



**Waruguru v Abdullahi & 2 others (Election Petition Appeal  
E001 of 2023) [2023] KEHC 20436 (KLR) (13 July 2023) (Judgment)**

Neutral citation: [2023] KEHC 20436 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT MERU  
ELECTION PETITION APPEAL E001 OF 2023**

**TW CHERERE, J**

**JULY 13, 2023**

**BETWEEN**

**KELVIN WARUGURU ..... APPELLANT**

**AND**

**ABDI FATUMA ABDULLAHI ..... 1<sup>ST</sup> RESPONDENT**

**UNITED DEMOCRATIC PARTY ..... 2<sup>ND</sup> RESPONDENT**

**INDEPENDENT ELECTORAL & BOUNDARIES COMMISSION .... 3<sup>RD</sup>  
RESPONDENT**

*(Being an appeal from the judgment and decree in Isiolo Chief Magistrates  
Election Petition No. E001 of 2022 by Hon. L.Mutai (CM) on 17th January, 2023)*

**JUDGMENT**

**Introduction and Background:**

1. This is an appeal against the dismissal of an Election Petition challenging the election of the Kelvin Waruguru, (Appellant) by way of nomination into the County Assembly of Isiolo under the special category representing Minority Group by the United Democratic Party (2<sup>nd</sup> Respondent herein).
2. By an Election Petition dated and filed 22<sup>nd</sup> September, 2022, Abdi Fatuma Abdullahi (1<sup>st</sup> Respondent), petitioned the election of the Appellant which culminated with the publication of the Gazette Notice No. 10712 on 09<sup>th</sup> September, 2022 on the principal grounds that Appellant was not qualified for election by nomination under the category of Minority Group in Isiolo County and that the removal of 1<sup>st</sup> Respondent's name, by the 2<sup>nd</sup> Respondent, from the final party list published by the 3<sup>rd</sup> Respondent (IEBC) on 27<sup>th</sup> July, 2022 contravened Articles 54, 55, 82 and 177 (1) (c) of *the Constitution*.



3. The Respondents filed their respective responses and upon hearing the oral evidence of the parties and considering their respective written submissions, the trial court on 17<sup>th</sup> January, 2023 rendered its judgment and nullified the election of the Appellant to the special seat of representative of Minority Group in the County of Isiolo and directed that the seat be allocated to the 1<sup>st</sup> Respondent.

### **The Appeal:**

4. Aggrieved by the trial court's judgment, Appellant in a Memorandum of Appeal dated 26<sup>th</sup> January, 2023 and filed on 27<sup>th</sup> January, 2023, Appellant preferred challenged the judgment and the decree of the trial court on seven grounds but abandoned one of the grounds. The grounds are as follows: -
  1. That the Honorable Magistrate misdirected herself and erred in law and in facts by allowing the 1<sup>st</sup> Respondent's petition dated 22<sup>nd</sup> September, 2022 without considering all matters and issues before the court contrary to the provisions of the Article 47 (1) of *the Constitution* and Section 4 of the Fair Administrative Acts Act, 2015
  2. That the Honorable Magistrate misdirected herself and erred in law and in facts by shifting the burden of proof to the Appellant as to whether he was a registered voter in Isiolo County contrary to the provisions of Section 107, 108 and 109 of the *Evidence Act*
  3. That the Honorable Magistrate misdirected herself and erred in law and in facts by ignoring the fact that due process was followed by the 2<sup>nd</sup> and 3<sup>rd</sup> Respondents in drawing the party list to include the name of the Appellant, gazettement of the said name and forwarding the same to Isiolo County Assembly for swearing in which swearing in has taken place and Appellant is a valid member of the said Assembly to date
  4. That the Honorable Magistrate misdirected herself and erred in law and in facts by purporting that the nomination and gazettement of the Appellant as a representative of Minority Group in Isiolo County Assembly was not procedural and lawful contrary to the evidence on record
  5. That the Honorable Magistrate misdirected herself and erred in law and in facts by misapplying the provisions of Section 112 of the *Evidence Act* in arriving at the decision and declaration that Appellant's nomination was null and void
  6. That the Honorable Magistrate misdirected herself and erred in law and in facts by directing the 3<sup>rd</sup> Respondent to reallocate the representative of minority community seat to the 1<sup>st</sup> Respondent in place of the Appellant contrary to the mandatory threshold set out under the provisions of Section 37 of the *Elections Act* 2011
5. When Counsel for the parties appeared before me on 20<sup>th</sup> April, 2023, directions were taken that the appeal be heard by way of written submissions which counsel dutifully filed.
6. Appellant argued that the 2<sup>nd</sup> Respondent submitted the name of the Appellant to the IEBC in accordance with Section 34 of the *Elections Act* (the Act). It is Appellant's case that 2<sup>nd</sup> Respondent complied with all the Constitutional and statutory requirements in nominating the Appellant to the County Assembly of Isiolo and that the court therefore had no jurisdiction to fault the party list submitted by the 2<sup>nd</sup> Respondent to the IEBC.
7. It was additionally submitted that Appellant did not bear the burden to prove that he was a registered voter at Bura Pesa in Isiolo County and that the court's finding that that Appellant had an obligation under Section 112 of the *Evidence Act* to demonstrate that he was qualified for nomination as a



representative of Minority Group in Isiolo County Assembly was a misjudgement of sectioned 107, 108 and 109 which provides that he who alleges bears the burden of proof.

8. It was also submitted that that due process was followed in nominating the Appellant as a representative of Minority Group in Isiolo County Assembly for the reason that whereas Article 90(1) and (2) (a), (b) and (c) of *the Constitution*, sections 34, 35 and 36 of the Act as read with the provisions of Elections (Party Primaries and Party List) Regulations 2017 (Regulations) provide for the procedure and criteria for nomination, preparation and submission of the party lists, the provisions do not dictate that the persons nominated must come from a particular county or ward within the county a candidate is nominated to serve.. It was likewise argued that that Appellant had been lawfully nominated under Section 34 (8) of the Act and the list submitted by 2<sup>nd</sup> Respondent to IEBC cannot under the provisions of Section 34(1) of the Act be amended. Reference was made to the case of Patricia Muthoni Waweru & 4 others v Jane Chemutai Koskei & 2 others [2018] eKLR where the court held that nomination is a party affair.
9. Appellant reiterated the provisions of section 37(1) of the Act and argued that having not died, nor changed parties, nor resigned nor expelled, nor the 2<sup>nd</sup> Respondent withdrawn the party list, the learned trial magistrate erroneously invoked the provisions of Section 37 of the Act in declaring the election of the Appellant to be null and void and reallocating of his seat to the 1<sup>st</sup> Respondent was unlawful.
10. In conclusion, this Court was urged to allow the appeal and declare that Appellant was lawfully elected as a representative of Minority Group in Isiolo County Assembly and he be awarded costs of the trial court and of this appeal.
11. In opposing the appeal, it was submitted for the 1<sup>st</sup> Respondent that the process of nomination of the Appellant as a representative of Minority Group in Isiolo County Assembly was not free and fair and violated *the Constitution*, the *Elections Act* and the 2<sup>nd</sup> Respondent's constitution. It was argued that the evidence revealed that the 2<sup>nd</sup> Respondent unprocedurally and unlawful amended its Isiolo party list by inserting the name of the Appellant as nominee number 1 on the list and pushing the 1<sup>st</sup> Respondent's name to as nominee number 2 thereby denying 1<sup>st</sup> Respondent an opportunity to be nominated as a representative of Minority Group in Isiolo County Assembly and thus violating her right to fair administrative action.
12. It was also submitted that having demonstrated by evidence that by virtue of Section 19 subsection 8A of the Elections (Amendment) Bill 2022 Appellant was not a registered voter in Isiolo County, the evidential burden shifted to the 2<sup>nd</sup> and the IEBC to demonstrate that the nomination of the Appellant was procedural which burden they failed to discharge. In support thereof, counsel relied on Ahmed Mohammed Noor v Abdi Aziz Osman [2019] eKLR and Odinga & another v Independent Electoral and Boundaries Commission & 2 others; Aukot & another (Interested Parties); Attorney General & another (Amicus Curiae) (Presidential Election Petition 1 of 2017) [2017] KESC 42 (KLR) (20 September 2017) (Judgment).
13. In conclusion, this court was urged to uphold the decision of the Election Court that nullified the election of the Appellant and dismiss the appeal with costs to the 1<sup>st</sup> Respondent.
14. 2<sup>nd</sup> Respondent faulted the learned trial magistrate for finding that Appellant was not a registered voter in Isiolo whereas he had testified that he cast his vote at Waso primary school in Bula Pesa ward of Isiolo County. It was therefore argued that the decision of the court failed to appreciate the provisions of Article 90(2)(c) of *the Constitution* of regional and ethnic diversity of the people of Kenya and Article 10 which provides for basic tenets of democratic values which include inter alia inclusiveness, equality and protection of the special groups and the principles of political parties in Kenya and in support



- thereof relied on *John Harun Mwau & 3 Others v Attorney General & 2 others* [2012] eKLR and *National Gender and Equality Commission v Independent Electoral and Boundaries Commission & another* [2013] eKLR which provide that *the Constitution* ought to be interpreted broadly.
15. 2<sup>nd</sup> Respondent reiterated the provisions of Article 193(1) of *the Constitution*, Section 25 of the Act and Regulation 15 of the Regulations and urged court to find that the qualifications required for candidates contesting elections as members of the County Assembly was only for one to be registered as a voter. The court was urged to find that Appellant was a registered voter and therefore qualified to be elected as a representative of Minority Group in Isiolo County Assembly.
  16. It was submitted for the 2<sup>nd</sup> Respondent that Article 90(1) and 177 (1) (b) and (c) of *the Constitution* and Section 2 of the Act place the responsibility of preparing the Party list and the decision of the nominees on the political parties and that in nullifying the nomination of the Appellant who was the 2<sup>nd</sup> Respondent preferred candidate, the court unlawfully usurped the role of the 2<sup>nd</sup> Respondent. In support of this proposition, 2<sup>nd</sup> Respondent relied on *Lydia Mathia v Naisula Lesuuda & another* [2013] eKLR.
  17. The 2<sup>nd</sup> Respondent supported the Appellant's submissions that the 1<sup>st</sup> Respondent having failed to prove that Appellant was not a registered voter in Isiolo, the learned trial magistrate erred in shifting the burden to the Appellant to prove that he was so registered. 2<sup>nd</sup> Respondent equally urged court to find that Appellant was lawfully elected as a representative of Minority Group in Isiolo County Assembly and therefore allow the appeal with costs of the trial court and of this appeal.
  18. The third Respondent submitted that the Party lists published in the Gazette Notice No. 10712 dated 09<sup>th</sup> September, 2022 were the lists submitted by political parties among them the 2<sup>nd</sup> Respondent. The IEBC contended that it lawfully discharged its mandate and that any dispute arising thereof was the preserve of an election court and in support thereof relied on *Moses Mwigigi & 14 others v Independent Electoral and Boundaries Commission & 5 others* [2016] eKLR.

### **Analysis and determination**

19. This court's jurisdiction to hear this appeal is derived from Section 75(4) of the Act. which provides that the court shall limit itself on matters of law only. What constitutes matters of law in election matters was aptly settled by the Supreme Court in the case of *Gatirau Peter Munya vs. Dickson Mwenda Kithinji & 7 Others* Sup. Ct. Petition No. 2B of 2014 (2014) eKLR.
20. The main issues that arose before the trial court and which is before this court for determination is whether the Appellant was qualified for election as a representative of Minority Group in Isiolo County Assembly and whether he was so validly elected.
21. Nomination of Members to the County Assemblies is provided for under Article 177(1) of *the Constitution* which provides as follows: -
  1. A county assembly consists of
    - (a) members elected by the registered voters of the wards, each ward constituting a single member constituency, on the same day as a general election of Members of Parliament, being the second Tuesday in August, in every fifth year;
    - (b) the number of special seat members necessary to ensure that no more than two-thirds of the membership of the assembly are of the same gender;



- (c) the number of members of marginalized groups, including persons with disabilities and the youth, prescribed by an Act of Parliament; and
  - (d) the Speaker, who is an ex officio member.
- (2) The members contemplated in clause (1) (b) and (c) shall, in each case, be nominated by political parties in proportion to the seats received in that election in that county by each political party under paragraph (a) in accordance with Article 90.
- (3) The filling of special seats under clause (1) (b) shall be determined after declaration of elected members from each ward.
- (4) A county assembly is elected for a term of five years.
22. The members contemplated under Article 177(1)(b) and (c) above are nominated by political parties proportionate to the number of seats garnered in (a) above. Those members can only be 'drawn' from a list which is prepared by a political party and presented to IEBC which list is eventually published in the Kenya Gazette by IEBC. That list is what is referred to as 'a Party List' (See Marthlida Auma Oloo v Independent Electoral and Boundaries Commission & 3 others [2018] eKLR).
23. Article 90 of *the Constitution* provides for allocation of party list seats as follows:
- (1) Elections for the seats in Parliament provided for under Articles 97(1) (c) and 98 (1) (b), (c) and (d), and for the members of county assemblies under 177 (1) (b) and (c), shall be on the basis of proportional representation by use of party lists.
  - (2) Upon receipt of the Party Lists, the Independent Electoral and Boundaries Commission shall be responsible for the conduct and supervision of elections for seats provided for under clause (1) and shall ensure that— (a) each political party participating in a general election nominates and submits a list of all the persons who would stand elected if the party were to be entitled to all the seats provided for under clause (1), within the time prescribed by national legislation; (b) except in the case of the seats provided for under Article 98 (1) (b), each party list comprises the appropriate number of qualified candidates and alternates between male and female candidates in the priority in which they are listed; and (c) except in the case of county assembly seats, each party list reflects the regional and ethnic diversity of the people of Kenya.
  - (3) The seats referred to in clause (1) shall be allocated to political parties in proportion to the total number of seats won by candidates of the political party at the general election.
24. Other than *the Constitution*, Sections 34, 35 and 36 of the Act spells in mandatory terms the specific duties and responsibilities of the IEBC in the conduct and supervision of elections for seats through nomination. The relevant provisions provide as follows: -
- 34.
- (6) The party lists submitted to the Commission under this section shall be in accordance with *the Constitution* or nomination rules of the political party concerned.
  - (6A) Upon receipt of the party list from a political party under subsection (1), the Commission shall review the list to ensure compliance with the prescribed regulations and -
    - (a) issue the political party with a certificate of compliance; or



- (b) require the political party to amend the party list to ensure such compliance failing which the Commission shall reject the list.
  - (6B) For purposes of subsection (6A), the Commission may, by notice in the gazette, issues regulations prescribing guidelines to be complied with in preparation of party lists.
  - (7) The party lists submitted to the Commission shall be valid for the term of Parliament.
  - (8) A person who is nominated by a political party under subsection (2), (3) and (4) shall be a person who is a member of the political party on the date of submission of the party list by the political party.
  - (9) The party list shall not contain a name of a candidate nominated for an election.
  - (10) A party list submitted for purposes of subsections (2), (3), (4) and (5) shall not be amended during the term of Parliament or the County Assembly, as the case may be, for which the candidates are elected.
35. A political party shall submit its party list to the Commission at least forty-five days before the date of the general election.
- 36.
- (1) A party list submitted by a political party under-
    - (e) Article 177 (1) (b) of *the Constitution* shall include a list of the number of candidates reflecting the number of wards in the county;
    - (f) Article 177 (1) (c) of *the Constitution* shall include eight candidates, at least two of whom shall be persons with disability, two of whom shall be the youth and two of whom shall be person representing a marginalized group
  - (2) A party list submitted under subsection (1) (a), (c), (d), (e) and (f) shall contain alternates between male and female candidates in the priority in which they are listed.
  - (3) The party list referred to under subsection (1) (f) shall priorities a person with disability, the youth and any other candidate representing a marginalized group.
  - (4) Within thirty days after the declaration of the election results, the Commission shall designate, from each qualifying list, the party representatives on the basis of proportional representation.
  - (7) For purposes of Article 177 (1) (b) of *the Constitution*, the Commission shall draw from the list under subsection (1)(e), such number of special seat members in the order given by the party, necessary to ensure that no more than two-thirds of the membership of the assembly are of the same gender.
  - (8) For purposes of Article 177 (1)(c) of *the Constitution*, the Commission shall draw from the list under subsection (1) (f) four special seat members in the order given by the party.
  - (9) The allocation of seats by the Commission under Article 177(1) (b) and (c) of *the Constitution* shall be proportional to the number of seats won by the party under Article 177 (1) (a) of *the Constitution*.

37.



- (1) If a representative from a political party list dies, withdraws from the party list, changes parties, resigns or is expelled from his or her party during the term of the representative, the seat of the representative shall be allocated to the next candidate of the same gender on the respective political party list.
- (2) Notwithstanding the provision of Section 34 (10), if there are no more candidates on the same party's list, the Commission shall require the concerned political party to nominate another candidate within twenty -one days.
- (3) A vacancy in any seat in a political party list shall not be filled three months immediately before a general election.
- (4) Where a political party fails to comply with the provisions of subsection (2) the Commission shall not allocate the seat for the remainder of the term of Parliament or the County Assembly.

25. In order to ensure that that the preparation and submission to IEBC of party lists for allocation of special seats complies with *the Constitution* and other attendant laws, Parliament in its wisdom enacted regulations that provide for the comprehensive procedure under Part X of the Elections (General) Regulations, 2012 whose Regulation 54, 55 and 56 provide as follows:

54.

- (1) Each political party shall submit to the Commission a party list of all persons who would stand elected if the party were entitled to seats in the National Assembly, Senate or the County Assembly, as the case may be on the basis of proportional representation in accordance with Article 90 of *the Constitution* and sections 34, 35, 36 and 37 of the Act.
- (2) The party list referred to in sub regulation (1) shall contain the name, address, age, sex, disability and category of disability, phone number, occupation, elective post sought and such other qualifications as are provided under *the Constitution* and the Act.
- (3) A party list submitted under sub regulation (1) shall be in accordance with section 36 of the Act, and shall be- (a) by signed by the authorised official of the political party submitting the party list; and (b) be submitted in hard copy and in electronic form.
- (4) Each political party list nominee shall after nomination, submit to the Commission a letter stating his or her intention to serve if nominated.
- (5) The Commission may reject a nominee submitted by a political party for any elective post if that nominee is not qualified to be elected to the office for which the nomination is sought as specified under *the Constitution* or the Act.
- (6) The rejection by the Commission of a nominee under this regulation shall not invalidate the entire party list submitted by the political party.
- (7) The Commission, after making the decision to reject a nominee, inform the political party concerned of that decision and request that political party to submit another name within such time as the Commission shall determine.
- (8) The Commission shall publish the final party list in at least two newspapers with nationwide circulation. Party list to be prepared in accordance with party rules.



55.

- (1) The party list contemplated under regulation 54 shall be prepared in accordance with the nomination rules of the political party.
- (2) The Commission may reject any party list that does not comply with the requirements of *the Constitution*, the Act or these Regulations.
- (3) The political party whose party list or nominee has been rejected by the Commission under sub regulation (2) shall resubmit the party list or nominee within such period as the Commission may specify.
- (4) A political party submitting a party list under regulation 54 shall submit a declaration to the effect that the political party has complied with its rules relating to the nomination of the names contained in the list. Commission to publish formula for allocation of seats.

56.

- (1) The Commission shall before the election to which a party list applies, publish in the Gazette and publicise through electronic and print media of national circulation and other easily accessible medium, the formula for allocating the seats to the respective political parties.
- (2) The formula for allocation of seats to the respective political parties from the party lists shall be the number of seats won by a political party divided by the total number of seats multiplied by available seats for allocation in the respective House.

26. I have considered the judgment of the trial court and I find that the learned trial magistrate appreciated the prevailing legal rubric concerning election by way of nomination by Party Lists to a County Assembly in Kenya. The learned trial magistrate indeed rightly set out the issues for determination which were whether the Appellant was qualified for election as a member of the Isiolo County Assembly and whether he was so validly elected as a representative of Minority Group in the Isiolo County Assembly.
27. The record reveals that the process of election to the County Assemblies began with the calling of applications by the 2<sup>nd</sup> Respondent by a notice dated 19<sup>th</sup> May, 2022, from suitable party members for nomination in terms of the provisions of Article 177 (1)(b) of *the Constitution*.
28. In compliance with the provisions of Article 90 of *the Constitution*, sections 34, 35, 36 and 37 of the Act and Regulations 54, 55 and 56 of the Regulations, the IEBC by Gazette Notice No. 6378 issued a notice on requirements for preparation of party lists and called for submission of the party lists to the Commission on or before 25<sup>th</sup> June, 2022.
29. Antony Mwaura, the 2<sup>nd</sup> Respondent 's Chairperson National Elections Board pleaded in his affidavit sworn on 06<sup>th</sup> October, 2022 that after the IEBC called for the party lists as stated at paragraph 28 above, the 2<sup>nd</sup> Respondent submitted its list on 04<sup>th</sup> July, 2022. He additionally avers that the list was rejected and another one with the name of the Appellant appearing as nominee number 1 on the list of Minority Group in Isiolo County Assembly was submitted.
30. I have perused the court record and especially the affidavit sworn on behalf of the IEBC by its Director of Legal Services Christine Owiye on 06<sup>th</sup> October, 2022 and it only refers to only one list that was submitted by the 2<sup>nd</sup> Respondent on 27<sup>th</sup> July, 2022.



31. Ms. Owiye further deposes that it was the said list received from the 2<sup>nd</sup> Respondent on 27<sup>th</sup> July, 2022 that formed the basis upon which the IEBC published the final party lists in the Standard Newspaper on 27<sup>th</sup> July, 2022.
32. That final party list published in the Standard Newspaper on 27<sup>th</sup> July, 2022 reveals that the Appellant was listed as nominee number 10 on the Gender Top Up List for Laikipia County and the 1<sup>st</sup> Respondent as nominee number 1 on the Minority Group List for Isiolo County.
33. The record reveals further that it was not demonstrated by evidence that IEBC rejected any list that was submitted by the 2<sup>nd</sup> Respondent. Similarly, no evidence was availed to the effect that IEBC required the 2<sup>nd</sup> Respondent to amend its list in terms of Section 34 (6A) (b) of the Act.
34. The court has observed that the party list which the 2<sup>nd</sup> Respondent alleges to have submitted to the IEBC was not published by IEBC as the final party list in the Standard Newspaper on 27<sup>th</sup> July, 2022 in compliance with Regulation 54 (8) of the Regulations and that the one published contained the name of the 1<sup>st</sup> Respondent as the representative of Minority Group in the County of Isiolo County. Gazette Notice No. 10712 of 09<sup>th</sup> September, 2022 in which the 3<sup>rd</sup> Respondent gazetted the Appellant as the representative of Minority Group in the County of Isiolo County thus violated the provisions of Article 177 (1)(b) of *the Constitution*, Section 34 (6A) (b) of the *Elections Act* and Regulation 54 (8) of the Elections (Party Primaries and Party List) Regulations 2017.
35. Having so found, I agree with the learned trial magistrate that Appellant was not qualified for election as the representative of Minority Group in the County of Isiolo County not for the reason that he was not a registered voter in Isiolo County, but for the reason that his nomination and subsequent election as stated herein above was flawed.
36. Concerning the application of the provisions of Section 37 (1) of the Act, I agree with the Appellant and 2<sup>nd</sup> Respondent that reallocation of seats under that provision only applies if a representative from a political party list dies, withdraws from the party list, changes parties, resigns or is expelled from his or her party during the term of the representative.
37. In my considered view, the mischief which the lawmakers intended to remedy by enacting this section was to encourage transparency in allocation of seats so that only qualified members in terms of priority were nominated. That is not however to say that a party such as the 1<sup>st</sup> Respondent whose name was irregularly substituted with that of the Appellant has no remedy in law. In this particular matter, the record reveals that it is the name of the 2<sup>nd</sup> Respondent and not the Appellant that ought to have been elected by nomination as the representative of Minority Group in the County of Isiolo County.
38. From the foregoing, I find that reallocation of seats is available in merited cases such as this one and that the learned trial magistrate, in the interest of justice of the matter correctly interpreted the provisions of Section 37 (1) of the Act.
39. For the reasons that I have outlined hereinabove, I find that the petition was proved to the required legal threshold in election petitions and this appeal must hence fail.
40. In the end, the orders that commend to this court and which I hereby issue are as follows:
  1. The learned trial magistrate's finding that the nomination of the Appellant as a member of the County Assembly of Isiolo under the category of special seats is null and void is sustained
  2. The learned trial magistrate's order nullifying Gazette Notice No. 10712 dated 09<sup>th</sup> September, 2022 in which the Appellant was gazetted as a nominated member of the County Assembly



of Isiolo under the category of special seats (a representative of the minority community) is similarly sustained

3. The order directing IEBC to allocate the seat for the representative of Minority Group in the County of Isiolo County to the 2<sup>nd</sup> Respondent Abdi Fatuma Abdullahi is likewise sustained
4. The order on costs is similarly sustained save to add that Appellant shall pay the 2<sup>nd</sup> Respondent the costs of the Appeal which are capped at KES. 500,000/- (five hundred thousand) whereas the 2<sup>nd</sup> and 3<sup>rd</sup> Respondents shall bear their own costs of the appeal

**DATED AT MERU THIS 13<sup>th</sup> DAY OF July 2023.**

**T. W. CHERERE**

.....

**JUDGE**

I certify that this is a true copy of the Original

Signed

**DEPUTY REGISTRAR**

