows: -

“ 180. Warrant to investigate

1. Where it is proved on oath to a judge or magistrate that in fact, or according to reasonable suspicion, the inspection of any banker’s book is necessary or desirable for the purpose of any investigation into the commission of an offence, the judge or magistrate may by warrant authorize a police officer or other person named therein to investigate the account of any specified person in any banker’s book, and such warrant shall be sufficient authority for the production of any such banker’s book as may be required for scrutiny by the officer or person named in the warrant, and such officer or person may take copies of any relevant entry or matter in such banker’s book.”

32. It is now well established that Section 118 of the Criminal Procedure Code provide the parameters within which the rights of individuals to privacy as provided for under Article 31 of *the Constitution* are limited and that the following conditions as enumerated in the decision of the Constitutional Court of South Africa, Minister of Safety and Security v Van DER Merwe & Others 2011 (5) 61 (CC) should be met before a search warrant is considered valid:

- (55) What emerges from this analysis is that a valid warrant is one that, in a reasonably intelligible manner:
 - (a) states the statutory provision in terms of which it is issued;
 - (b) identifies the searcher;
 - (c) clearly mentions the authority it confers upon the searcher;
 - (d) identifies the person, container or premises to be searched;
 - (e) describes the article to be searched for and seized, with sufficient particularity; and
 - (f) specifies the offence which triggered the criminal investigation and names the suspected offender.
- (56) In addition, the guidelines to be observed by a court considering the validity of the warrants include the following:



- (a) the person issuing the warrant must have authority and jurisdiction;
- (b) the person authorising the warrant must satisfy herself that the affidavit contains sufficient information on the existence of the jurisdictional facts;
- (c) the terms of the warrant must be neither vague nor overbroad;
- (d) a warrant must be reasonably intelligible to both the searcher and the searched person;
- (e) the court must always consider the validity of the warrants with a jealous regard for the searched person's constitutional rights; and
- (f) the terms of the warrant must be construed with reasonable strictness.

This decision has been cited with approval by Kenyan Courts, including in *Okiya Omtatah v AG and 14 Others and Omwanza Ombati t/a Nchogu, Omwanza & Nyasimi Advocates v Director of Criminal Investigations Department Emmanuel Kanyungu & 3 others* [2017]eKLR

33. In the Schmitt case cited above Hon Majanja J emphasized that;

‘[28]. I would be remiss if I did not comment on the nature of the proceedings before the subordinate court. The duty imposed on the judiciary to issue warrants of search and seizure is a constitutional safeguard to protect the rights and fundamental freedoms of an individual. The Court is not a conveyor belt for issuing warrants when an application is made nor must the court issue warrants of search and seizure as a matter of course.’

34. The issue is whether the Search Warrants met the threshold for a valid warrant.

35. Vide Notice of Motion dated 22nd October 2022, the Appellant sought the following orders

1. That this application be heard ex parte and on a priority basis for reasons of its urgency
2. That the Honorable Court do issue a warrant to James Kariuki, an investigator related to alleged fraudulent acquisition of the public funds and any other documents reasonably suspected to be relevant to the investigations into the allegations of the corrupt conduct of economic crimes.
3. That the Applicant be permitted and/ or allowed to carry away any records, documents, computers, flash disks, title deeds, sale agreements, transfers, undertakings, and or other documents necessary for the conduct of investigations into offences constituting corruption and/or economic crimes suspected to have been committed by the Respondent.
4. That there be no orders as to costs

36. The Application was based on the following grounds

1. That the Commission is undertaking investigations vide inquiry file no. EACC/AT/INQ/34/2-18 pursuant to the provisions of Section 11 (1) d) and (k) of the *Ethics and Anti-Corruption Commission Act*, 2011, regarding allegations of misappropriation of public funds and illegal acquisition of wealth by the Respondent while working as an accountant of the Kenya Revenue Authority.



2. That further investigations have revealed that the Respondent has amassed wealth which is not commensurate to his known source of income.
 3. That such act as aforesaid constitutes an offence under the *Anti-Corruption and Economic Crimes Act*, therefore under the mandate and jurisdiction of the ex- parte Applicant
 4. That to complete the investigations, it is necessary to search the Respondent's businesses, offices and Residential premises in order to conduct investigations in to the offences constituting corruption and economic crimes.
 5. That there is a strong suspicion that the Respondent has acquired some of his recent assets and income through corrupt conduct.
 6. That this Honorable Court has jurisdiction to grant the prayers sought herein.
37. The Application was supported by the Affidavit of James Kariuki sworn on the 22nd October in which he averred as hereunder
1. That I am an investigator with Ethics and Anti-Corruption Commission (EACC) appointed under Section 23 of the *Anti-Corruption and Economic Crimes Act*, 2003, hence I am competent and duly authorized to swear this Affidavit
 2. That the Applicant has commenced preliminary investigations in the allegation that the Respondent who is employed as an Accountant by the Kenya Revenue Authority has amassed a lot of wealth.
 3. That there is a strong suspicion that the Respondent is keeping documents and other evidentiary materials relating to the alleged fraudulent transactions in his offices, businesses and residential premises.
 4. That there is reasonable suspicion that the Respondent is engaged in conduct constituting Corruption and Economic Crimes.
 5. That to complete the investigations, it is necessary to search the Respondent's Office, Business Premises and Residential premises situated within the Republic of Kenya for documentary evidence that may lead to tracing the title deeds, agreements, undertakings, contracts, cash, chequebooks, computers, laptops, iPads, flash disks, mobile phones, credit cards, correspondence and any other instrumentality of a crime that may lead to establishing the truth or otherwise of the allegations made.
 6. That the search is also necessary to establish fraudulent acquisition of public funds by the Respondent, agents and or beneficiaries.
38. I have taken the trouble to set out verbatim the Application of 22nd October 2023 as by the Application dated 13th November 2018, the Respondent's challenge to the issuance of the Search warrant was that the legal threshold for the granting of search warrants was not met prior to the issuance of the relevant search warrant.
39. In particular it was submitted that the alleged suspicion by the Ethics and Anti-Corruption Commission of the corrupt conduct on the part of the Applicant was subjective and did not have a factual basis.
40. Further it was contended that the Ethic and Anti-Corruption Commission did not demonstrate to the Subordinate Court the existence of any substantial facts or circumstances in its possession as would



- raise a reasonable suspicion on its part or on the part of any reasonable person as to the Commission of an offence of corruption by the Applicant.
41. The Respondent argued that he has a constitutional right under Articles 29 and 31 of *the Constitution* of Kenya to protection from unreasonable searches and seizures.
 42. In setting aside, the Search warrants earlier issued the Court observed that
 1. The Respondent had not been charged and no charges were preferred against the Respondent and that therefore the Appellant had no basis to oppose the setting aside of the orders
 2. It was not a crime to be wealthy and the search was premised on the accused person status vis a vis his wealth. The Court thought this was unreasonable
 3. The Court also took issue with the late returns of the inventory by the Appellant concluding that the Appellant had only filed the returns in response to the Application.
 4. The Learned Magistrate concluded that there was no reasonable suspicion of commission of corruption offences by the Respondent. Further that the orders of search and seizure were obtained on the basis of speculation and subjective grounds and not factual basis.
 43. As stated the decision in Schmitt above sheds a bright light on the threshold for the grant of a Search Warrant. It is recognized that a search and seizure order is a limitation of the rights of an individual and hence its application must meet the requirements of Article 24 or it falls for reversal.
 44. In the instant case the grounds were set on the face of the application and supported by the Affidavit of the investigator. From the Application it is evident that the Appellant had opened an inquiry file and they were investigating the Respondent for possible involvement in corruption and other economic crimes. The grounds for the suspicion were that at that point in time, the appellant had amassed wealth not commensurate to his income.
 45. Section 55 of the *Anti-Corruption and Economic Crimes Act*, 2003 mandates the Commission to 55(2) ...Commence proceedings under this section against a person if-
 - a. After an investigation, the commission is satisfied that the person has unexplained assets; and
 - b. The person has, in the course- of the exercise by the Commission of its powers of investigation or otherwise, been afforded a reasonable opportunity to explain the disproportion between the assets concerned and his known legitimate sources of income and the Commission is not satisfied that an adequate explanation of that disproportion has been given.
 46. The facts in the current case are almost on all fours with the facts in *George Onyango Oloo v EACC & Another* [2019] eKLR. In that case the Respondent's EACC pointed out that [30]....search warrants are issued to aid an investigative process, which means that at the time the warrants are issued the available information is limited and the applicant is only required by law to demonstrate reasonable suspicion.....the search and seizure was not a fishing expedition and was not based on general exploratory rummaging of the applicant's belongings and property.....'
 47. Having reviewed the Notice of Motion, as read along with the Affidavit in support I find that the Learned Magistrate erred in law and in fact in failing to appreciate that at this stage of the investigations the Appellant was engaged in an exploratory exercise and the Search warrant was necessary to enable them secure information that would enable them make a determination as to whether or not an offence had been committed.



48. The Appellant is a public institution that has a constitutional mandate to combat and prevent corruption. In determining applications of this nature, the Court is obligated to weigh the public interest vis a vis the individual interest.
49. I am persuaded by the reasoning of Hon LJ Mumbi Ngugi (as she then was) in the George Onyango Oloo case who [65].....The warrant was issued by a judicial officer presiding over a court which had the jurisdiction to issue the warrant. There was reasonable commission of commission of an offence by the applicant in this case. While as observed above, search warrants should be scrutinized with: sometimes technical rigor and exactitude”, where no evidence of abuse of power or gross violation of the rights of a person to be searched has been placed before the court, the court should be slow to find that a search warrant is unlawful on purely technical grounds.’ (Emphasis Supplied)
50. As was observed in the decision of Omwanza Ombati t/a Nchogu, Omwanza & Nyasimi Advocates v Director of Criminal Investigations Department, Emmanuel Kanyungu & 3 Others [2017] eKLR
- (28) The right to privacy is expressly guaranteed by Article 31 of *the Constitution*, while the statutory procedure for conducting search and seizure by the police has three inbuilt requirements to be met. Such requirements are that: - (a) prior to the search and seizure the police should obtain a search warrant; (b) such warrant should be issued by a judicial officer; and (c) lastly there should be proof on oath that there is reasonable suspicion of commission of an offence. To me, the above inbuilt requirements are present in this case.
51. In Ethics and Anti-Corruption Commission and DPP Vs Prof. Tom Ojienda SC T/A Prof. Tom Ojienda & Associates Advocates & 2 Others, Petition No. 30 of 2019(consolidated with Petition No.31 of 2019), the Supreme Court observed that
- (72) ...it must be acknowledged that the 1st Appellant [EACC] has a wide and critical mandate under *the constitution* to combat corruption and economic crime in our society...[73] It is however worth emphasizing that at all times, whatever the nature of the investigations the Commission may be undertaking it must do so within the confines of *the constitution* and the law...
52. In that case the Appellant argued against an interpretation of *the Constitution* that would render it ineffective in the discharge of its constitutional mandate to the detriment of its objects under Article 79 and 252 of *the Constitution*. The Appellant invoked the decision in Teachers Service Commission (TSC) V Kenya Union of Teachers (KNUT) & 3Others; Civil Appeal No. 196,195 and 2013 of 2015 (consolidated), [2015] eKLR to further the argument that an interpretation that render a constitutional provision idle and an independent commission ineffective is unconstitutional.
53. Relying on the same reasoning I would hold that an interpretation of Section 118 and 118A of the Criminal Procedure Code that makes it impossible for the EACC to operate with the necessary nimbleness and flexibility that investigations of this nature require would be to render the commission ineffective.
54. For these reasons, I allow the Appeal and set aside the ruling and order of the Chief Magistrate’s Court at Milimani delivered by Hon. Cheruiyot on 7th March 2019
55. This being a matter of public interest each party will bear their own costs.
56. It is so ordered.

DATED, SIGNED AND DELIVERED VIRTUALLY THIS 12TH DAY OF MAY, 2023.

P M NYAUNDI



JUDGE

IN THE PRESENCE OF: -

Court Assistant Karani

..... for Appellant

.....for Respondent

